

Borderwork:
'Illegality', un-bounded labour and the lives of
Basotho migrant domestic workers

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Abstract

This thesis provides an in-depth, ethnographic case study of women who have migrated from Lesotho to work as domestic workers in South Africa. It explores and analyses these women's experiences of migration and employment, while examining the impacts of the Lesotho-South Africa border on their lives.

The border is conceptualised in this thesis not merely as a territorial frontier but as an apparatus operating throughout a constellation of social and geographical sites. This apparatus is seen to produce migrant subjectivities. In the case of Basotho migrant domestic workers, it produces and disciplines them as 'illegal' migrant workers. These women's 'illegality' is continually reproduced not only legally, but socially and discursively as well. It also arises from the repeated ostensible failure of migration and labour law to restrict women's access to territory or the labour market.

Through their 'illegality', Basotho domestics are produced as a form of un-bounded labour. The hyphenated term 'un-bounded' captures both boundedness and unboundedness. Basotho domestics and their labour migration *appear* unbounded, as in unrestricted or unregulated. However, women's subjective experiences reveal their bounding and confinement – geographically, socially, spatially, economically, in the employment relationship, and in terms of their invisibility.

Basotho women's un-bounding and their subjectivity as 'illegal' migrant workers create a division between South Africa as the site of 'work' and Lesotho as the site of 'family' or 'life'. Women's social lives and identities, together with their family members, become bounded within Lesotho; within South Africa, their identity and subjectivity is reduced to that of 'worker'. In order to maintain employment, family and life, women must manage a range of perpetual cross-border circulations, with regular remittances and visits home. As 'illegal' migrants, their experience of employment is also unique, as they are produced as dismissible, exploitable, dependent, submissive and ultimately dehumanised workers.

Borderwork therefore carries three meanings in this thesis: the 'work' of many individuals and institutions in continually constructing the border as a social and legal reality; the

impacts of the border on Basotho migrant domestic workers' experience of employment; and women's everyday strategies for negotiating and 'working' this border.

Basotho migrant domestic workers and their difficult circumstances have to date been largely ignored by scholars and policy-makers alike. Drawing on these women's own accounts, this rich analysis also challenges and extends scholarly understandings of borders, labour migration, 'illegality' and development. The significance and implications of this thesis therefore extend beyond the specific case study.

Declaration

This is to certify that:

1. the thesis comprises only my original work towards the PhD;
2. due acknowledgement has been made in the text to all other material used; and
3. the thesis is less than 100,000 words in length exclusive of tables, figures, bibliography and appendices.

Laura Griffin

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Glossary

Basotho	Plural of Mosotho
Caledon River	English name for the Mohokare River
CCMA	Commission for Conciliation, Mediation and Arbitration
Cross-border permit	Permit issued under s 24 of the Immigration Act, removing the need for the bearer to have each crossing documented (valid for a maximum of six months)
ID	South African Identity Document (only available to citizens and permanent residents)
DHA	South African Department of Home Affairs
ENT scar	Immunisation scar
Maloti	Currency of Lesotho (equal to the Rand)
Mohokare River	Sesotho name for the river which comprises most of the frontier between Lesotho and the Free State province of South Africa
Mosotho	Person originating from Lesotho (also used as an adjective)
Paqama	Sesotho expression, literally translated as 'lying face down', used to connote clandestine border-crossing
Rand	Currency of South Africa
SADC	Southern African Development Community
SADSAWU	South African Domestic Service and Allied Workers Union
SANDF	South African National Defence Force
SAPS	South African Police Service
SARS	South African Revenue Service
Sesotho	Language and culture of the Basotho
Six month pass	See 'cross-border permit'
UIF	Unemployment Insurance Fund
Visitor's permit	Permit issued under s 11 of the Immigration Act, authorising the bearer to temporarily reside but not work in South Africa (normally valid for a maximum of 30 days for citizens of Lesotho)
Work permit	Permit issued under s 19 of the Immigration Act, authorising the bearer to temporarily reside and work in South Africa

Chapter One

Introduction

Listening to Matsepo

One warm morning in December 2008, my research assistant Nthonts'i Qokolong and I chatted as we made our way through the winding paths of a quiet village in the Leribe district of Lesotho, to Matsepo's¹ home. She welcomed us in, with a broad smile and the good news that her pig, then resting under a small peach tree in her garden, was pregnant. She had purchased the pig through a government scheme and was planning to sell the anticipated piglets for cash. Although this now represented her only source of income, the focus of our ensuing conversation was the several decades Matsepo had previously spent labouring as a paid domestic worker in South Africa.

In 1971, she had ventured across the Mohokare (Caledon) River, clandestinely crossing the Lesotho-South Africa border in a practice known throughout Lesotho as *paqama* (literally 'lying face down', as in crawling under a fence). Although as a child she had already contemplated migration – noticing that the children of migrants wore nicer clothes, and wanting them herself – Matsepo only made the crossing to South Africa when she encountered problems providing for her own children. Leaving these children behind, she started work as a domestic, with a monthly wage of three South African Rand;² by the time she returned to stay in Lesotho in 1999, it had risen to R800. Matsepo managed her years of migration by sending wages home, and returning briefly each year to the home and children her wages had helped to raise.

In 1979 she was able to obtain a 'local' passport, which for a short while legalised her movements back and forth, and documented her occupation as 'domestic servant'. Although she made friends in South Africa, in all her years of employment Matsepo never secured a South African Identity Document (ID). In the late 1980s, the border was closed to Basotho women, and from the 1990s, the South African government began concerted

¹ This is a pseudonym. See Chapter Three for a discussion of anonymity and confidentiality.

² This currency is hereafter referred to with the prefix 'R'. At the time of fieldwork, R1.00 was approximately equal to US\$0.11 or AU\$0.14. Lesotho's currency – the Maloti (prefix 'M') – is pegged equal to the South African Rand.

campaigns to exclude unwanted foreigners from working ‘illegally’ in the country. This meant that domestic workers without IDs became unwelcome, and Matsepo’s labour migration became clandestine once more, as she resorted to bribing border officials to grant her legal entry to – but still not legal employment within – South Africa.

Sitting inside her cool, two-room, thatched house (see Figure 1.1), Matsepo narrated these experiences with great cheer, peppering her accounts with English and Afrikaans phrases she had learned in South Africa. While her working hours had usually been long, and she had experienced ill-treatment by some employers, she explained enthusiastically that her intention had been to stay working in South Africa until she died. She had only returned to Lesotho because following deaths in the family ‘no-one was left’ to care for her home and children in her absence, and because without an ID she was unable to access the pension payments available to South African citizens. Hence it came that she now passed her time in her home village, depending upon her pig for survival.



Figure 1.1 Matsepo’s home in Lesotho; Matsepo and Nthonts’i during the interview.

From countless villages around the world, women leave their families behind and cross international boundaries to earn wages as domestic workers in other people’s homes. Their journeys may be brief or long, they may carry documents or their movements may be hidden, and their employment experiences may be rewarding or exploitative. As noted in the literature review below, these migrant women represent a popular concern among contemporary scholars, who have even cast them as a new face of globalisation (for instance, see Anderson 2000; Chang 2000, Hondagneu-Sotelo 2001; Lan 2006; Parreñas 2008, 2001).

This thesis is about a particular group of such women: those who migrate from Lesotho to work as paid domestic workers³ in South African homes. Building on women's personal accounts, it explores and explains their experiences of migration and employment.

Recent estimates suggest that around half the world's cross-border migrants from the global South remain in the South (see Bakewell 2009; Hujo and Piper 2010; Ratha and Shaw 2007). That is, there are as many South-South migrants in the world as there are South-North migrants. What is more, almost 80 percent of such movements take place between countries with contiguous borders (Ratha and Shaw 2007: 2). In this regard, Lesotho represents an extreme case: coming from a tiny enclave state completely surrounded by South Africa, labour migration for most Basotho⁴ consists of temporary employment within its only neighbour, the region's economic giant (see Figure 1.2). These kinds of Southern migrations – and in particular, the movements of migrant domestic workers – signal the rising significance of women's labour migration as a critical survival or livelihood strategy.



Figure 1.2 Lesotho's location within Africa, and within South Africa.⁵

³ This thesis focuses exclusively on paid domestic service (employment for housekeeping or care work within private homes). Thus, while I acknowledge that much domestic work is unpaid, for the sake of convenience the terms 'domestic work' and 'domestic service' are used in this thesis to refer only to paid employment.

⁴ Lesotho is a country in Southern Africa, occupied almost entirely by members of the Basotho people (singular: Mosotho), whose language and traditions are known as Sesotho. Although 'Basotho' and 'Mosotho' are nouns, for the sake of convenience they are also used here – as in many other scholarly accounts – as adjectives. (The root word 'sotho' is pronounced 'soo-too'; hence these words are pronounced Le-soo-too, Ba-soo-too, and so on.)

⁵ These maps are sourced from <http://www.sahistory.org.za/pages/africa/african%20independence-history/lesotho.htm> and <http://geology.com/world/lesotho-satellite-image.shtml> respectively.

Despite the significance of South-South migration flows, these movements tend to be over shorter distances, involving labour migration less regulated and therefore less visible to official and academic eyes. Thus migrant domestic workers in such circumstances have only just begun to attract the attention of scholars. Even this new literature continues the emphasis on those flows that are more regulated by international agencies and agreements, such that African migrant domestics remain largely unacknowledged. Similarly, although much regulatory and scholarly attention has been directed to domestic service in South Africa, the particular experiences of cross-border migrants in this industry have, to date, been ignored. This thesis begins to address these silences.

This opening chapter outlines the central questions and arguments of the thesis, with a brief explanation of its methods and scope. It then provides a profile of Basotho migrant domestic workers. First, a profile is sketched based upon the qualitative data gathered for this project. Second, this profile of Basotho migrant domestics is supplemented by a brief review of the scholarly literature, which demonstrates this study's significance as a novel contribution to knowledge about an important migrant group. The chapter then concludes with a detailed outline of the remainder of the thesis.

Borderwork, migrant 'illegality' and un-bounded labour

The original questions for this research project concerned Basotho women's relationships with the South African state and its legal regimes pertaining both to labour migration and to domestic service. While these remained important concerns, during fieldwork in Lesotho and the Free State province of South Africa I found it increasingly difficult to draw distinctions between state versus non-state and legal versus extra-legal or illegal processes and practices. My attention thus shifted in two key ways. First, I abandoned my fruitless endeavours to identify and isolate state-migrant relations, instead favouring a more expansive view of the various ways in which Basotho women's lives and employment are patterned and regulated. Second, my interest was drawn to the Lesotho-South Africa frontier, which I came to appreciate as a fascinating site of constant struggle for these women.

These two streams of thought became intertwined, as I came to realise that the operations and implications of this borderline stretched throughout these women's lives in both social and spatial terms. Beginning with the winding territorial frontier between Lesotho and South Africa, the central research question then became: how is this border constructed in these women's lives, and with what effects on their migration and employment?

Paying close attention to the words and narratives of Basotho women led to a conceptualisation of the border not simply as a line on the ground, or as a state-driven enterprise, but as something far more complex and dynamic. Hence the border is argued in this thesis to comprise a disciplinary apparatus, operating through a constellation of social, geographical and discursive sites, to produce particular subjectivities. In the case of Basotho migrant domestic workers, the border produces these women – socially, legally, and discursively – as 'illegal' migrant workers.

Referring to migrants as 'illegal' invariably carries the risk of strengthening popular and academic discourses of migrant 'illegality'. However, I have chosen not to sanitise or avoid this term by referring to migrants or their status as 'irregular'. This is because the 'illegality' professed and experienced by Basotho migrant women themselves is a central focus of the thesis. In this thesis, the words 'illegal' and 'illegality' are therefore not used to reflect any 'objective' reality as to migrants or their legal status (which is inevitably

shifting, and subject to ongoing social and legal construction). To reiterate this, I always frame 'illegality' with quotation marks when used in reference to migrants or migration.

The production of migrant 'illegality' therefore constitutes another central theme of the thesis, as its chapters trace this production through the various sites where it unfolds in migrants' lives. The everyday lives of migrants themselves – and in particular, their experiences of labour migration – form the foundation for this inquiry. The analysis presented in this thesis is based upon in-depth qualitative research carried out across both South Africa and Lesotho in the period from March 2008 to January 2009. Recorded semi-structured interviews with migrants like Matsepo were supplemented by group discussions, meetings with various government and union officials, media searches and my own personal observations. The rich body of data thus generated illustrates Basotho women's everyday experiences of being 'illegal' migrant workers.

These experiences are interpreted as a set of specific *aspects* of migrant 'illegality'. As the thesis argues, these aspects represent not simply the effects of 'illegality' on a migrant's life, but the modes and practices by which her 'illegality' is continually reproduced. These aspects include, inter alia: an 'illegal' migrant's fear of state officials in South Africa, her effective imprisonment within the employer's home, her exploitability, her social isolation, and her oscillating migration between South Africa and Lesotho. Each aspect of migrant 'illegality' also actively reinforces the others. For instance, the spatial constraints on a migrant domestic worker while in South Africa may prevent her from establishing social networks, in turn hindering her from locating alternative jobs and thereby reinforcing her exploitability by her current employer. Viewed together, these aspects can be seen as the various ways in which Basotho migrant domestics are disciplined as a unique form of labour. This comprises the central argument of the thesis, and the anchor for each chapter's analysis of the various aspects of migrant 'illegality'.

As this thesis argues, the key significance of migrant 'illegality' is that it produces Basotho domestics as a form of un-bounded labour.

The term 'un-bounded labour' is used in this thesis to refer to the various ways in which Basotho women and their labour migration are both bounded and unbounded. Although Basotho domestic workers and their labour migration *appear* unbounded, women's subjective experiences expose their ongoing boundedness (i.e. their restriction or confinement). The hyphenated term un-bounded therefore captures both meanings. This

boundedness and unboundedness takes various forms: legal, social, geographical, spatial, economic, and so on.

Basotho women's labour migration is legally unbounded in two ways. First, although immigration law prohibits them from working in South Africa, or entering the country for the purposes of working, it does not effectively exclude them from accessing either South African territory or the labour market. Second, although labour law potentially applies to their employment in South Africa, guaranteeing basic labour protections, none of these labour laws or institutions effectively regulate women's working lives.

However, the ostensible failure of South African immigration and labour laws to regulate Basotho domestics' labour migration produces the subjectivity of the 'illegal' migrant domestic worker. This subjectivity bounds women within a fearful state of perpetual dismissibility and deportability. Thus 'illegality' operates as a panopticon, subjecting migrant women to a constant disciplinary gaze. Moreover, women's access to the South African labour market is extremely limited, such that they are bounded within domestic service, and within a particular part of that job market, regardless of their own work preferences.

In terms of familial roles, Basotho migrant women's entry into waged employment suggests their unbounding in terms of their challenging the more sedentary, village- and agriculture-based role of mothers and wives in Lesotho. However, women's narratives of hardship and responsibility reveal that their entry into and ongoing engagement in labour migration express their continued bounding within gendered roles and burdens in Lesotho. In their familial roles, then, Basotho domestics are produced as a form of unbounded labour.

Geographically, for many Basotho domestics their entry into labour migration represents their first experiences of travel beyond Lesotho's border, and even beyond the bounds of their home village or province. Similarly, their oscillating movements between Lesotho and South Africa suggest their transnational unboundedness. However, women's destinations and movements are highly restricted in several ways: by their limited access to the job market in South Africa, by their need to return regularly to Lesotho and to send home remittances, and by their access to different forms of documentation or different means of transportation. As a result, many Basotho migrants' movements are

geographically bounded, as they are unable to access more lucrative destinations in South Africa or more convenient paths home.

Basotho domestics' movements are even restricted while they are working and staying in South Africa. As migrants they tend to live-in with their employers; many women then become bounded within these homes/workplaces, with limited access to local public spaces and even to the corners and verges of streets where they stay. This spatial boundedness also restricts migrant domestics' opportunities to make friends while in South Africa; for this and other reasons, most become confined in social isolation, and their social networks remain bounded in Lesotho rather than becoming more truly transnational.

Migrant domestics' experience of employment is un-bounded in several ways. Migrant 'illegality' unbounds Basotho domestics' employment from any regulation by labour law in South Africa; this unbounds an employer's power such that she can effectively dictate the terms and conditions of employment. Other limits – such as the involvement of labour unions, social networks, or the need for the worker to return home at the end of the workday – are also removed. From a migrant worker's point of view, then, her entire experience of employment in South Africa becomes bounded by the employer's discretion. Employers' power is also unbounded in that they can even shape opportunities, relationships and circumstances in migrants' homes in Lesotho.

The connections between migrants' employment and their families' circumstances in Lesotho relates to the economic un-boundedness of Basotho women's labour migration. For many women, their entry into domestic service in South Africa represents their first experience of wage labour, and of providing a livelihood for themselves and their dependants through earning cash. However, migrants and their children become bounded within a perpetual reliance on cash earned through such labour. Thus, even though women enter employment as a short-term strategy to address some unforeseen crisis, their engagement in labour migration is ongoing.

Finally, Basotho domestics and their labour migration are un-bounded in terms of their invisibility. Women, their employment and their labour migration remain unrecorded by any written contracts or official registers. However, the lack of public, official, scholarly or media discourse about Basotho migrant domestics reflects their subjective experiences of concealment and disguise. These migrant workers therefore become invisible and are

themselves usually unable to draw any public attention to their labour migration or the hardships they endure as workers.

Basotho domestic workers and their labour migration therefore appear unbounded – that is, unrestricted, unregulated and unconstrained. However, their subjective accounts expose an experience of being bounded – that their lives, movements and employment are, in contrast, restricted and confined. Ultimately, the bounded and unbounded nature of Basotho women's labour migration entail their disciplining as a perpetually circulating, precariously employed, concealed and exploitable labour force. The result is these women's dehumanisation, as migrant 'illegality' creates a wage labour relation unbounded by legal and social restrictions which would otherwise apply. Simultaneously, 'illegality' bounds a migrant's family, identity, and effectively her life within Lesotho, such that her subjectivity in South Africa is merely that of 'worker'. This does not simply occur through the actions of her individual employer. As argued in this thesis, the creation of un-bounded labour is an effect of the border, operating through the mechanism of migrant 'illegality'; it therefore involves a range of different actors with varying agendas.

As noted in the final elements of un-boundedness above, the border not only produces the dehumanised 'illegal' worker, but also ensures a continued supply of such migrants – that is, such un-bounded labour – for employment in South African homes. This relates to the other key questions which initially drove this research: the development impacts and implications of Basotho women's labour migration for themselves and their families. As discussed in Chapters Two and Seven, the contemporary celebration of rural women's engagement in wage labour and particularly their cross-border labour migration, must be tempered by a consideration of the circumstances of their employment and movements. Certainly, the accounts of Basotho migrant domestic workers challenge and confound simplistic interpretations of 'progress' or 'empowerment' arising from wage labour.

The title of this thesis encapsulates these central themes and arguments. The border, migrant 'illegality', and un-bounded labour represent the conceptual frame which arose from the empirical analysis. The analysis itself is grounded in a body of qualitative data regarding the everyday lives and realities of Basotho migrant domestic workers. The term 'borderwork' carries several meanings in this context, as it refers to: the border's effects on the nature and experience of paid work for Basotho domestics; these women's strategies and struggles in their attempts to engage with and 'work' the border; and the

continual social, legal and discursive ‘work’ of constructing the Lesotho-South Africa border as a social reality and as an apparatus shaping migrants’ lives.

As this thesis provides a single case study, it does not argue that these effects necessarily occur for all ‘illegal’ migrant workers, or even all migrant domestics in South Africa.⁶ Rather, it traces precisely how the border produces various aspects of migrant ‘illegality’, as well as its effects in terms of un-bounded labour, only in regard to the specific migrant group concerned: Basotho migrant domestic workers in South Africa. As the analysis is primarily concerned with the everyday lives and experiences of migrants themselves, it also treats the perspectives and experiences of other actors – such as migration officials, employers or family members – as peripheral.

Such a perspective mirrors the focus of the qualitative data (as mentioned above) on migrants’ accounts first and foremost. It also corresponds to the nature of the border as producing various subjectivities: as each border operates differently for different migrant groups, this analysis is only able to speak for the particular migrant group, and the particular border, under inspection. The concepts and arguments arising from this case study, however, provide challenging and novel contributions and implications for a range of scholarly and policy debates. In addition, while its scope may be thus limited, by concentrating on migrants’ lives this thesis is also able to delve deeply into these women’s realities and provide a rich account of their labour migration – including the ways it is patterned and regulated – as experienced by them. The particular characteristics of this population are introduced in the following section.

⁶ The potential broader applicability of this analysis is discussed in Chapter Eight.

Knowing Basotho migrant domestic workers

Basotho domestic workers comprise a largely unknown and unrecorded community. These women's invisibility is itself discussed in the thesis, and examined as a particular impact of the border both upon individual migrants' lives, and upon the larger migration flow of Basotho women into South African homes. This section provides a profile of these migrant workers, based first upon the data gathered for this project, and second upon scholarly literature.

Profile of interviewees

This thesis is based upon a body of qualitative data generated through extensive fieldwork in South Africa and Lesotho. The core of this data comprises a collection of recorded interviews with Basotho migrant domestic workers themselves. It is worth noting here that discussions (both recorded and unrecorded) were also held with other domestic workers. In addition, not all interviews covered all relevant information – for instance because of participants' reluctance to speak about certain topics, or due to practical exigencies whereby interviews were interrupted or held over numerous sessions. While the recorded interviews, involving a total of 70 Basotho domestic workers, do not purport to provide a statistically representative sample, they do still encompass a broad range of participants and therefore offer a meaningful glimpse into the dispersed community of Basotho migrant domestic workers.

Drawing upon the recorded interviews, then, a basic demographic profile can be compiled. Tables 1.1 and 1.2 present data regarding interviewees' ages and marital status.

Table 1.1 Interviewees by age

Age (years)	Interviewees (n = 47)
Up to 30	11
31-40	15
41-50	11
51+	10

Source: Recorded interview data.

Table 1.2 Interviewees by marital status

Marital Status	Interviewees (n = 59)
Never married	8
Married/partnered	22
Divorced/Separated/ Abandoned	13
Widowed	16

Source: Recorded interview data.

As these figures suggest, Basotho domestic workers occupy a wide range of circumstances. The most common situation was that a woman had once been married, and was now at least 35 years old and without a partner. Notably, very few interviewees were able to rely on another person's income, whether that of a spouse/partner or another family member. This reflects migrant domestics' role as breadwinners, as well as the particular responsibility of Basotho women to provide for their children.⁷ Table 1.3 depicts the numbers of interviewees with given numbers of children:

Table 1.3 Interviewees by number of children

x	Interviewees with x children (n = 62)
0	3
1	11
2	14
3	11
4	12
5+	11

Source: Recorded interview data.

Almost all interviewees had at least one dependant at the time of the interview. There were often discrepancies between numbers of interviewees' children versus their dependants, as some interviewees had adult children who were financially independent, while many were responsible for supporting parents, orphaned grandchildren or other family members.

Almost all interviewees shared similar circumstances in terms of documentation and legal status. Only five (out of 66) women held South African ID documents legalising their employment in South Africa. None of the interviewees held work permits (the only other document legalising foreigners' employment), as these cannot be issued for domestic service. Most interviewees relied on 30-day visitors' permits, while some held cross-border permits and a small number did not possess any kind of documentation permitting their entry to South Africa. It would be misleading to provide any quantitative representations of these various categories, as Basotho women's strategic engagement with the system of documentation is both fluid and deceptive.⁸ For instance, upon entering South Africa with her passport a woman may be issued a 30-day visitor's permit

⁷ Both these issues are discussed in greater detail in Chapter Seven.

⁸ The nature and significance of these various forms of documentation, and women's strategies for engaging with them, are discussed in Chapter Four.

that then lapses during her employment; the next year she may rely on a cross-border permit that enables her to enter South Africa easily but prohibits her presence in the urban destination where she works; following the expiration of this permit she may face the destruction of her passport and resort to sneaking across the border undetected by officials.

Similarly, while exemplifying an oscillating migration flow, Basotho domestics' movements back and forth between Lesotho and South Africa do not follow a rigid pattern. Migrants' decisions to return to Lesotho depend upon a complex range of factors, such as documentation, family circumstances, income, remittance channels and work location in South Africa. At the time of interviews, many (19 out of 47) working interviewees were returning home each month; others only did so every two to four months (18 out of 47 interviewees). All interviewees returned to Lesotho at least once a year, most typically at Christmas.⁹ Visits to Lesotho were typically brief, though they ranged from one day (especially in the case of monthly returns) up to one week or even a fortnight (over the Christmas break). Lengths of visits home were limited primarily by employers' instructions, while also reflecting the particular reason for the visit, for instance for a relative's funeral.

In terms of their employment as migrant domestics in South Africa, most interviewees had only been employed for a short time: 66 percent (31 out of 47) of the interviewees had worked in domestic service in South Africa for a period of five years or less. Likewise, only 15 percent had so worked for 15 years or more.¹⁰ The majority of interviewees (55 out of 69) were still employed in South Africa at the time of being interviewed. Every woman who was not still employed expressed a desire to re-migrate for employment in domestic service in South Africa, but was hindered by ill health, difficulty finding a job, or the unavailability of any other family member to watch over dependants or the home in her absence.

⁹ The sole exception was Mamoratehi, who held a South African ID. She still desired to return to visit family in Lesotho, but because her young children – who stayed with her in South Africa – did not also hold ID documents, she was unable to take them with her, and was thus unable to travel to Lesotho.

¹⁰ Several biases in the research process must be mentioned here. Only active (currently working) migrants were identified and interviewed during fieldwork in South Africa. However, in Lesotho, those women who had finished working in South Africa were identified along with more recent migrants. In addition, during fieldwork in Lesotho many known active migrants could not be interviewed due to their absence at the time (and the impossibility of interviewing them during their infrequent/short visits home). Notably, the short periods of time women reported having worked in South Africa can not simply be explained as the result of their only recently having had children, nor by their young age.

Regarding domestic service employment itself, interviewees' accounts echoed one another in several key respects. Almost all women were employed as live-in domestic workers, meaning that they resided at their employers' homes for the entire duration of their employment in South Africa, rather than occupying a second home in South Africa.¹¹ As the thesis explores, this pattern of live-in employment is intimately connected to migrant women's 'illegality': it both reflects their status as 'illegal' migrants who cannot easily access housing, and creates the site and conditions for their unique exploitability and control by employers. While interviewees were employed in various settings, from wealthy suburbs to townships,¹² this did not greatly impact upon their employment experience.¹³

All migrant women were subject to the discretion of their employers to determine their working and living conditions. Hence, while individual employers were more generous or more exploitative than others, the common condition was interviewees' dependence on employers, and their relative lack of control over the employment relationship. Only a minority of (7 out of 60) women had ever worked for a white employer, and out of the 55 interviewees working at the time of the interview, 41 were employed by a non-white employer. Again, these experiences both reflect and reproduce Basotho women's 'illegality' as migrant workers in South Africa. Employers were also overwhelmingly referred to as female, reflecting the strongly gendered nature of domestic service in South Africa; even in circumstances of a couple or family hiring a domestic worker, it is typically the wife/mother who is responsible for managing this employment relationship.

¹¹ The only exceptions were those few respondents who had a South African ID, and/or who were staying with (and largely dependent upon) other individuals, usually South African husbands or boyfriends. Women living with such partners were also only working piece jobs (e.g. coming to do a family's laundry once a week) rather than full-time domestic service. Hence any Mosotho woman not able to secure full-time domestic service is unable to stay in South Africa unless she lives with another 'breadwinner' or secures an ID.

¹² 'Township' refers to an area created by the apartheid government in South Africa as reserved for non-whites (including Black Africans, Coloureds, and Indians). These were usually built adjacent to urban areas, and many still lack basic infrastructure. Although some townships now include relatively wealthy areas and homes, most are dominated by tin shacks and/or one-room brick homes as provided through government housing schemes, with limited access to running water and electricity.

¹³ The exception is that wage levels are commonly perceived by domestic workers to be higher in large urban centres (such as Johannesburg) than in smaller towns, and generally lower in the case of townships. This is discussed further in Chapter Seven.

Basotho migrant domestics in scholarly literature

Basotho domestic workers comprise an under-researched migrant group in Southern Africa. Basotho women and their lives have been examined in other general studies of labour migration from Lesotho, many of which emerged during the surge of critical international academic interest in Lesotho during the 1970s and 1980s. These studies typically featured Basotho women as 'left behind' (Gordon 1978) by their migrant husbands and fathers, who toiled in the South African mines for much of the twentieth century. For instance, Mueller (1977) carried out a gendered analysis of the power dynamics among women in Lesotho villages, viewing rural Lesotho as a peripheral labour reserve. Thus, whereas Basotho men often appeared in analyses of migrant labour in Southern Africa, such accounts tended to ignore female migration (Johnston 2007: 497), and any scholarly attention to Basotho women's lives centred around their 'village-rootedness' (Mueller 1977: 327).

Some scholars have observed that Basotho women at home in Lesotho have exercised a high degree of de facto autonomy in their husbands' absence, effectively 'heading' many rural households. Others have pointed to the disturbing impacts of the labour migration regime on Basotho households, and the ultimate dependence of Basotho women and children on the wages of absent husbands/fathers.¹⁴ Epprecht (1992: 392-3; 1996: 205; 2000: 59) has noted that the impacts of men's labour migration on women in colonial times largely depended upon women's class positions. The challenges more recently faced by Basotho women in the context of declining male labour migration for mining work, and the transition to democracy in South Africa, have also been the subject of inquiry (e.g. Matobo 2002; Pule and Matlosa 1997).¹⁵

Matobo (2002) has remarked upon newer feminised patterns of labour migration *within* Lesotho, in the context of diversified survival strategies since large-scale mining retrenchments in South Africa. A number of other more general studies offer glimpses in

¹⁴ On the impacts of men's labour migration on Basotho women and families, see Gay (1982; 1980b); Gordon (1981); Maloka (1997); Murray (1981).

¹⁵ The alarming implications of mining retrenchments – and declining opportunities for minework – for Lesotho more generally (including its economy and society) were identified as early as the beginning of the 1990s, in regards to the change of government in South Africa and the resulting shift to dismantle the mining labour migration regime (see Santho 1994). As with most subsequent studies, this report failed to predict or acknowledge the growth in feminised, clandestine labour migration as an alternative livelihood strategy for poor Basotho households.

passing, anecdotal references to Basotho women migrating to South Africa for work (for instance see Spiegel 1979: 20; Gay 1980b: 77-8). In a brief article, Gay (1980a) published the results of a village-based case study of Basotho women migrants, among whom many had been employed in South Africa as domestic workers.¹⁶ This thesis confirms the continuation, several decades later, of several of her findings regarding these migrant women's motivations, strategies and hardships.¹⁷ Besides this handful of studies, overall the experiences of Basotho women moving to South Africa have attracted little scholarly attention.

This trend can be partly explained by the fact that Basotho women's movements have been legally restricted for many years, both by the Lesotho (or Basutoland colonial) government, and by South African authorities. As a result, Basotho women have historically been less likely to cross the border than their male counterparts, and have been rendered largely invisible in both mainstream and critical studies. Official restrictions (as well as cultural norms and expectations) have also meant that Basotho women's movements have historically been resisted, denied or hidden, and Basotho migrant women cast as 'loose', 'rebellious' or 'troublesome' (see Bonner 1990; Coplan 2001a; Epprecht 2000: 85-93; Kimble 1983). Today, there is still scarcely any mention of Basotho *women* as labour migrants in studies carried out by governmental bodies or development organisations within Lesotho. This attitude has carried across into the scholarly literature, principally in the form of silence about Basotho women as migrants in their own right. This thesis therefore provides the first in-depth, contemporary study of this labour migration flow.

Despite restrictions on their migration, as Epprecht (1996: 196-7; 2000: Chapter 5, 98, 123) and Bonner (1990) have clarified in their meticulously compiled accounts from each side of the border, Basotho women have for generations – and in large numbers – sought and created better work and life opportunities across the border. Indeed, during colonial rule in Basutoland, 'running away' proved a popular exit strategy for Basotho women, and an

¹⁶ While the sample for Gay's study (94 women) all came from a single village in Lesotho, it included a significant number of migrant domestic workers: 'Of the 74 village women who had worked in South Africa in the past, 55 reported that they had done regular domestic work for at least some period. ... most of the women who continue as migrants find work as domestics ... Of the 20 women [still migrating]... 14 are domestic servants' (Gay 1980a: 23-24).

¹⁷ A further study of Basotho women's cross-border migration was carried out by Ms Thetela, a PhD student at the University of Lesotho, in 1980. The author has since passed away and her thesis cannot be located at the University (or at the Morija Museum and Archives).

important means of engagement with changing political and economic circumstances in the region (Kimble 1983). More recently, Coplan has confirmed Basotho women's ongoing labour migration (2001a; 2001b: 102-105), and his recording and analysis of Basotho migrants' songs has offered a poignant image of the hardships women have endured in their ventures 'over there' in South Africa (1987: 423-8; 1994: Chapter 6; 2006: 232-7).

The physical absence of Basotho migrant women may also contribute to their invisibility in the Lesotho- or Basotho-focused literature. However, this trend continues when the South African literature is also examined. As Ulicki and Crush acknowledge, '[t]he new movement of female migrants from Lesotho to South Africa is part of an important reconfiguration of patterns and processes of migration in South Africa' (2000: 77). Despite this, Basotho women migrants have generally continued to pass under the scholarly radar in South Africa.

Indeed, scholars have only recently begun to sketch a picture of women cross-border migrants in South Africa more generally. This lacuna, and the gender aspects of recent (feminised) labour migration trends in Southern Africa, have been identified as an ongoing concern for migration researchers (Dodson and Crush 2004: 102; Lefko-Everett 2007: 10; Ulicki and Crush 2002: 64-5). Responding to the 'apparent significant' increase in female migration to South Africa since 1994, Dodson (1998) used survey data to outline a number of key concerns and migration habits of migrant women. Lefko-Everett (2007) recently produced a more textured view, compiling a rich collection of statements and narratives based on interviews and focus groups carried out with migrant women in Johannesburg. However, as she concedes, the sample for her study was dominated by Zimbabwean women, and women working as traders/vendors (2007: 12).

This bias reflects a more general trend. The few studies of women as cross-border labour migrants in South Africa typically concern more 'visible' workers, such as street traders (e.g. Lefko-Everett 2007: 12; Singh 2007).¹⁸ Ulicki and Crush (2000), in an off-shoot of research carried out for the Southern African Migration Project (SAMP) in 1997-8, sketched the experiences of Basotho women (and men) working on South African farms, within the context of changing migration from Lesotho more generally. Johnston (2007) also recently conducted an insightful study of Basotho women farmworkers in South

¹⁸ Indeed, a 1999 Southern African Migration Project (SAMP) study of 496 African migrants in South Africa covered 11 employment sectors/types but included no domestic workers at all (McDonald, Mashike and Golden 1999: 10).

Africa, critically examining farmers' preference for these migrant workers. However, domestic workers have largely failed to feature in accounts of women's movements – including this handful of studies investigating Basotho women as labour migrants.

This is certainly not a result of migrant women's inclination towards employment in sectors other than domestic service. SAMP data (as presented by Ulicki and Crush 2000: 68) have indicated domestic service as the leading actual (versus preferred) job for Basotho women migrants in South Africa. Indeed, according to a more recent study based on an extensive survey sample, domestic service accounts for just over 50 percent of working female migrants from Lesotho, effectively dwarfing the figures for all other sectors (Dodson et al. 2008: 25). In addition, as noted below, Peberdy and Dinat (2005: 9) demonstrated that non-citizens – and foremost among them, Basotho – comprise a small but significant portion of domestic workers in Johannesburg, South Africa's largest city.

Considering the challenges of access outlined in Chapter Three, the neglect of migrant domestic workers, and particularly Basotho women, in this literature can be understood as arising from their relative 'invisibility' and seclusion, perhaps coupled with the potential for Basotho, unlike many other African migrants, to pose as South African citizens.¹⁹ Viewing this silence more critically, Johnston (2007: 497) and Epprecht (1996; 2000) also note that the tendency to ignore women's migration in historical-structuralist work on Southern African migration reflects 'androcentric' and ideological assumptions about women's mobility, and about Basotho women in particular.

This seeming invisibility of migrant domestic workers in the Southern African literature is sharply contrasted with the global scholarly scene, wherein migrant domestic workers have recently proved a popular subject of inquiry among migration researchers.²⁰ These studies have mainly focused on larger migration flows, such as those emanating from the Philippines (Asis et al. 2004; Parreñas 2001) or Latin America, and/or flowing to major 'developed' destinations such as North America (Bakan and Stasiulus 1997; Hondagneu-Sotelo 2001), Western Europe (Anderson 2000), Singapore (Yeoh et al. 1999), Hong Kong,

¹⁹ These themes of invisibility and concealment, including Basotho women's invisibility relative to other cross-border migrants in South Africa, are expanded upon in Chapter Six.

²⁰ The increasing global incidence of migration for domestic service employment, and its regulation, has even attracted the attention of the International Labour Office (ILO 2010: 9-11, 61). Concern over these migration flows – and the implications of greater numbers of cross-border migrants employed in the domestic service sector worldwide – apparently lie behind international pressure for the ILO to draft a new Convention specifically to protect domestic workers.

or Gulf cities (Gamburd 2000). These studies therefore focus on women's labour migrations that occur over long distances, or that are highly regulated, not only by states but also by recruitment agencies.

Less publicised are the strategies and lives of domestic workers who travel shorter distances, into neighbouring 'developing' countries.²¹ The flows of women engaging in such livelihood strategies are less visible, at least to international scholars, if not also to state agents; hence their connections to grand models of 'global care chains'²² or 'international divisions of reproductive labour' (see Mattingly 2001; Parreñas 2001) are less obvious, though not necessarily less significant. Of course, the number of domestic workers who walk rather than fly across international borderlines is unknown. However, as explained above, such South-South migration flows are undoubtedly significant, both in quantitative terms, and in terms of their role in the livelihoods of poor families throughout the world.

There has certainly been much scholarly analysis of domestic service in South Africa, especially since regulatory reforms in 2002 sought to transform the industry (for instance, see Ally 2009; Fish 2006; King 2007). However, the particular ways in which cross-border migrants engage with this industry, and with this legal framework, have not been considered. This is presumably because there is no work permit for non-citizens to be employed as domestic workers; as such, cross-border migrants are simply not acknowledged, or are assumed to sit outside the regulatory machinery.

Although the role of (internal) migration in the lives of South African domestic workers has also proven a subject of inquiry (e.g. Le Roux 1999; Peberdy and Dinat 2005), the working lives of cross-border migrant domestics have been ignored. A 2005 survey of 1100 domestic workers in Johannesburg found that of those who claimed to have homes in other countries (6 percent of the sample²³), almost 50 percent had come from Lesotho

²¹ Muttarak's study of domestic service in Thailand does include a brief discussion of the domestic workers who are cross-border migrants, though this is placed within a broader analysis of ethnicity (2004: 516-8).

²² This term was coined by Hochschild (2000). See Yeates (2004) for a discussion.

²³ While this figure appears small, it must be remembered that, since work permits are not available for domestic workers, the vast majority of cross-border migrant domestics are working illegally; even this 6% is hence well above the officially expected or prescribed level of zero. The figure's broader representativeness should also be viewed with some caution, considering research difficulties – as outlined in Chapter Three – associated with access and trust. I would therefore suggest that the actual proportion of domestic workers in Johannesburg who have migrated across a border is larger, though

(Peberdy and Dinat 2005: 9). Beyond these demographic data, the study made no meaningful distinction between internal and cross-border migrants. As such it provided mere confirmation of Basotho migrant domestic workers' existence, rather than examining their unique experiences and strategies.

In summary, the labour migration of Basotho women to work as domestics in South African homes has, for various reasons, been largely disregarded in the academic literature. This trend can be viewed in the context of Basotho migrant women's concealment and invisibility more generally – as discussed in detail in Chapter Six. For the purposes of this introduction, a review of the relevant literature has demonstrated that this thesis provides the first in-depth account of this labour migration flow, and in doing so, addresses a number of critical gaps in scholarly inquiry.

this figure is almost impossible to measure in practice. Notably, this may not hold for other areas of South Africa, given that Johannesburg is the country's most popular destination among incoming labour migrants.

Outline of the thesis

Following this introduction lie two background chapters. Chapter Two fleshes out the central concepts and arguments of the thesis. Structured around the production of Basotho migrants as particular subjects, it draws on a range of relevant scholarly literature. It begins with an account of the border as an apparatus which disciplines migrants as subjects, and places this conceptualisation within the context of existing scholarship on the nature and function of borders. The particular subjectivity of 'illegal' migrants is then considered, including the various aspects of migrant 'illegality' experienced by Basotho migrant domestics. Finally the subjectivity of Basotho women as un-bounded labour is elaborated in greater detail. This conceptual frame is also located within and distinguished from relevant scholarly analyses, demonstrating the significance and novelty of the thesis' arguments arising from its particular case study.

Chapter Three explains the qualitative research methodology – the process of making the invisible visible. It introduces the planned methodology, contrasting this with the actual research process, which consisted primarily of recorded semi-structured interviews, group discussions, meetings, and personal observations in both South Africa and Lesotho. Various fieldwork challenges and processes are discussed, including access and trust, mobility and transnationalism, and the crossing of social barriers. As interviews with migrant workers provide the central body of data for the analysis, particular attention is given to the interview experience itself. The chapter then considers ethical dilemmas of help and harm, as well as the politics of data analysis and communication.

The subsequent four empirical chapters develop the central arguments of the thesis, drawing on qualitative data gathered during fieldwork. They provide rich accounts of the precise ways in which the border produces un-bounded labour by disciplining Basotho women as 'illegal' migrant workers. Chapters Four to Seven therefore complement the theoretical frame already outlined, by illustrating how these concepts arise from, and are grounded in, the empirical analysis. These chapters also interconnect by highlighting how the various aspects of migrant 'illegality' and migrants' un-boundedness interact and reinforce one another.

Chapter Four introduces the analysis of migrants' 'illegality' by reviewing the legal framework for labour migration to South Africa, and its application to Basotho migrant

domestic workers. The ostensible failures of this regulatory system are then depicted, including: the insecure frontier-line between Lesotho and South Africa; the ports of entry, plagued by state incapacity, corruption, deception and forgery; the systems of documentation and bribery which extend the regulatory system beyond the frontier-line; and the role of physical indicators which accompany documents as techniques for identifying Basotho migrants in South Africa. The official regulatory system is shown to fail in its attempts to stop visitors becoming workers. This apparent failure gives rise to the 'illegal' migrant worker, who is afraid of state officials and endures a constant threat of deportation. The chapter also contextualises this analysis of documentation and the frontier-line within the conceptualisation of the border developed in this thesis.

Chapter Five focuses on the production of 'illegality' within the employment relationship and experience. Migrants' fear of officials is shown to undermine the application and accessibility of labour rights in practice, whether involving state protections or workers' unions. Thus the 'illegal' domestic worker is a unique worker, in several aspects: her employment is beyond the operation of law, contracts or rights; she is uniquely dismissible, able to be expelled at any time for any reason; hence she is exploitable, which typically manifests in low wages, with endless working hours (always being on call for employers) and limited access to time off or leave. The 'illegal' domestic is also uniquely dependent upon her employer to provide accommodation, medical assistance, and even food. This chapter then illustrates migrant domestics' reliance on strategic submissiveness to manage their employment relationships and stabilise their employment experiences, given employers' unbounded discretion. Women's reliance on this strategy also rests upon the conditions which led them to migrate for work, and their limited employment options as 'illegal' migrants.

Moving beyond the employment relationship itself, Chapter Six examines Basotho domestics' experiences in South Africa as imprisoned, isolated and invisible workers. As 'illegal' migrant workers, Basotho women opt for live-in domestic employment, and are effectively imprisoned in their employers' homes – either through employers' control or through their own fears. While this imprisonment helps to protect them from the threat of deportation, it is seen to limit women's access to institutional assistance and social networks. Women's 'illegality', with their resulting fears and the precariousness of their presence in South Africa, also restricts their opportunities for socialising. The significance of this isolation is discussed, including impacts on workers' psychological wellbeing; their

dependence on employers; avenues for negotiating remittances and documentation; restricted access to information and assistance regarding their employment; and limited job options. Finally, this chapter outlines the ways in which Basotho migrant domestics are concealed, in various modes: spatial, social, formal and discursive. Thus migrants' invisibility is shown to extend from the individual to institutional levels.

Chapter Seven places the analysis of Basotho women's 'illegality' within a broader socio-political context. It begins by considering the changing role of labour mobility in Basotho families, highlighting the shift from male to female labour migration to South Africa. As 'illegal' migrants, Basotho women are seen to experience a division between South Africa as the site of wage labour versus Lesotho as the site of 'life'. To maintain both employment and life, an individual migrant must strategically orchestrate a range of cross-border flows – her own movements, and flows of documents and remittances. Her ability to strike this balance and maintain gainful employment depends upon her location in South Africa, though her 'illegality' restricts her own choice in this respect. Looking beyond the cycles of individual migrants' circulations, the chapter also reflects on women's narratives of progress, failure and stagnation to uncover how the border – operating through the continued reproduction of migrant 'illegality' – propels a continued supply of Basotho migrant domestics, and therefore of un-bounded labour, from one generation to the next.

Chapter Eight concludes this thesis by reiterating the analysis presented throughout each chapter, with particular emphasis on the accounts of borderwork, migrant 'illegality' and un-bounded labour in the empirical chapters. It also considers the contributions this thesis makes to scholarly perspectives and future research, and contemplates the future of Basotho women's labour migration and its regulation.

Chapter Two

The Production of Migrants as Subjects: Borders, migrant ‘illegality’ and un-bounded labour

In defining the effects of power as repression, one adopts a purely juridical conception of such power, one identifies power with a law that says no, power is taken above all as a wholly negative, narrow, skeletal conception of power, one which has been curiously widespread. ... [Power] needs to be considered as a productive network which runs through the whole social body, much more than as a negative instance whose function is repression.

(Foucault 1980: 119)

It must be acknowledged that our worker emerges from the process of production looking different from when he entered it. In the market, as owner of the commodity ‘labour-power’, he stood face to face with other owners of commodities, dealer against dealer. The contract by which he sold to the capitalist his labour-power proved in black and white, so to speak, that he was free to dispose of himself. But when the transaction was concluded, it was discovered that he was no ‘free agent’[.]

(Marx 1990: 415)

The analysis and arguments of this thesis centre on several key concepts, each of which challenges and extends existing scholarship. This chapter expands on these central arguments and themes, while drawing on and responding to relevant scholarly literature. The chapter is structured around an account of the production of migrant subjectivity, or the production of migrants as subjects. The three sections cover the three main aspects of this theme, namely: understanding the border as a disciplinary apparatus that produces migrants as subjects; ‘illegal’ migrants as particular subjects (or, the production of migrant ‘illegality’); and migrants’ subjectivity as un-bounded labour. This chapter therefore sets out the conceptual frame which accompanies the remainder of the thesis.¹

The first section outlines the conceptualisation of border in the thesis: namely, as a multi-sited disciplinary apparatus. This conceptualisation is outlined in response to three key limitations in scholarly literature: a preoccupation with law and state power, a spatially fixed lens, and an assumption of the exclusionary or repressive nature of borders and

¹ Parts of this chapter have been discussed in Griffin (2011).

migration controls. The ostensible and ongoing failure of the border is then shown to be productive, and productive of migrant 'illegality' more specifically.

The second section examines this 'illegality' in greater detail, including the various aspects of 'illegality' illustrated throughout the empirical chapters of the thesis. These aspects represent not merely the effects of migrant 'illegality' but practices and relations by which that 'illegality' is continually reproduced as a social reality in migrants' lives.

The third section expands upon the framework of un-bounded labour, whereby Basotho migrant domestics and their labour migration are both unbounded and bounded. As this section illustrates, there are numerous ways in which these women and their movements appear unbounded, whether from social, legal or geographical constraints. Conversely, when migrants' subjectivities are considered, Basotho domestics experience a concerted boundedness, for instance within the boundaries of familial and gender roles, employment relations, suburban homes, and so on. Thus the apparent unboundedness of Basotho migrant women's lives is shown to manifest through their experiences of being continually and repeatedly bounded. The specific modes of un-bounded labour are also contextualised within relevant bodies of scholarly literature, revealing the novelty of this thesis in terms of its conceptual frame.

The border as producing migrant subjectivity

Recent years have seen a surge of scholarly interest in borders and the regulation of international migration. This has included efforts to challenge dominant or superficial understandings of the nature and operation of borders and migration controls, and a shift to considering their material practices. This thesis builds upon such enquiries, while extending the conceptualisation of borders even further. This section outlines the key limitations of existing border scholarship, and the more complex understanding of border offered here. This is followed by an outline of the approach taken in this thesis to understanding the border, including a concern with its produced effects.

This thesis' conceptualisation of border responds to three main limitations within border studies: a state- and law-centric focus; a view of borders as geographically fixed; and a lack of attention to the productive nature of apparent failure. Instead, this thesis adopts an understanding of the border as a disciplinary apparatus.

Looking beyond state and law

First, the role of non-state actors in border controls or migration regulation is rarely acknowledged or appreciated in scholarly accounts. Both borders and regulation are taken to be intrinsically state-directed, and related (often only) to state power. For instance, when analysts ask 'Who controls?' (Bigo 2004: 68), the answer is always assumed to be some agent of the state. As Pellerin (2005: 53) observes, constructivist analyses 'allow a look at borders as instruments of state power ... but often by assuming a single and unified state logic'. She suggests an alternate approach (2005: 54):

A political economy analysis of borders should take the border as a constructed space, that is, a space where different social forces, each with specific economic and political interests, meet and interact ... Conceiving the border as a social space problematizes the automatic link with the state or with some economic sectors, and opens up the realm of social actors and forces involved in the practice of borders.

Some scholars point to the tentacular nature of state border control, reaching beyond frontier-lines to various sites of state-migrant encounters. Hence Weber (2006: 26)

considers the ‘web of immigration enforcement’, into which ‘health authorities, librarians and teachers’ resist being drawn. Several recent studies also note the ‘privatisation’ of border controls and technologies, particularly in Western nations and the European Union (e.g. Bigo 2004: 62). However, even where non-state actors are recognised in such studies of migration regulation, it is assumed that the state once exercised such control and has since explicitly devolved it elsewhere. While acknowledging that other individuals and institutions participate in these ‘internal controls’, the underlying assumption is still that the original (past or ideal) responsible actor is the state.²

In contrast, the conceptualisation of the border in this thesis is not limited to states’ conscious and deliberate ‘outsourcing’, ‘exporting’ or ‘externalisation’ of border enforcement and labour migration control (e.g. Green 2006). Rather, it includes migration regulation by other entities, where such a responsibility or role is not necessarily granted by the state, but may be assumed by force or simply by default.³ As the empirical chapters demonstrate, the bordering practices of state and non-state actors are in fact often congruous, producing uniform results. For instance, in this study of Basotho migrant domestic workers, the various agents of ‘bordering’ practices include transport operators, employers, and migrants themselves, in addition to various branches of both the Lesotho and South African states.

As bordering mechanisms are not limited to state or state-sanctioned practices, they may be legal or illegal, or may fall somewhere in a grey zone between these two categories. For instance, during interviews, Basotho migrant women simply referred to payments – whether for securing documentation, or to be granted access through gates at the territorial frontier. The simple declaration of ‘we must pay’ made little or no distinction between payment of fees, fines or bribes. It was often unclear whether such payment had been in response to an exercise or an abuse of state power; whether to satisfy state or personal demands. Similarly, Basotho women rarely distinguished between forged documents, authentic documents procured legally, or those procured through corrupt

² For instance, Rajman and Kemp (2002) discuss the consequences of the Israeli state’s ‘evading its responsibility to deal with migrants’ as the stepping in of local government and human rights organisations to fulfil this role.

³ Mosselson (2009) provides an interesting example of this dynamic, wherein South African community members involved in xenophobic attacks speak of the need to re-assert differential treatment of citizens and non-citizens, in response to the state’s failure to do so.

dealings. When each avenue required the payment of money, and all (if well forged) served the same purpose, such distinctions were neither apparent nor meaningful.

In these cases, as with other bordering practices outlined in the thesis, the distinction between legal versus illegal transactions or processes becomes not only problematic, but largely irrelevant. Taking these everyday realities seriously means appreciating extra-legal or illicit behaviour not as merely defying or undermining legally-constructed borders, but rather as constituting an intrinsic element of a more complex border apparatus itself. This reverses conventional casting of illegal activities as undermining or eroding borders – partly attributable to the implicit conflation of borders with state power, as mentioned above. The alternate conception of the border as an apparatus enables an account of the interconnections between legal and illegal processes, or state and non-state power, and how they operate as part of a larger structure involving a multitude of actors.

Border as constellation

The second key limitation of scholarly accounts of borders or migration management is the spatially fixed lens through which these processes are typically scrutinised. If the border is taken to encompass not only a territorial line but the processes and practices which make this line real, then bordering practices unfold over a range of sites, whether socially, institutionally or geographically. This is acknowledged in some of the more recent literature on the (institutional) operation and performance of borders, in studies of airports or other ports lying within host territories (see for example Adey 2004; Parsley 2003; Salter 2005). For instance, Weber (2006: 22) argues that ‘national borders are ... becoming mobile in both time and space’. Border studies therefore appear to have branched out from the traditional focus on borderlands found along territorial frontiers. Scholars have begun to recognise that these sites and practices are not even limited to the ‘host’ country’s territory, but can extend outward to neighbouring countries or regions.

However, these studies still tend to be concerned with official *entry* procedures for migrants, despite general observations that:

Such management does not only take place at the physical port of entry to the country, but is also rooted in the agencies of control through which migrants

are granted basic rights, such as social welfare, education for their children and the ability to bring in immediate family members. As such, the process of management is closely linked to the nature of exclusion/inclusion, as stricter management procedures strengthen the extent to which groups are excluded from the host society, regardless of the precise location on geographic space which may, as is often the case, be in the very heart of the capital city (Newman 2003: 283).

Scholars continually neglect to consider the precise ways in which these various sites inter-connect and comprise elements of a larger apparatus, spreading beyond the more obvious, usually state-controlled, physical barriers at ports of entry. This ongoing struggle – to tie together the various sites of entry management with analyses of the ‘everyday dynamics of exclusion’ (Calavita 2005: 99) throughout the migration experience – reflects the common difficulty with formulating a similarly extended understanding of the border itself.

Even Bigo, who emphasises the ‘delocalisation’ of controls (2004: 87), becomes caught in contradictions as he notes ‘the reduced significance of the state border’ and then shifts to define the ‘frontier’ as ‘always a political process’, in order to tie it to the production of documentation (2004: 65-8). He attempts to resolve this contradiction by posing the fundamental questions of ‘Where are controls located? ... How are the controls carried out? ... Who controls?’, in the ensuing discussion he is seemingly unable to weave the technologies of control together with the frontier.

In contrast, adopting a migrant’s view of bordering practices *necessitates* a consideration of the different ways in which the border’s disciplinary and surveillance mechanisms extend beyond mere physical entry into territory. By adopting the perspective of the Mosotho migrant domestic worker, this thesis is more able to uncover and connect the constellation of sites throughout which the Lesotho-South Africa border operates in her life.⁴ As the following chapters demonstrate, in this particular case the border functions simultaneously throughout a range of spaces and sites, including government offices, transport networks, frontier fences/gates and buildings, workplaces (in this case, private

⁴ Of course, migrants and their experiences differ. The reference here (and elsewhere in the thesis) to a Mosotho migrant, in the singular, is not to suggest that all Basotho migrant domestics share an identical experience of migration and employment. Throughout the thesis I discuss and analyse these differences where they exist, while focusing on the shared or more common experiences as elements of the subjectivity of such a migrant.

homes), parks, streetscapes, churches, union offices, medical clinics and hospitals, and so on. These sites and processes are interconnected in various ways; hence territorial frontiers function as merely one site among many in the constellation.

As noted above, even where scholars mention the extension of the border *within* the host state's territory, that is, beyond the regulation of migrants' entry, the focus is still strongly on state power and state-led initiatives.⁵ As in Dauvergne's (2004: 601) oft-cited formulation:

Sovereignty ... is ... seen to be about people rather than territory, as the label 'illegal' allows us to shift the US-THEM line from the border of the nation to within the nation, wherever it is required. In this way, cracking down on illegal migration functions as an assertion of both the internal and external dimensions of sovereignty.⁶

The conception of border employed in this thesis allows a more nuanced understanding of this dynamic, by looking beyond a host state's power/sovereignty and scrutinising who exactly (rather than simply 'us') may be involved in producing or shifting this 'line', as well as the particular practices by which they do so. As discussed in the following section, the production of 'illegality' and the 'illegal' migrant is indeed a key mechanism of the Lesotho-South Africa border's construction in the lives of Basotho migrant workers. However, the processes and implications of this 'labelling' are complex and contested. Indeed, they encourage us to abandon simplistic thoughts of border and migration control in terms of lines between territories, states or individuals.

Beyond inclusion and exclusion: border as disciplinary apparatus

The final weakness of most scholarly approaches to borders and migration control is the common assumption that they operate negatively, by aiming or functioning to exclude rather than include; that their power is merely repressive rather than productive.

⁵ In a typical example, Pickering (2006: 57) notes: 'The border policing effort in South Africa has increasingly depended upon particularly problematic internal policing practices that extend the border into the South African state.' In this mainstream view, bordering practices are taken as synonymous with state-led 'policing', ignoring the roles played by non-state actors and power.

⁶ Dauvergne continues to refer to 'migration law's "us-them" line' in her recent work (2008: 17).

As mentioned above, bordering practices do not simply unfold at territorial edges – they do not merely function as walls around territorial space. Understanding the operation of the border beyond physical limits to territorial access involves a ground-level interrogation of the specific sites and mechanisms by which migrants may experience exclusion even after being included into territory.⁷ Adopting a migrant's view makes visible the various forms that inclusion and exclusion may take, including not only territorial but social, economic, political, and so on. It also clarifies the various sites and institutions through which such inclusion and exclusion occur. For instance, this thesis demonstrates the ways in which the border excludes Basotho domestic workers from the offices and protection of specific agencies of legal representation – agencies which are expressly mandated to help such workers enforce their rights. This effect is produced by the border as an apparatus; it is not simply a result of the host state's legal or sovereign power, but involves the strategies of other actors, including migrants themselves.

A migrant-based perspective also exposes the paradox that such inclusion and exclusion may occur simultaneously. Indeed, the very moment or instrument of a migrant's inclusion in one respect may in fact create the mechanism for her later exclusion. For instance, the issuing of a document (like a passport or permit) may facilitate inclusion into territory, while creating the basis for exclusion from basic services or governmental assistance. Similarly, a migrant domestic worker's inclusion into the suburban home of her employer – into the symbolic core of the South African domestic sphere – also creates the condition for her exclusion from social networks and interactive spaces of daily commuting (as discussed in Chapter Six). These practices are not fixed, and are engaged with strategically; they operate as elements of the dynamic border apparatus. As the analysis in this thesis demonstrates, bordering practices involve complex and contradictory practices which both include and exclude Basotho migrant domestics.

According to Dauvergne, 'migration law ... draws a clear bright line between members and others' (2004: 590). However, adopting a migrant's perspective, and looking beyond the legislative lattice, illustrates that the lives of migrants are not simply dictated by their status as 'other'. The 'border', as conceptualized in this thesis, does not simply divide 'us' from 'them', or 'citizen' from 'foreigner'. The various roles and identities available to and

⁷ Conversely, would-be migrants can be included in various ways before they even approach a host country's territory – for instance through the granting of visas. This possibility is not explored in any great detail in this thesis because it does not arise in the particular case under examination – Basotho migrant women in South Africa. However, women's securing of some documentation before embarking to South African territory is considered in Chapter Four.

constructed by migrants, and the ways they experience inclusion and exclusion, are far more subtle and complex. They also vary depending on the migrant group and the particular border under analysis. Thus borders are not simply lines drawn to exclude – rather, they produce a range of migrant subjectivities.

This productive view of borders – in contrast to their typical understanding as merely exclusive or proscriptive – echoes Foucault’s assertion regarding the productivity of (disciplinary) power:

We must cease one and for all to describe the effects of power in negative terms: it ‘excludes’, it ‘represses’, it ‘censors’, it ‘abstracts’, it ‘masks’, it ‘conceals’. In fact, power produces; it produces reality; it produces domains of objects and rituals of truth. The individual and the knowledge that may be gained of him [sic] belong to this production (Foucault 1977: 194).⁸

In this thesis, Foucault’s productive view of power is applied to the Lesotho-South Africa border, and its significance for migrants in particular. Thus the border actively produces migrants as such; it gives rise to particular subjectivities, by disciplining migrants according to these categories.

The border’s productive power – the ways in which it produces migrant subjectivities – is disciplinary in several respects. First, it produces ‘docile’ bodies; bodies subjected and rendered useful. In disciplining migrants, the border increases migrants’ bodies’ forces in terms of economic utility (i.e. as hired workers), while diminishing these forces in political terms, by rendering them obedient.⁹ The experiences of Basotho migrant women as especially exploitable domestic workers, and their apparent obedience (i.e. their reliance on a strategic submissiveness) vis-à-vis their employers, are explored in Chapter Five.

Second, the border employs disciplinary techniques in spatial terms, namely enclosure and partitioning.¹⁰ Basotho women’s experience of staying and working in South Africa is characterised by living-in at their employers’ homes, and ‘staying indoors’. As a result, they experience a kind of individualised imprisonment, which severely limits their

⁸ Also see Foucault (1980: 119).

⁹ For a discussion of disciplinary production of ‘docile bodies’ see Foucault (1977: 136-8).

¹⁰ On discipline’s reliance on an ‘art of distributions’, see Foucault (1977: 141-4).

opportunities for socialising, for group discussions with other domestic workers, and for any kind of collective engagement or action. This reflects discipline's tendency towards individualised and cellular spaces, and its concern to 'avoid distributions in groups [and] break up collective dispositions' (Foucault 1977: 143).

Third, the border disciplines migrants in that it renders them perpetually visible, while concealing its own techniques of subjection: 'Disciplinary power ... is exercised through its invisibility; at the same time it imposes on those whom it subjects a principle of compulsory visibility' (Foucault 1977: 187). Thus the border relies on mechanisms of constant observation or surveillance, whereby migrants are subjected to a 'disciplinary gaze'¹¹ operating through innumerable relays. As discussed below and in Chapter Four, the regime of documentation and migrant 'illegality' construct a constant threat of deportation, such that Basotho migrant domestics perceive every institution and individual in South Africa as a potential agent of their expulsion from the country. Conversely, the practices by which migrants are disciplined – their employment, their intimidation and extortion by officials, and their deportation, if it does eventuate – are largely concealed from public view.

Finally, the border's mode of power is disciplinary in that the identity of the agent exercising the power is variable and of little import. That is, 'it does not matter who exercises power' (Foucault 1977: 202), as migrants become enmeshed in a disciplinary web of gazes and relations:

He [sic] who is subjected to a field of visibility, and who knows it, assumes responsibility for the constraints of power; he makes them play spontaneously upon himself; he inscribes in himself the power relation in which he simultaneously plays both roles; he becomes the principle of his own subjection.¹²

The unimportance of the person or authority exercising power is evidenced throughout the empirical chapters of this thesis. For instance, as mentioned above, migrants often do not differentiate between the payment of bribes or official fines. Similarly, an individual migrant's imprisonment and social isolation in South Africa may arise either from her

¹¹ Foucault (1977: 174). Regarding the role of observation and surveillance in disciplinary power, see Foucault (1977: 170-228).

¹² Foucault (1977: 202-3); also see Foucault (1980: 152-6).

employer's control or from her own fears – the effects are the same. Hence, those practices and tactics that are commonly understood as violating or undermining state-led border controls in fact form part of the border's mechanisms.

A handful of scholars have utilised Foucauldian concepts and approaches in their analyses of borders and/or migration regulation. However, these tend to deal with sovereignty (e.g. Constable 1993), biopower (e.g. Inda 2002), and/or discourses of migration. More relevant to this study is Bigo's notion of the 'Ban' with its 'Banopticon', through which he discusses Europe's modern modalities or technologies of controls over migrants, and their criminalisation and detention (2004; 2007). Similarly, Salter (2006: 167) has charted 'the creation of an international surveillance regime and an international political technology of the individual that is driven by the globalization of a documentary, biometric, and confessionary regime.' This regime is said to be created by states through the global visa regime and through international borders.

As noted in the preceding section, these analyses still rest on an assumption that the state is the ultimate creator/enforcer of borders, the primary regulator of migration – hence Salter's (2006: 185) warning that '[w]e must be vigilant of the expansion of state policing powers, especially at the borders'. Rajaram and Grundy-Warr's (2007) collection also embraces Foucauldian approaches, for instance examining the 'instrumental use of the border as a tool of governmentality'¹³ (2007: xxix); though again it is state- and sovereignty-focused.

The conception of the 'border' applied in this thesis carries a Foucauldian analytical approach beyond the state-migrant relationship, and beyond the legal construction or framework. In doing so it accounts for the technologies and practices of a range of other actors (such as employers, transport operators, and social networks) and for illegal or illicit practices in addition to legal mechanisms. By adopting a migrant's perspective, it therefore looks beyond state power to uncover the more unexpected ways in which surveillance and disciplining shape the lives and movements of migrant workers.

¹³ It is worth noting that while Foucault was concerned with the functions of penal or carceral systems in the context of a disciplinary society more generally (see Foucault 1977 generally; and particularly at 281-2 where he discusses how the reproduction of delinquency creates conditions for supervision of the population more generally), this thesis does *not* consider the role of the border in a larger trajectory of the growth of disciplinary power or governmentality in society more generally. Such questions lie beyond the scope of the thesis' main questions and arguments (as outlined in Chapter One).

Moving beyond the limits of state- and law-based migration controls leads to an understanding of the border as something larger and more complex: an apparatus. Again, this concept is borrowed from Foucault, who explained the meaning or methodological function of the term 'apparatus' (*dispositif*) thus:

a thoroughly heterogeneous ensemble of discourses, institutions, architectural forms, regulatory decisions, laws, administrative measures, scientific statements, philosophical, moral and philanthropic propositions – in short, the said as much as the unsaid. Such are the elements of the apparatus. The apparatus itself is the system of relations that can be established between these elements (1980: 194).

He also notes that an apparatus 'has as its major function at a given historical moment that of responding to an urgent need. The apparatus thus has a dominant strategic function' (1980: 195).¹⁴

In terms of the case study, then, this thesis conceptualises the border as a complex assemblage of institutions, practices and discourses which function to regulate and shape Basotho women's labour migration as domestic workers. This apparatus is not simply a legal one, but involves extra-legal or illegal activities, a diverse range of social relations, and discursive elements. Thus, by adopting a more complex and nuanced understanding of the border, this thesis demonstrates how those tactics which are commonly understood as violating or undermining state-led border controls, in fact *themselves* form part of the border's mechanisms and practices.

Although legal and illegal practices can operate in similar ways, and to similar effects (such as the production of a 'need to pay'), this is not to say that all practices within the border apparatus are compatible or smoothly integrated, or that they operate identically for all individuals or groups involved. Hence this apparatus must be understood as a dynamic system, continually constructed and contested. The border involves a diverse range of actors with diverse interests, which may conflict or coincide at different times and in different circumstances. For example, although domestic workers and their employers have opposing interests in terms of pay levels, they share a common interest in

¹⁴ For further discussion of the Foucauldian concept of 'apparatus', and an extension thereof, see Agamben (2009).

the concealment of the worker or the employment relationship from immigration officials and police.

The border apparatus as a whole is therefore neither coherent nor stable; rather, it operates in dynamic and contested flux. The patterns and effects of the system as a whole are necessarily contingent upon its specific agents and practices, as well as various contextual circumstances (such as geography, time of year, cultural milieu, and so on).¹⁵ Of course, these practices and relations ultimately serve to reproduce and reconstruct the border itself, as a social reality and apparatus shaping lives within and across Lesotho and South Africa. Returning to the title of this thesis, the term borderwork serves as a reminder of the contested and ongoing construction of the border through social, legal and discursive means.

The productivity of (ostensible) failure

This conceptualisation of the border – as disciplinary apparatus – follows a focus on the border's actual, lived effects and mechanisms as opposed to its intended or ostensible effects. In particular, an understanding of the border's ostensible failure as productive, echoes prior critical analyses of institutional 'failure'. For instance, Foucault (1977) demonstrated the failure of the French prison system as actively producing delinquency and a particular economy of illegalities. Likewise, Ferguson (1990) illustrated the instrument-effects of a rural Lesotho development project's failure as operating as a kind of anti-politics machine, by not only expanding bureaucratic state power but simultaneously depoliticising both poverty and the state.¹⁶

This approach involves a concerted turn away from the ostensible purpose(s) of a particular institution/apparatus/intervention: its function cannot be assumed from its purported aims. The ostensibly failing system is not assessed on its own terms. Rather, its actual and everyday mechanisms and relations are examined in detail, to discover its

¹⁵ Thus, while the conceptualisation of the border offered here (border as constellation; as disciplinary apparatus) may be applicable beyond the case study of Basotho migrant domestics, the patterns and effects of the border are specific to each particular case.

¹⁶ In distinguishing between ostensible and actual effects or functions, these studies follow (though without acknowledging) the groundwork laid by Merton's (1957) distinction between manifest and latent functions.

unacknowledged functions, which are perpetuated by both the system and its ongoing failure.¹⁷ As Foucault discusses, regarding the failure of the penal apparatus:

If the law is supposed to define offences, if the function of the penal apparatus is to reduce them and if the prison is the instrument of this repression, then failure has to be admitted ... But perhaps one should reverse the problem and ask oneself what is served by the failure of the prison; what is the use of these different phenomena that are continually being criticized (1977: 271-2).

The methodological approach to understanding the border – and its conceptualisation as outlined in this chapter – therefore arose from an explicit concern with its actual, lived effects and mechanisms in the lives of Basotho migrant women.

Schuck (2008: 249-50) has briefly and critically pointed to a potential function of failing border controls in sustaining an ‘ennobling myth’ of the ideal of the rule of law while obscuring the ‘actual goal ... of enriching ourselves by condoning illegality’. Walters (2004: 3, 13-5) has also applied Foucault’s notion of interrogating a ‘failed’ institution to the phenomenon of ‘illegal’ migration, while also advocating a focus on subjectivities. He very briefly lists a number of apparent functions, including: economic benefits ‘for underground and ‘overground’ economies alike’; the ‘political use of illegal migration’ for various movements of the far right in Europe and North America; ‘the emergence of a sort of internal-security industrial complex’; and finally, that ‘the identity of the illegal immigrant serves to bring a certain kind of intelligibility to the wider phenomenon of immigration’ (2004: 14-5). While insightful and provocative, Walter’s analysis is cursory and is not based on a detailed examination of borders or migration controls; his generalised observations therefore lack any empirical basis. Adding flesh to elements of his argument, and with particular attention on the subjectivities produced by and through migrant ‘illegality’, this thesis offers an in-depth, empirical analysis of the instrument-effects, or ‘success’, of a specific border’s ostensible failure, in relation to a particular migrant group. It is the first study to utilise this approach in such a way.

¹⁷ See Foucault (1997: 24); Ferguson (1990: xiv-v).

The production and aspects of migrant ‘illegality’

In this case study, the state-led border controls do not achieve what they purport or aim to. They fail to exclude migrants from territory or from the labour market. Instead, the larger border apparatus achieves the systematic inclusion of Basotho migrant women as ‘illegal’ domestic workers. Thus the border’s instrument-effects, perpetuated by its apparent failure, centre on the production of migrant ‘illegality’, and more particularly creating the subjectivity of the ‘illegal’ migrant worker.

As the empirical chapters of this thesis illustrate, the perpetuation of migrant ‘illegality’, and women’s disciplining as ‘illegal’ migrant workers, are not simply produced by state power or law. South African immigration law does delineate categories of migrants, including the ‘illegal foreigner’. However, laws regulating employment in South Africa have also been judicially confirmed as applicable to foreigners working in the country illegally. As migrant workers, Basotho domestics therefore occupy an uncertain or ambiguous position in terms of South African law. As illustrated in Chapter Five, rather than reflecting the availability of legal protections or even legal uncertainty, these women’s experiences of employment feature as a key site of their disciplining as ‘illegal’ migrants. Indeed, their employment is one among many sites and practices which, though seemingly absent of the state’s agents, institutions or power, discipline women as ‘illegal’ migrant workers.

Thus migrant ‘illegality’ is treated in this thesis not in terms of a legal category or an objective classification regarding Basotho women’s legal status under South African law. Rather, the ‘illegal’ migrant is analysed as a specific subjectivity which is created not only legally, but socially and discursively as well. The practices which construct this subjectivity, as elements of the border apparatus, include illegal or illicit exchanges and relations. Hence the ‘illegality’ of the Basotho migrant domestic is constructed not simply by her interactions with the law, but with a more complex web of actors and institutions. Likewise, ‘illegality’ is not assumed to correspond with any particular status in terms of the documentation migrants do or do not carry: in the case of Basotho domestic workers, the connections between documentation, law and migrant ‘illegality’ are complex and dynamic (see Chapter Four).

Of course, 'illegality' cannot be completely divorced from law. While their interactions with state agents are typically infrequent and fleeting, the continuous discourse and embodied experience of 'illegality' in migrants' everyday lives conjures an ever-present threat or spectre of state power.¹⁸ Women's personal experiences of penalty or deportation at the hands of the South African state are uncommon and are typically avoided. What is more, such penalty or deportation, while inconvenient, intimidating and potentially very costly, does not permanently halt women's labour migration. Much more common are women's experiences of state agents as corrupt, and threats of state power as navigable via payment or deception. And yet, Basotho domestics' experience of 'illegality' features an ever-looming threat of confrontation with the state: hence women's fears of others (whether employers, friends or strangers) contacting the authorities and thereby calling this spectre to life.

A small but growing body of scholarship is uncovering migrants' everyday experiences of 'illegality' and deportability. Such analyses are typically focused upon migrants in the United States.¹⁹ For instance, De Genova (2002, 2004, 2005) has offered in-depth ethnographic analysis of migrant 'illegality' amongst Mexicans in Chicago, and Chavez (1992) an ethnography of 'illegal' Latino migrants in Southern California. Several excellent accounts and analyses of migrant 'illegality', including in other destination countries, can also be found in a 2007 special issue of *International Migration* on 'Illegal' and 'Irregular' Migrants.²⁰ This thesis confirms that Basotho women share a range of experiences of migrant 'illegality' as observed amongst migrants elsewhere.

While echoing some of the same depictions of migrants' everyday experiences, one key difference in this thesis is its understanding of 'illegality' as a particular migrant subjectivity arising from disciplinary mechanisms. Other researchers of 'illegal' migration tend to assume, rather simplistically, that 'illegality' is a purely legal category or construction, and thus fall into the trap of confirming or strengthening this dominant discourse (e.g. see Schrover et al. 2008). Those who seek to interrogate migrant 'illegality'

¹⁸ Hence the experiences of Basotho migrant women, and by extension the border apparatus, can be seen as having a particular effect in terms of constructing the South African state. While state agents and power do feature in this thesis, a full account of the impacts and implications of Basotho women's labour migration for the South African state lie largely beyond the scope of this thesis.

¹⁹ 'Illegal' migration is also a focus of research in the European Union, however European studies tend to focus more on the detection and regulation of 'illegal' migration than migrant 'illegality' per se, and the everyday experiences of 'illegal' migrants themselves.

²⁰ See *International Migration* 45(3), in particular Rosenthal (2007) and Willen (2007), with brief commentaries by Chavez (2007) and Heyman (2007).

itself are still limited to a focus on state power; hence De Genova is concerned with ‘denaturalising ... migrant “illegality,” and locating its historical specificity as an irreducibly social “fact,” a real abstraction, *produced* as an effect of the practical materiality of the law’ (2004: 166, emphasis in original). He therefore seeks to expose the ‘*legal* construction of migrant illegality’ (2004; 2005: Chapter Six, emphasis added).²¹ Ngai also focuses on ‘deportation policy and the making and unmaking of illegal aliens’ (2004; also see Calavita 1992). The host state (and its law) is continually held responsible – either through its actions in terms of severe restrictions on legal migration channels, or through its inactions in terms of lax or ‘selective enforcement’ (Sassen-Koob 1981: 70) which allow the continued turning of a ‘revolving door’ for migrants (see De Genova 2004).

Alternatively, Coutin (1993: 88) views immigration law as ‘more than legal codes, government policies, and bureaucratic apparatuses’; she consequently questions how ‘a myriad of practices, usually carried out by people who have no connection to the government, produce knowledge that constitutes individuals as citizens, illegal aliens, legal residents, asylees, and so forth’. Likewise, rather than merely critiquing state policies and legislation, this thesis examines the ongoing social, discursive and legal construction of migrant ‘illegality’ through everyday practices and relations. That is, rather than outlining how the *law* (or society more generally) materially produces migrants’ ‘illegality’, this thesis reveals how the *border*, as a more complex apparatus, does so.

Migrant subjectivities are not simply designated by states and passively accepted by migrants. Rather, the border’s production of subjectivities arises from the contestations and strategic negotiations of migrants themselves. For instance, migrants often move (or attempt to shift) from one subjectivity to another over time or in alternative spaces. They may represent themselves differently, adopting various subjectivities, in different ways vis-à-vis assorted institutions or individuals. This strategic engagement challenges mainstream assumptions about different categories of migrant – hence the counter-intuitive observation that migrants often seek greater legal citizenship rights in host countries in order to facilitate more transnational circulation instead of permanent

²¹ De Genova (2002: 432) also rightly critiques other scholars’ naïve claims that various legal efforts are simply ineffective or ‘fail’. However, in his enthusiasm to counter this naïveté with a critique of law’s central role, he seemingly assumes that such failure is always intended and perpetuated by the state, through exercises (or non-exercises) of state power.

settlement. Of course, migrants' strategies are also inevitably shaped and bounded by the forces and configurations of other agents and actors.

This alternate view highlights the ways in which migrants' experiences and relations function as modes and mechanisms by which their 'illegality' is continually reproduced, and is experienced as a lived subjectivity. This thesis therefore considers migrant women's experiences as *aspects* of – rather than simply as effects of – their 'illegality'. As explained throughout the empirical chapters of the thesis, the aspects of migrant 'illegality', in the case of Basotho migrant domestic workers, principally include a migrant's:

- inability to secure a South African identity card (ID);
- fear of state officials in South Africa, arising from the constant threat of her deportation;
- limited employment options within South Africa;
- susceptibility to being dismissed without recourse and therefore also exploited by her employer, upon whom she is heavily dependent for basic necessities;
- effective imprisonment within the employer's home;
- social isolation and restricted opportunities to develop social networks;
- experienced division between South Africa as the site of 'work' and Lesotho as the site of 'life', resulting in a continued oscillating migration between the two locations; and her
- ongoing concealment in spatial, social, formal and discursive terms.

To reiterate, each of these is analysed in the thesis as an aspect of Basotho migrant domestics' 'illegality' – sites and relations by which that 'illegality' is experienced and is actively reproduced. Thus, for instance, a migrant woman is 'illegal' because she cannot get an ID, and she remains unable to obtain an ID because she is 'illegal'. Crucially, these aspects also intersect, functioning to actively reinforce one another. For example, a migrant domestic worker's effective imprisonment in her employer's home for the time she is in South Africa may prevent her from establishing social networks there; this then hinders her efforts at locating alternative jobs, and thereby reinforces her exploitability by her current employer.

This thesis does not argue that the border disciplines all migrants in the same ways, and to the same effects. The practices and mechanisms of the border apparatus intersect and interact with the broader socio-political context. In particular, this includes social distinctions and power relations based on gender, race, ethnicity and class. The role of gender (e.g. see Calavita 2006; Segura and Zavella 2007) and race or ethnicity (e.g. see Brettell 2007) in border controls and dynamics has been widely noted. However, the gendered aspects of migration regulation (or bordering practices) have been largely ignored by scholars of Southern Africa.²² This thesis identifies particular ways in which gender dynamics inform the South African border's construction within, and effects on, Basotho women's lives. For instance, Chapter Seven illustrates the ways in which migrant women's oscillating migration not only functions as an aspect of their 'illegality' but also reflects their gendered responsibilities to support family members left behind in Lesotho. Given that bordering practices are inexorably gendered, racialised and classed, they ultimately constitute and are engaged by different migrants differently, producing different effects – and different aspects of migrant 'illegality' – within those migrants' lives.

As explained above, the aspects of 'illegality' also reflect a disciplinary mode of power. Thus migrant 'illegality' operates as a panopticon.²³ By subjecting migrants to a constant threat of deportation, with the potential at any time to be confronted (and extorted or deported) by state agents, 'illegality' imposes on migrants a constant visibility. Their surveillance and disciplining continues at the hands of others who are – whether knowingly or unwittingly – able to wield this threat, including union officials, employers, strangers or even friends. 'Illegality' also arranges migrants' individualised distribution in spatial and social terms, by limiting the potential for relations, communications and connections which would counteract the aspects listed above.

Foucault stressed the nature of the panopticon as a mode of (disciplinary) power rather than merely an architectural model, explaining its significance 'as a generalizable model of functioning; a way of defining power relations in terms of the everyday life of men

²² See Dodson (2001) for a critique of the 'marked' lack of gender concern and analysis regarding the development of migration policy and law in post-apartheid South Africa.

²³ For a discussion of Bentham's Panopticon and its significance in the context of disciplinary power, see Foucault (1977: 200-28; 1980: 71-3).

[sic]' (1977: 205). He thus perceived its operation in relation to the functioning of a larger apparatus:

The panoptic mechanism is not simply a hinge, a point of exchange between a mechanism of power and a function; it is a way of making power relations function in a function, and of making a function function through these power relations (1977: 206-7).

In this thesis, the reproduction of Basotho women's migrant 'illegality' does indeed serve a larger function: it constitutes these migrants as a form of un-bounded labour.

‘Illegal’ migrants as un-bounded labour

Un-bounded labour

The term ‘un-bounded labour’ is used in this thesis to refer to the various ways in which Basotho women’s labour migration is both bounded and unbounded. While the incidence and patterns of this labour migration flow appear unbounded in numerous ways, these effects occur through migrants’ experiences of boundedness. As introduced in Chapter One, Basotho domestics and their labour migration are un-bounded legally, geographically, socially, spatially, economically, in their employment, and in terms of their invisibility. This section outlines the bounded and unbounded nature of women’s migration, leading to a consideration of wage labour’s dehumanisation of workers, and a review of relevant scholarly literature.

Basotho migrant domestics are legally un-bounded in relation to both their migration and their employment. To begin, their labour migration is unbounded – as in unrestricted or unconfined – by migration law and policy. That is, it lies outside of the various legal categories for migration to South Africa, and official efforts (principally by various organs of the South African state) consistently fail to restrict it. These ongoing efforts prevent neither women’s movements between Lesotho and South Africa, nor their ‘illegal’ employment as domestic workers.

The ostensible failure of legal migration controls gives rise to the ‘illegal’ migrant as a particular, bounded, subjectivity. Migrant ‘illegality’ operates through a disciplinary mode of power, creating a form of Panopticon from which migrants cannot escape. As Foucault (1977: 301) stated of disciplinary or panoptical power in the context of the carceral system:

The carceral network does not cast the unassimilable into a confused hell; *there is no outside*. It takes back with the one hand what it seems to exclude with the other. It saves everything, including what it punishes. It is unwilling to waste even what it has decided to disqualify. In this panoptic society of which incarceration is the omnipresent armature, the delinquent is not outside the law; he is, from the very outset, in the law, at the very heart of the law, or at least in the midst of those mechanisms that transfer the individual

imperceptibly from discipline to the law, from deviation to offence (emphasis added).

Operating in a similar fashion, migrant 'illegality' does not simply place migrants beyond the reach or concern of state power or regulation. Instead, the experience of 'illegality' is marked by the constant threat of expulsion or deportation, constant surveillance and visibility, and relentless disciplinary relations.

As 'illegal', the employment of Basotho women as domestic workers in South Africa is similarly unbounded – as in, unregulated – by South African labour law and policy. As outlined in Chapter Five, basic labour protections have been officially extended to foreigners working 'illegally' in South Africa – by the constitution, by key labour legislation, by court rulings, and by institutional policy. Specific legal protections for domestic workers also arguably apply to foreign workers. Yet, in practice, Basotho domestics' employment is unregulated by any labour law or institution. This occurs due to women's subjectivity as 'illegal' (and hence deportable) migrant workers and their consequent fear of official agents and institutions.

Migrant 'illegality' and the non-regulation of Basotho domestics' employment unbounds the conditions of their employment, by removing the restrictions on the wage labour relationship, and the working day, that would otherwise apply. As 'illegal' migrants women travel to South Africa without their families; there is no need for them to return home at the end of each working day. Rather, they stay with their employers and are typically available to them (or on call) each day of the week, for all their waking hours, and even beyond.²⁴ Likewise, Basotho women's 'illegality' negates other limitations on their employment conditions, such as the involvement of state institutions, the domestic workers' union, or social networks with other domestic workers. The result is an unbounded exploitability and dismissibility, with the migrant domestic's role and subjectivity as 'worker' unbounded by other aspects of her identity or life.

'Illegality' and the unbounded employment relationship afford a Mosotho domestic worker's employer unbounded discretion over her working and living conditions. The employer's power also extends beyond the bounds of the workplace (her home), as she

²⁴ Most women do still return home on a regular basis, but this may be for other reasons (such as the renewal of documentation or to carry remittances home), and they typically only do so several times or even once a year, despite geographical closeness.

effectively dictates a domestic worker's movements within South Africa and decides the timing and duration of her visits home to Lesotho. The influence and impacts of the employer's discretion are unbounded in that they radiate socially, spatially and temporally: while the employment relationship remains individualised, located within the home, and impermanent, the impacts and implications of the employer's decisions extend to broader social networks, to people and processes located elsewhere, and to future jobs or generations. For instance, employers' decisions about workers' movements can dictate their social networks and hence the availability and quality of future job opportunities. Likewise, while wage levels are discretionary, they effectively determine whether workers' children attend school in Lesotho.

The employer's unbounded power means that the living and working conditions of the migrant worker herself become completely bounded by her particular employer's discretion. The worker has no recourse to legal or institutional assistance to challenge or move beyond these bounds. Hence a Mosotho domestic worker experiences an acute dependency upon her employer, who becomes the author of her everyday experiences while in South Africa. What is more, given the unbounded impacts of employers' decisions, Basotho domestics often hold their employers responsible not only for their working conditions but for the life trajectories of themselves and their children. Migrant workers thus experience that their lives – both in terms of everyday practices or interactions and in a more enduring sense – are bounded by their employers.

Basotho women are also un-bounded geographically. For many women, travelling to an employer's house is their first movement outside Lesotho, and even outside their home village or district. Their labour migration is also unbounded in terms of their continual oscillation back and forth between South Africa and Lesotho; thus Basotho domestics are unbounded by the territorial or social worlds of either country as they regularly traverse both. These movements reflect women's ongoing involvement in relations in both sites, whether labour relations or familial/kinship ones. Women's unboundedness also arises from the precariousness of their presence in South Africa. As 'illegal' migrants and live-in domestic workers, women's presence in South Africa directly depends on their ongoing employment with a particular employer: if dismissed by her employer, a Mosotho woman immediately returns to Lesotho, and will only return to South Africa once she has secured another job.

However, Basotho women do not enjoy free access to all areas of South Africa and Lesotho. Women's work destinations in South Africa are confined to those jobs they can access through their limited social networks. They also need to perpetuate a range of cross-border flows, including regular visits home to Lesotho or to the ports of entry. As migrant domestics are less able to accept jobs further from home – even though wages may be higher – they are typically only employed in locations easily accessible through transport networks. Women's movements therefore remain geographically bounded.

Basotho women's need to return to Lesotho is connected to their social roles and responsibilities at home. In commencing waged employment and cross-border labour migration, Basotho women become unbounded from the more traditional sedentary role of wife/mother in Lesotho. For many of these women, employment as domestic workers in South Africa is their first experience of wage labour. By their entering wage employment, migrant domestics therefore appear to escape familial and social bounds.

However, migrant women's subjective experiences reveal that the maintenance of family, social and kinship relations in Lesotho effectively bounds them within their familial roles and responsibilities. Thus, even while entering wage labour for the first time, migrant women experience such strategies as confirming, rather than challenging, their burdens as mothers with the sole responsibility for supporting and raising their children. Even when her visits home are infrequent and short, a migrant domestic will continue to spend her income first and foremost on her dependants and home in Lesotho. Even after decades of working in South Africa, she never escapes the obligations and social pressures of her role or identity within the family and community based in Lesotho.

Basotho domestics are further socially bounded, as it is exceedingly difficult for them to create or maintain friendships or other social connections while working in South Africa. This is connected to their spatial bounding within the employer's home. While some stay indoors at their employers' explicit behest and others do so out of fear or exhaustion, most Basotho domestics experience a confinement indoors while staying in South Africa. Without going outdoors, it is exceedingly difficult for migrant domestics to meet or visit friends while working in South Africa. Thus Basotho domestics' social and spatial world becomes bounded by the walls and fences which frame their employers' homes and ultimately their lives while in South Africa.

Unable to develop social networks in South Africa, Basotho domestics experience that all aspects of their lives beyond the labour relationship become bounded within Lesotho. This bounding occurs due to women's 'illegal' status, which prevents them from bringing children or other family members to South Africa. It also arises from the spatial and social restrictions on Basotho women while in South Africa, such that they are often prevented from developing a personal or social life and identity for themselves beyond their role as 'worker'. Social networks in Lesotho are maintained, while those in South Africa remain limited or inaccessible altogether. As 'illegal' migrant domestics, women are unable to occupy a home and space of their own, beyond the employer's control and surveillance. Hence their lives and experiences while in South Africa are bounded by their subjectivity as 'worker', and they experience a division between South Africa and Lesotho as sites of 'work' versus 'life'.

The divisions and connections between the sites of 'work' and 'life' demonstrate Basotho women's economic un-boundedness. As mentioned, for many women domestic service is their first experience of waged employment, and of thus providing a livelihood for themselves and their dependants. For some, it also provides a path to material accumulation. Certainly, as migrants present their labour migration to neighbours and relatives as an economic 'success', their employment appears as an economic unbounding from the poverty which first drove them to migrate.

In contrast, migrants themselves experience an economic bounding within wage labour, and within labour migration to South Africa. Through their remittances, life in Lesotho becomes ever more dependent upon labour migration as a survival or livelihood strategy. Most Basotho domestics only decide to migrate to South Africa in response to a particular or unforeseen time of difficulty, and as a short-term strategy. However, their labour migration becomes a perpetual mode or lifestyle: while employers may change, women's reliance on the cash earned through domestic service in South Africa does not. Jobs in other, preferred, sectors also usually remain unavailable.

Women's hopes and dreams for their children's future also reflect the perpetuity of wage labour as a means or mode of living. While retaining the family home (and usually also some cultivable land) in Lesotho, women wish for their children to engage in wage labour. Though they hope and intend for their children's employment to be more lucrative and on better terms than their own, this does not usually eventuate. Thus Basotho migrant

domestics' children typically engage in similar employment – even the exact same work, in terms of migration to South Africa to work as domestic workers – as did their mothers. Women and their children also remain bounded within their 'illegality': unlike 'illegal' migrants elsewhere, Basotho domestics are generally unable to secure South African IDs, regardless of the length of their employment in South Africa.

Finally, Basotho domestics and their labour migration are un-bounded in terms of their invisibility. Migrant domestics' employment is typically never recorded in any written contract or any formal database. While women who hold visitors' permits may have their movements back and forth between Lesotho and South Africa documented, this never represents a recording or recognition of their labour migration per se. In addition, Basotho migrants typically perceive themselves as less 'visible' than other African migrants working in South Africa.

However, these migrant domestics experience being bounded within a cocoon of silence and concealment. Chapter Six examines this concealment in detail, outlining the various ways in which it extends from individual to institutional levels. For instance, migrant domestics, in staying indoors, are largely absent from the suburban streetscape where they work in South Africa. Upon surfacing from their employers' homes, these women are at pains to conceal the fact of their employment from officials throughout South Africa, but especially at the Lesotho borderline where they engage with officials and state databases. This silence extends to official, popular and even scholarly discourses, where Basotho migrant domestics are barely acknowledged or are actively denied or concealed. Though some women see hope in 'speaking out' as a means of gaining greater support and recognition, on an individual level they are unable to do so, and thus remain bounded within this silence.

These elements constitute Basotho migrant domestics as a perpetually circulating, precarious, concealed, and exploitable labour force. The resulting dehumanisation of Basotho domestics can therefore be understood as a result of un-bounded labour: migrant 'illegality' creates a labour relation unbounded by legal and social restrictions which would otherwise apply, and bounds a migrant's family, identity, and effectively her life within Lesotho, such that she is disciplined as a mere worker while in South Africa. As a function or effect of the border apparatus explained above, this dehumanisation occurs through the actions and interactions of a range of actors across a constellation of sites,

and not simply through the employment relationship. The following section discusses these dynamics in the context of relevant scholarly literature, thereby demonstrating the uniqueness of the analysis and case study offered in this thesis.

Beyond scholarly bounds

The analysis of un-bounded labour offered above (and fleshed out in this thesis) extends scholarly literature in several ways. Studies of labour migration, migrant 'illegality', migrant domestic workers, induction into wage labour, and the dehumanising effects of labour migrancy, represent broad and complex bodies of literature. This literature is engaged with here only as it relates to the various elements of boundedness and unboundedness outlined above. This discussion demonstrates the uniqueness of un-bounded labour as a conceptual frame, including: the incorporation of various social and geographical sites, the understanding of labour relations within a broader account of migrant 'illegality', and – as with the concepts of border and 'illegality' outlined above – the integration of both state and non-state power and relations.

Cross-border labour migration has long been analysed in terms of the composition and circulation of a 'cheap' and dispensable labour force. Most notably, Marxist analyses have acknowledged the function of boundaries in maintaining exploitation and 'labour reserve' dynamics, involving an ongoing supply of cheap and flexible migrant labour (see Burawoy 1976; Portes 1978; Portes and Walton 1981). However, the scope of such accounts was limited to the actions and intentions of the host *state*, rather than a larger border apparatus, and did not account for 'illegal' migration flows. That is, the differentiation of migrants as a distinct category of labour was understood to be the function of a border's *successful* operation.

Sassen-Koob extended this analysis to account for 'illegal' labour migration, stating: 'Border enforcement is a mechanism facilitating the extraction of surplus labor by assigning criminal status to a segment of the working class – the illegal immigrant' (1981: 70). Though 'illegal' flows are similarly incorporated in ongoing critiques of the United States government's manipulation of Mexican migrant labour, the responsibility is still taken to lie with the state, which is seen to 'legislate illegality' (De Genova 2002; 2004). The state is also often cast as acting in the explicit interest (and under the pressure) of

'big business' (see Pellerin 2005). This tendency reflects an assumed power and intentionality of the state, and/or a legalistic focus on the black letter law (rather than its everyday practices).

Bach (1978) contextualised this view by noting the limitations on state action according to its role in reproducing capitalist social relations. Likewise, Calavita (1981, 1982) has argued that the state (and its immigration policy) is caught between the dynamic contradictions of capital versus labour; thus immigration legislation is viewed 'as a series of "resolutions" to essentially irresolvable conflicts' (1981: 364).²⁵ But her view is still a state-centric and law-centric one, limited to the deliberate actions and inactions of the state. This view was more recently re-visited by Heyman (1998: 174):

The important point is that such hypotheses cannot be sustained just because they 'make sense' for capital, or even that some predicted effects do occur. As models of labor control, they posit very deliberate actions by the state. We must turn every step of such state-labor models into an open question, using perspectives inside the state and from below as well as from above.

In his promising analysis, Heyman ultimately finds (somewhat vaguely) that the 'labor effect' is not imposed unilaterally by the state, but 'rather is the result of a complex political process' (1998: 173).

Several of the elements of un-bounded labour outlined above (and Basotho migrants' employment experiences) mirror accounts of exploitation of migrant domestic workers in other countries. However, other scholars typically cast migrant domestic workers' circumstances as a consequence of their highly regulated and restricted labour migration. That is, migrants' exploitation and vulnerability are often seen in the context of their recruitment through agencies, their navigation past powerful 'gatekeepers', and their onerous written contracts or visa requirements (for instance, see ILO 2010: Chapter VI; Jureidini 2002; Stasiulis and Bakan 2005). In contrast, Basotho domestic workers' exploitability, dismissability and dependence on their employers is connected to their

²⁵ Calavita (1992) since extended this analysis of migration regulation in the United States, challenging the 'monolithic state' view. However, she maintained the focus on state power and law. Thus laws, policies and programmes, while acknowledged as the outcomes of intra-state struggle and contestation, remain her central concern and her only recognised expressions or forms of migration control. For a critique of purely Marxist functional views of the state in terms of migration regulation, see Purcell and Nevins (2005).

‘illegality’, and the *lack* of any government or other institutional intervention or regulation of their employment in South Africa (i.e. their legal unboundedness).

Where the circumstances of ‘illegal’ or undocumented migrant domestic workers is considered in scholarly literature, the host state is assumed to be responsible. For instance, in their separate critiques, Mattingly (1999a) and Chang (2000: Chapter 2) both hold US immigration law responsible for directing migrant women into domestic service as undocumented and hence exploitable migrant workers, and for the ensuing changes in that industry. Bernstein (2006: 239) likewise argues that Canadian ‘labour law and immigration law have contributed to the creation of pools of precarious women workers who care for others.’ The host state – and particularly its restrictive immigration law – therefore typically carries the blame (either explicitly or implicitly) for the exploitation of migrant women workers.²⁶

The South African state is certainly not a ‘monolithic’ (see Burawoy 1976: 1076) director of migrant labour, or even migrant ‘illegality’. It has no interest in inviting (whether through action or inaction) foreign domestic workers to the labour market – there is no such labour ‘gap’ to be filled, and a significant proportion of poor South African families rely on the wages earned by domestic workers in the country.²⁷ In addition, as shown in Chapter Five, various branches of the South African state have actively extended labour protections and representation to migrants working ‘illegally’. It is *despite* these state actions that migrant ‘illegality’ produces Basotho women as a form of un-bounded labour, uniquely exploitable, dismissible and dependent.

In the labour market and workplace as sites for the production and disciplining of Basotho women as ‘illegal’ domestic workers, the South African state is largely absent. Even the ever-looming threat of deportation by state officials only features in its guise as a threat to report the worker; that is, as a threat which the *employer* wields over the worker. That is, this deportability is even more directly in the hands of the employer – as

²⁶ Cheng (2006: 133) points out, regarding the regulation of migrant domestic workers, that ‘[s]tate practices of control and exclusion depend on Taiwanese employers and employment agencies for enforcement.’ However, she argues that this cooperation is ensured through the use of specific (and effective) state-initiated mechanisms, such as the requirement for employers to pay an official deposit.

²⁷ Official figures indicate that domestic service remains the largest sector of employment for black women in South Africa. (These figures, and the incidence of foreign domestic workers within them, are discussed in Chapter Seven.) Considering South Africa’s high unemployment rates, any official opening of this sector to foreigners is politically unthinkable (as discussed in Chapter Four).

a constant threat of dismissal, which would eventuate in the same circumstances (a woman's return to Lesotho and the loss of her job).

The dehumanisation of migrant workers, including migrant domestic workers, has been highlighted in various scholarly accounts, while also highlighted by recent official reports such as the recent Human Rights Watch report, 'As If I Am Not Human' (Human Rights Watch 2008). Again, these tend to focus on migration flows that are highly regulated, and typically conclude with policy recommendations for greater state intervention in terms of better regulation of migration flows to prevent opportunities for migrants' exploitation or mistreatment. In this thesis, state capacity is not assumed, and migrant 'illegality' is shown to complicate the state-migrant relationship so that existing state programs or protections are ineffective in empowering or protecting migrants vis-à-vis other actors (such as employers) in South Africa.

Marxist analyses are also often motivated by a concern for the dehumanisation – or, as Marx termed it, the 'alienation' – of workers under wage labour relations. Marx's own analysis of the 'alienation' of the worker, and the connections between work and life, complement the above account of un-bounded labour:

Presupposing private property, my work is an *alienation of life*, for I work *in order to live*, in order to obtain for myself the *means* of life. My work is *not* my life. ... Presupposing private property, my individuality is alienated to such a degree that this [labour] *activity* is instead *hateful* to me, a *torment*, and rather the *semblance* of an activity. Hence, too, it is only a *forced* activity and one imposed on me only through an *external* fortuitous need, *not* through an *inner, essential* one (Marx 1844: emphases in original).²⁸

What is of specific interest in this thesis, in terms of un-bounded labour, is not simply this work-life division but its spatial and social construction through the mechanism of migrant 'illegality'. That is, the thesis does not merely expose the dehumanisation of migrants through their employment experiences or their entry into the wage labour market. Rather, it traces the splitting and un-bounding of migrants' lives such that their families/communities/privacy/identity become bounded in the home country, while the host country becomes the site of work/labour. Thus, while in the host country, 'illegal'

²⁸ For discussion of Marx's theory of alienation, see Goulder (1980: Chapter Six), Petrovic (1991); Scott and Marshall (2005).

migrants experience an inability to be individuals, or humans; they represent only embodiments of labour-power, with labour relations often their only social relations in that society or territory.

De Genova (2005) has hinted at a similar distinction made by migrant Mexicans in Chicago. For instance, one migrant had spent considerable effort and time during his vacation on building a family home in Mexico, but once back at his factory job in Chicago he stated that he had spent the vacation 'being lazy' (De Genova 2005: 190-1).²⁹ What is lost in De Genova's and so many other studies of migrant workers, is an appreciation of the geographical and spatial divisions experienced and straddled by transnational migrants, between the sites of 'work' – that is, wage labour – versus life (relations and livelihoods not involving employment). Kearney's account more explicitly addresses this contrast, again referring to Mexican migrant workers in the United States:

As Mixtecs say, they come to the United States to leave sweat and take home some money. Sweat is a metaphor for *labour* which becomes disembodied from the 'alien' and as such contrasts with *work*. Sweating for others in the United States contrasts with sweating for oneself in one's own community in Oaxaca. There, as it were, one's sweat falls onto one's own land and makes it produce *for oneself*, not for others (1998: 130, emphases in original).

As discussed in Chapters Six and Seven, such divisions are especially acute in the case of Basotho migrant domestics.

Studies of labour migration, by focusing on and researching migrants only whilst in the host country, also tend to discount or abridge the impacts and implications of migrants' experiences for their lives and families 'back home'.³⁰ Of course, employment relations are inevitably tied to other relations and experiences, including familial ones – most explicitly through the setting of wages at the cost of the reproduction of labour:

The value of labour-power is determined, as in the case of every other commodity, by the labour-time necessary for the production, and consequently

²⁹ De Genova (2005: 191) analyses this and similar accounts in terms of race (or racialization) and gender: 'manliness was hereby constituted at least in terms of the liberty to work for oneself without being subjected to the authority and prerogatives of a boss.'

³⁰ A notable exception is Parreñas (2001; 2005), who has conducted in-depth research regarding *both* the employment experiences of Filipina migrant domestics, and the impacts of women's labour migration on families and communities remaining in the Philippines.

also the reproduction, of this special article ... Labour-power exists only as a capacity of the living individual. Its production consequently presupposes his [sic] existence. Given the existence of the individual, the production of labour-power consists in his reproduction of himself or his maintenance ... [T]he sum of means of subsistence necessary for the production of labour-power must include the means necessary for the worker's replacements, i.e. his children, in order that this race of peculiar commodity-owners may perpetuate its presence on the market (Marx 1990: 274-5).³¹

Marxist understandings of wages have formed the basis for critiques of labour migration regimes, whereby capital (represented by employers and host states or societies more generally) has been shown to exploit the relegation of the costs of reproduction to migrants' home areas, and the lower wages this allows.³² Thus migrants' exploitation and exploitability are often understood in terms of this differential in costs of reproduction and therefore lower wages.

In terms of un-bounded labour, however, the nexus between the employment relation and its impacts on 'life' outside of work, is not simply reduced to wages. For instance, as well as dictating wages, employers can dictate how often and for how long migrants visit Lesotho, the quantity and kinds of remittances they carry with them, and their opportunities to meet or communicate with friends and family. Some employers even take on relations of patronage, for instance directly funding their workers' children's education.

Thus the emphasis in un-bounded labour is not merely on workers' exploitation and its impacts on the reproduction of labour, but the extreme and unbounded nature of the employer's power and influence. This influence is not limited to the conditions of the employment relation itself (for instance working hours, tasks and wages) but extends to relations, processes and opportunities in remote social and geographical sites. This thesis uncovers such dynamics through an explicitly transnational or multi-sited methodology

³¹ For a simple summary see also Marx (1932); for summary and brief discussion see Harvey (2010: Chapter Three). For a detailed genealogy of and engagement with Marx's wage theory, see Lapides (2008).

³² As noted above, for such structural analyses see Burawoy (1976), Portes (1978), Portes and Walton (1981), and Sassen-Koob (1981). On the reproduction of the labour force more generally (including a consideration of migrant labour), see Nichols (1980: Part III).

and by paying close attention to the complaints of Basotho migrant domestics about their employers (rather than simply casting these as accounts of exploitation).

Various scholars have also applied Foucauldian approaches and concepts in analysing labour relations. However, these studies tend to focus on the labour process in the workplace itself – whether it be the office or factory.³³ Similarly, studies of domestic workers and domestic service have brought to light the micro level dynamics of disciplinary power relations between employers and domestic workers (as discussed in Chapter Five). Both these bodies of literature fail to place disciplinary employment relations, and the role of disciplinary power in the workplace, within a larger web of ‘disciplinary gazes’. As discussed above, Foucauldian analysis has also been applied to the study of migration regulation and borders – however, these approaches have focused on state-migrant relations, and largely ignored the connections between workplace discipline and the disciplining of migrants more generally.

The transnational and multi-sited approach in this thesis also uncovers the precariousness of Basotho women’s presence in South Africa, with its contingency on continued employment. As discussed in Chapter Six, this precariousness is distinct from most scholarly accounts of labour migration, including ‘illegal’ migration flows. It reflects the different role played by migrant networks: the social isolation experienced by live-in domestic workers elsewhere (or internal migrants within South Africa) tends to precede a shift to live-out employment. In contrast, migrant ‘illegality’ and limited social networks preclude Basotho women from ever making this transition.

The perpetual and unbounded nature of Basotho women’s engagement in wage labour echoes ethnographies of the spread and entrenchment of wage labour as a way of life elsewhere (for excellent examples, see Stevenson 1986 and Van Onselen 1976).³⁴ Such narratives tend to outline how the transition to labour relations is directed or advanced by powerful agents, typically colonial/state authorities or powerful business interests. Wolf’s (1992) detailed account of young Javanese women’s entry into wage labour is less

³³ See O’Doherty and Willmott (2001), Collinson (2000), and the engaging volume compiled by the Warwick Organizational Behaviour Staff (2000). Marsden (1998) has also brought Marxist and Foucauldian frames together, to offer an account of the ways in which disciplinary power organises labour-power into a productive force, though this is in relation to critical accounting and is therefore (implicitly) restricted to the discipline of workers *while at work*.

³⁴ These accounts can be seen as central to discussions of ‘the continuity of primitive accumulation throughout the historical geography of capitalism’ (see Harvey 2010: 304-13).

state-focused, as she incorporates analysis of family dynamics, while still locating women's employment within the frame of a global capitalist economy: thus she observes women's subjection in terms of benefits to 'economic growth, state and household revenues ... and First World consumers' (1992: 27). In the case of migrant domestic workers, critical accounts of their entry into wage labour relations also usually contextualise such shifts within gendered socio-economic forces of globalisation (e.g. Chang 2000; Lan 2006; Parreñas 2001).

More celebratory stances cast women's entry into wage labour as an opportunity for empowerment, whether personal, social, political or financial (the classic and influential example being Sen 1999: Chapter Eight).³⁵ This view has extended to discourse on women's labour migration (see DRCMGP 2009; UNDP 2009). The analysis presented in Chapter Seven of this thesis responds to such approaches. It suggests the need to understand Basotho women's engagement in wage labour (and labour migration) in its social and historical context, and to examine the conditions under which such labour or migration takes place: in the case of Basotho domestics, these are conditions of boundedness and 'illegality'.³⁶

Drawing on relevant scholarly literature, this section has demonstrated the novelty or significance of the conceptual frame of un-bounded labour as outlined above. While this case study is seen to repeat or confirm various accounts or analyses in several respects, it also departs from scholarly literature in key ways. The concept of un-bounded labour integrates a transnational approach to Basotho women's disciplining as 'illegal' migrant workers, encompassing a constellation of sites – within and outside of the workplace, and across national boundaries. It also crucially contextualises labour relations within an analysis of migrant 'illegality', and highlights the role of non-state actors and power alongside state policy and law. Significantly, the overall framework – of un-bounded labour, with apparent unboundedness contrasted with migrants' experience of

³⁵ For an incisive critique of 'the fixation on wage labour' more generally, see Bennholdt-Thomsen and Mies (1999: Chapter Seven).

³⁶ This analysis is not intended to disparage Basotho women's gains or achievements reached through labour migration, nor to undermine the agency these women exercise. The conceptual frame of borderwork, and the presentation of women's own narratives of struggle and negotiation, demonstrate that despite and even through their un-bounding, these women exercise agency in a range of ways.

boundedness – is also unique.³⁷

³⁷ While Lan (2006) discusses a 'bounded' global market in her study of migrant domestic workers in Asia, she focuses explicitly and exclusively upon the boundedness of the labour market in terms of 'state regulations and other institutional mechanisms that organize the import and export of migrant labor' (2006: 29-30). Her theoretical concern also lies with 'boundary work' in regards to gender, class and home boundaries (2006: 11-21), rather than the ways in which migrants or their labour migration may be bounded or unbounded.

Conclusion

This chapter has expanded upon the central arguments and concepts of the thesis, demonstrating their novelty and significance in the context of existing scholarship. The chapter has focused on three components of the production of migrant subjectivity. First, the border was conceptualised as an apparatus producing migrants as disciplined subjects; this was shown to challenge state- or law-based and spatially-fixed understandings of borders, and to emphasise the productive rather than repressive nature of power relations which shape migrants' movements and employment.

Second, the production of migrant 'illegality' was examined, including its various interconnecting aspects. Rather than merely a legal category imposed by states upon migrants, migrant 'illegality' is seen to result from ongoing social, legal and discursive production, and to be experienced as a panopticon, entangling 'illegal' migrants within a web of surveillance and disciplinary gazes.

Third, the chapter expanded upon the concept of un-bounded labour. In particular, Basotho migrant domestics and their patterns of labour migration appear as unbounded, while these effects are created through an experienced bounding of these women and their lives within spatial, social, and temporal confines. The final section contextualised these forms of boundedness and unboundedness within a review of scholarly literature, demonstrating the significance and originality of the thesis. On reflection, as echoed in the quotations opening this chapter, we see the 'illegal' Mosotho domestic as a particular subjectivity arising from a productive network of power relations, and as a worker apparently freed but enduring a subjective and ongoing unfreedom.³⁸

These effects do not represent a *fait accompli*, but arise from everyday interactions and discourses. Hence the border is constantly being produced and is constantly producing migrant subjectivities; migrant 'illegality' is both manifested in and continually constructed through its various aspects; Basotho migrant workers are continually and

³⁸ Notably, Marx's statement reproduced at the beginning of this chapter refers to workers engaged in 'the process of production'. The nature and appreciation of domestic work (whether paid or unpaid) in terms and analysis of the capitalist economy, has proved a question of (largely feminist Marxist) debate for decades (e.g. see Bennholdt-Thomsen and Mies 1999; Fox 1980; Waring 1996: Chapter Two; West 1980). These questions lie largely beyond the scope of this thesis. Thus, while Marxist and other discussions of wage labour are engaged with (given the exclusive focus in this thesis on domestic service as waged employment), the contributions or place of this domestic service in the capitalist economy of South Africa or Southern Africa more generally, are not considered.

repeatedly unbounded and bounded. As mentioned in the discussion of temporal aspects of un-bounded labour, however, these effects persist in the lives of Basotho migrant domestics.

The endurance of these effects can be understood by revisiting the productivity of the border's ostensible failure. That is, the ostensibly failing border perpetuates, rather than counteracts, Basotho migrant women's continued 'illegality' and thereby a continued supply of un-bounded labour for employment in South African homes. This mirrors the studies discussed above (namely Ferguson 1990; Foucault 1977) whereby the instrument-effects of a system are perpetuated by both its continued ostensible failure *and* ongoing efforts at reform of the system itself.³⁹ Even observing an individual Mosotho migrant domestic, the official regulatory system ostensibly fails every time she crosses the Lesotho-South Africa frontier, and every time she secures a new job in South Africa. As Chapter Four illustrates in greater detail, these failures persist despite the strategic, concerted and costly efforts of South African state officials. Hence the institutional efforts at migration control, their ostensible failure, and efforts at reform must be understood as simultaneous or parallel processes in a larger apparatus.

The conceptual frame outlined in this chapter arose from a detailed analysis of the everyday material and social realities of Basotho migrant domestic workers. Hence the outline offered here ultimately provides a hollow account of Basotho women's labour migration and the ways in which it is patterned. The relations and practices mentioned here are best (or only) able to be demonstrated through the complexity, texture and detail of these women's everyday lives. This is the task of the remainder of this thesis. The following chapters therefore flesh out the frames and concepts presented here – that is, they illustrate the precise mechanisms and sites through which these effects are achieved – through an analysis built primarily on women's personal accounts. As this detailed analysis, and by extension, the central arguments of the thesis, rest upon a specific set of data gathered through fieldwork, it is essential to consider the nature of these data and the processes and relations by which they were generated. This is the focus of the next chapter.

³⁹ See Ferguson (1990: Part V); Foucault (1977: 271).

Chapter Three

The Research Experience: Making the invisible visible (but not too visible)

I hope you're not trying to get us arrested.

(Malerotholi)

So where do you find them, these [Basotho] domestic workers?

(Official from South African Department of Home Affairs)

We will be talking on behalf of those who are not here.

(Maleshoane)

This thesis is based on data collected through in-depth, ethnographic fieldwork in central South Africa and Lesotho. During this fieldwork I gathered what became a deep and colourful reservoir of qualitative data about the lives of migrant Basotho women. The research process itself involved a range of challenges and puzzles. In this chapter I retell that process. This retelling not only contextualises the data upon which the subsequent chapters are built (accounting for where and how data were generated), but also considers the appropriateness of the methodology for the case study and the circumstances of various research sites and processes. Moreover, this chapter provides further insight into the situations faced and negotiated by Basotho women themselves, thereby revealing the dynamics of the border, migrant 'illegality' and un-bounded labour.

The chapter begins by outlining the planned methodology for the research project. The next section then describes how the fieldwork unfolded in reality, while discussing the key issues of trust and other access difficulties; mobility and transnationalism; the negotiation and crossing of social barriers (particularly through the use of research assistants); and the interview process. Research ethics and the dynamics of help and harm are then considered, followed by a note about data analysis and communication. The chapter then concludes with a brief summary and reflection.

The planned methodology

The methodological strategy for this project arose from the nature of the research questions and complements the conceptual framework of the thesis. The research questions are explicitly focused on migrants themselves, and their experiences of migration and employment. I therefore planned a qualitative, ethnographic¹ approach, focusing on the everyday lived experiences of migrant Basotho women. This method was intended to generate rich, descriptive data – following the example provided by migration ethnographies elsewhere, and particularly those examining migrants' everyday experiences of 'illegality' and deportability.² Similarly, other studies of domestic workers – both within South Africa and in other countries – have made extensive use of ethnographic methods, including semi- or un-structured interviews, in seeking to understand the experiences and strategies of such migrant groups.³

This approach also complements the conceptual framework of the thesis: the emphasis is explicitly placed upon the material operations and effects of power in terms of the production of migrant subjectivities, rather than on the 'centres' of power such as the state and its law. This mirrors Foucault's (1980: 97) prompting, to 'discover how it is that subjects are gradually, progressively, really and materially constituted through a multiplicity of organisms, forces, energies, materials, desires, thoughts, etc.' Foucault also indicated the appropriateness of a qualitative approach by describing discipline as 'a political anatomy of detail' (1977: 139), and encouraging an analysis of power 'at its outer limits where it becomes capillary' (2003: 27). The border, migrant 'illegality' and un-bounded labour can all be understood in terms of particular effects arising from migrants' everyday experiences and social relations.

While an ethnographic approach was taken for this project, the perspectives of migrant women were prioritised above those of other actors, such as employers or state agents (though discussions were held with the latter). My opportunities to conduct participant observation with or among Basotho migrant women were also limited by a number of

¹ For an explanation of 'ethnography', see Liamputtong and Ezzy (2005: Chapter 8); Tedlock (2000).

² For examples of in-depth ethnographic accounts of migrants' life courses, see Malkki (1995); Gardner (1995 and 2002). Various qualitative studies of the production of migrant 'illegality' and its impacts in migrants' everyday lives are also discussed in Chapter Two.

³ For instance see Parreñas (2001), Anderson (2000), Hondagneu-Sotelo (2001), King (2007), Le Roux (1999).

challenges, such as women's concealment, their social isolation, and their spatial immobility while working in South Africa (as outlined below). My knowledge of the Sesotho language being only cursory, I could not easily converse with Basotho women, many of whom speak limited or no English.⁴ Interviews were conducted and recorded in Sesotho, then transcribed in English. In addition to language divides, social barriers and migrants' concealment compelled me to rely on research assistants not only to carry out interviews (as I had planned) but also to find potential participants.

I located these assistants through contacts at universities in Bloemfontein (in South Africa) and in Lesotho, and employed them to help carry out the sampling of and interviews with Basotho migrant women. In South Africa, I relied on the assistance and ingenuity of Meisie Matolong, who had previously assisted others in numerous qualitative studies (though primarily relying on surveys rather than less structured discussions and interviews). In Lesotho, I worked with Nthonts'i (Dorcas) Qokolong, Lineo Mokitimi and Mahlape Motsatse, who had less fieldwork experience but proved committed and resourceful researchers.

The sample chosen was non-representative, as the particular situation of these migrant workers precluded any kind of sample frame or randomised selection of participants. I combined snowball or chain sampling with convenience sampling strategies,⁵ which are appropriate for qualitative research on migration given that migration flows often develop or grow upon social and kinship networks (especially in the case of undocumented migration flows, and for migrants working in the informal sector). The central data source was naturally the migrant women themselves, and more particularly, their stories, which were solicited through semi-structured interviews. In addition to the recorded interviews with Basotho migrant women, several group discussions were also held with several domestic workers at once (some recorded and others unrecorded). Unrecorded interviews and informal discussions were also carried out with a range of government officials and union representatives, and bus/taxi drivers. These were supplemented by data gathered through observation, library and archival research (such as historical and legal materials), and media searches.

⁴ Had I invested the time and resources to expand my Sesotho vocabulary, this would not necessarily have shown me the most appropriate and culturally or socially sensitive ways to broach sensitive subjects like 'illegality', corruption and clandestine border-crossings.

⁵ For an explanation of a wide range of sampling strategies in qualitative research, see Liamputtong and Ezzy (2005: 44-51); Berg (2004: 34-7).

The actual research process

The fieldwork stretched out over a period of 16 months, including 11 months of intensive fieldwork from March 2008 to February 2009, as well as a shorter return visit to South Africa and Lesotho in June 2009. The data sources were roughly as planned, though other potentially relevant participants – namely the employers – could not be consulted, for reasons considered below. Throughout the fieldwork, my assistants and I faced a number of challenges, some more foreseen or easily navigated than others. The challenges and complexities also revealed the experiences and circumstances of the migrant workers. As such, the themes discussed here mirror a number of subjects covered in subsequent chapters.

Uncovering hidden worlds: access and trust

The first of these themes relates to the most significant research challenge, at least in South Africa: access to respondents. As mentioned, when fieldwork began, my plan was to locate migrant women in South Africa through snowball and chain sampling – by starting with church contacts,⁶ and then tapping into Basotho social and kinship networks. Though churches were of some assistance, most efforts to meet women through these channels proved fruitless. The same can be said for other community organisations and businesses operating in the township. Ultimately, there was no ‘snowball’. Some references were gained from respondents – thus providing the links for several short ‘chains’ – but for the most part, respondents in South Africa were located through more direct sampling. There were two important reasons for this failure.

First, most Basotho domestics live-in at their employers’ homes. Without regular contact with the township, they have no or limited social networks among the community there. In Bloemfontein, where I was based in South Africa, church visits were either precluded for Basotho domestics, or limited to the one suburban church offering services in Sesotho. Even at this church, domestic workers often attended with their employers – thus it was still difficult to get past these ‘gatekeepers’, to meet and speak with workers. Second, the fact that Basotho women are working ‘illegally’ heightened the need for trust – and the

⁶ The decision to begin with church contacts was based on anecdotal accounts of the importance of churches to social life, and particularly black African (or township) social life, in South Africa.

suspicion with which many women reacted upon hearing of the research (or indeed any kind of acknowledgement of their presence in the community). Hence when my assistant Meisie and I later met women who admitted to seeing and hearing us recruiting participants at church the previous month, and asked them why they hadn't contacted us, one replied simply: 'we were afraid'.⁷

A shift in strategy was therefore required – towards recruiting domestics in the suburbs where they worked, and towards more intimate, one-on-one introductions. Here, challenges of physical access and timing became more significant, and the research took on a decidedly investigative style. While staying at her employer's house, a worker's movements are often highly restricted. She typically works long hours in the employer's home, beginning in the early morning and finishing around dusk. The late afternoon or early evening (around 4-6pm) is often a time for socialising, so small gatherings of domestics – anywhere from 2 to 10 women, and sometimes even more – can often be seen on suburban street corners, in parks, near local shops, and so on. These gatherings also occur on Saturday and Sunday afternoons (usually domestics' time off). Even workers who are unable to socialise in this way may meet other domestics in the area when they are sent to the local shop, or perhaps over the back fence.

Reflecting these patterns, recruiting was carried out at optimal times by loitering or trawling through suburban areas, spotting domestic workers as individuals or in small groups, explaining the research project and requesting their assistance. As there is usually no way to distinguish a Mosotho from a South African local from a distance, any and all domestics were approached. Some individuals hesitated to admit their nationality (or their knowledge of a Mosotho woman in the area) until the project had been explained and some minimum level of trust established. Closely reading women's reactions to our explanation of the research project, Meisie and I became convinced that several of the women we had approached in various places had in fact lied to us and hidden their nationality – particularly when it seemed that they had actually been accompanied by their employers.

⁷ Similarly, Parreñas (2001: 17) notes reluctance or cancellation by a number of potential participants in her study of migrant domestic workers, suspecting their 'illegal' status as the underlying reason for their non-involvement. Other studies of migrant domestic workers have likely been similarly biased against the involvement of 'illegal' migrants; this reinforces the significance of this thesis as a study focused on a migrant group that is predominantly 'illegal'.

Access remained an ongoing challenge even after we had met a Mosotho woman, or heard of her whereabouts. As many workers' schedules and movements were strictly dictated by employers, some were only available for a small window of time each week, or they had to sneak away or concoct excuses for leaving the employer's home, to meet us for an interview. In one case, a South African domestic told us that she had worked 'over the back fence' from a Mosotho woman, and provided the address. Hoping to meet the Mosotho domestic, we drove past the house a number of times, and tried to locate small parks or shops in the vicinity, but there were none. Other domestics in the area were scarce, so we had no way of locating others who may have been able to contact her on our behalf. As a result, we never managed to meet the woman in person. Such challenges accessing Basotho domestics demonstrated women's boundedness within their employers' homes, and the boundedness of their social relations within South Africa.

Women's fears and apprehensions also precluded a greater role for employers in the research. While migrants' own perspectives and experiences form the basis of the analysis in this thesis, employers' accounts would undoubtedly have been valuable in supplementing the interviews with migrant women. However, given migrant domestics' already significant fears and suspicions, it was not possible to gain their trust *and* interview their employers as well. Given the difficulties in sampling, particularly in South Africa (where employers could have been reached), to interview an employer would have meant foregoing the precious opportunity to reach and interview a migrant worker. I therefore chose to prioritise migrants over employers and focus on interviewing the former.

The timing of the fieldwork also heightened challenges of trust and access. I first arrived in South Africa in March 2008. During my initial couple of months, I was familiarising myself with the local context of Bloemfontein (where I stayed in South Africa) and beginning to meet with government and union officials (who were far more accessible to me than were migrant domestics). At this time, xenophobic sentiments were rapidly escalating. In May 2008, riots that were labelled 'xenophobic' erupted across several cities in the country, leading thousands of scared and persecuted migrants to flee or to seek shelter at police stations and churches (see Polzer 2010).

As discussed in Chapter Six, Basotho migrants often perceive themselves, and are perceived by South Africans, as less 'foreign' than other African migrants. I was also

assured by a Department of Home Affairs official that while he had been requested to compile a report on xenophobia in the particular province where I was researching (the Free State), he had 'nothing to report', as the tensions had not spread to that province. However, one Basotho woman we had met through church contacts in June said she knew of many Basotho domestics in the area; when we asked her to speak to them about the study, she reported back that they were afraid. Unsure whether the national climate of fear and trauma over xenophobic violence was affecting potential participants, I decided to wait two or three months before pursuing such sampling avenues. Hence most interviews with migrants were held in the final few months of 2008 and the beginning of 2009.

Concerned about the biases in convenience and opportunistic sampling in South Africa, I sought to ensure that the range of participants interviewed was as broad as possible. For instance, attempts were made to reach women in many different suburbs within Bloemfontein, as well as rural areas and smaller towns in the Free State province. We also broadened the sampling strategy to include Basotho women who had become South African citizens, or who had once worked in domestic service but were now either not employed or were employed in other sectors. In Lesotho, the sampling was largely convenience and snowball or chain. Interviews were carried out over a range of districts, and many were also carried out in one village (in the hope of identifying patterns in migrants' destination for work, and their use of social networks from Lesotho).

The research was dramatically different in Lesotho and in South Africa. In Lesotho, while at home, women had no reason to fear being detected or losing their jobs. Sampling was a simpler task, and the three assistants I recruited locally simply contacted their own family and social networks to identify women who were working or had worked across the border. Chain and snowball sampling were therefore more appropriate in this context. There was also less need for trust, as some women were no longer working in South Africa, and there was no need for those who were still working to disclose their work location. The contrast between responses towards the research project on either side of the border was stark: whereas workers in South Africa first reacted with suspicion and fear, in Lesotho women often grasped the opportunity to share their experiences. This disparity in responses further demonstrates workers' fear and the precariousness of their employment and presence in South Africa. It also only became visible due to the transnational nature of the research.

Mobility and transnationalism

The research process was also characterised by mobility and transnationalism. The fieldwork was carried out on both sides of the Lesotho border. In South Africa, I focused on the Free State province of South Africa, given its popularity with Basotho migrants and its proximity to Lesotho. Basing myself in Bloemfontein, the province's capital, enabled me to travel to Lesotho on a regular basis. In Lesotho, research was conducted in women's home villages in the western lowlands, in the Maseru, Berea and Leribe districts (Lesotho's three most populous districts: Kingdom of Lesotho 2008: 3). I also made observations and met with officials at the two busiest border gates, at the Maseru and Ficksburg bridges (see Figures 3.1 and 3.2). The multi-sited approach to the fieldwork was intended to encompass the various social worlds inhabited by Basotho migrants – to understand the distinctions and connections between rural Lesotho and urban South Africa, and to trace these women's movements back and forth.



Figure 3.1 Lesotho with its nine districts.⁸ Lesotho's population is concentrated in the western lowlands, stretching from Mohale's Hoek up to Leribe district (see Kingdom of Lesotho 2008: 2-13).

⁸ This map is sourced from <http://www.ezilon.com/maps/africa/lesotho-maps.html>



Figure 3.2 Free State province in central South Africa. Bloemfontein is the capital, with the N8 highway leading more or less directly to the Maseru bridge border post.⁹ Most of the towns along the Free State-Lesotho border have ‘twin’ or ‘sister’ towns on the Lesotho side (see Coplan 2009); those I visited most were the border-post twin towns of Ladybrand-Maseru and Ficksburg-Maputsoe.

The time spent in various locations was a response to women’s circular migration habits. For instance, the Lesotho-based interviews were concentrated in December and January, when Basotho working in South Africa return home for Christmas. Similarly, the monthly oscillation of migrant domestic workers tends to coincide with the monthly system of wages in South Africa. ‘Month-end’ (not only for Basotho migrants, but also for internal migrants in South Africa) is a time of payment of wages and return home to family. Accordingly, the final days of each month presented an opportunity to witness transport dynamics, congestion and queues at the Lesotho-South Africa border gates, and how government officials working there dealt with these challenges.

⁹ This map is sourced from <http://www.freestate-venues.co.za/map.htm>

The multi-sited¹⁰ nature of the research also shaped the data-gathering techniques employed. Unlike more traditional ethnographies, for instance set in a particular village or workplace, there was little opportunity for participant observation¹¹ within the ‘community’ of Basotho migrant domestic workers, for several reasons. First, women’s oscillating migration between South Africa and Lesotho meant that the research population – and in effect, the site of the processes being researched – was constantly mobile. Second, in South Africa this ‘community’ comprised a disparate constellation of domestic workers located throughout suburban private homes, where they tended to stay indoors. Third, migrants’ presence at fixed sites such as the territorial border-gates and transport hubs (or even on buses/taxis) was fleeting and usually involved stress and deception, such that negotiating an ‘insider’ status, or even simply initiating conversations, in these locations was practically impossible. Thus, while observations at these places were intriguing, they did not involve ‘participation’ in any meaningful sense. Rather, it was necessary to rely more heavily on interviews as the primary data source, and attempt to meet women and carry these out across a range of locations (i.e. in both South Africa and Lesotho).

This ‘transnational’ research approach – and in particular interviewing women on both sides of the border – added a valuable dimension and depth to the data, beyond what would have been possible if the project concentrated on one side only (or on just the border gates). The contrasts between home life in Lesotho and working life in South Africa were highlighted not only by the practicalities of interviewing on both sides, but also differences in women’s dress, behaviour, demeanour, language, and of course the presence of their family members/neighbouring domestic workers during interviews. This offered further insight into women’s own challenges of negotiating markedly different social, political, economic and cultural settings.

Staying in women’s home villages also brought to life the comparisons between life in Lesotho versus South Africa that we heard during interviews. For instance, women would contrast the opportunity to earn higher wages in South Africa with the ability to grow a vegetable garden or rely on village networks for support in Lesotho (see Chapter

¹⁰ Regarding multi-sited ethnography see Unnithan-Kumar and De Neve (2006); Coleman (2006) offers an interesting discussion of the ‘multi-sited ethnographer’; and for a brief discussion of Marcus’ concept of a “multisited imaginary”, see Darian-Smith (2004: 552-4).

¹¹ See Angrosino and De Perez (2000); Jorgensen (1989) for an explanation of participant observation as a methodology.

Seven for further discussion of these comparisons). Aside from the contrasts and contradictions, conducting fieldwork on both sides was a valuable opportunity to corroborate and triangulate data.¹² Inevitably, particular interview topics were broached differently in the various sites. For instance, a woman in her home village in Lesotho would be less likely to admit to having boyfriends in South Africa (for fear of village gossip, or because of the more conservative social norms). Conversely, women interviewed in South Africa were sometimes reluctant to speak about their experiences of sneaking across the territorial border or paying bribes. However, on the whole, the general themes were mirrored in both sets of interviews.

Aside from its transnational reach, the fieldwork was also multi-sited in terms of my own negotiation of the different social and spatial worlds of migrants versus officials. For instance, at the Maseru bridge and Ficksburg bridge border posts, I was welcomed to make observations and meet officials behind the counters and in corridors or rooms not accessible to the public and therefore not accessible to migrant domestics (see Figure 3.3).

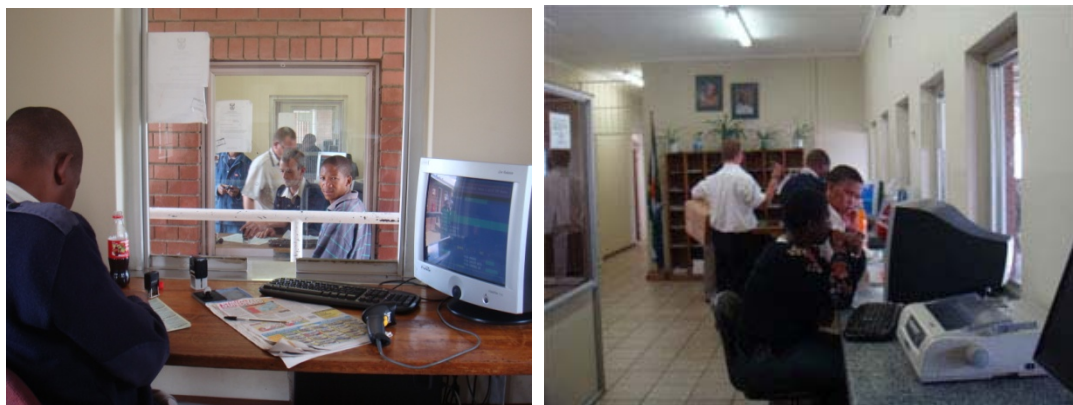


Figure 3.3 Processing counters at Ficksburg bridge port of entry, seen from officials' desks.

I also met with union officials, various labour department officials, and legal aid officers, who were generally keen to speak to me and were encouraging about my project. These government and union buildings (as well as the time and attention of those working within them) are largely inaccessible to Basotho migrant domestics. However, one significant social and geographic site which remained inaccessible to me was the employer's home in South Africa: while this is a crucial site of the border, where

¹² On the topic of triangulation, see: Berg (2004: 4-6); Janesick (2000: 391-2); Liamputtong and Ezzy (2005: 40-1); Taylor and Bogdan (1998: 78-80). Regarding 'Researcher Triangulation' (Liamputtong and Ezzy 2005: 41), it should be noted that the research assistants were also consulted during the period of data analysis after fieldwork had been completed.

migrants' experience of 'illegality' is reproduced and experienced, and wherein most Basotho domestics are bounded, I was never able to enter these homes and witness their work relationships and practices first-hand.

My repeated travels back and forth along the N8 highway, between Lesotho and South Africa, mirrored Basotho women's movements in a number of ways. However, the freedom and openness of my movements differed greatly from domestics' experienced 'imprisonment' within their employers' homes in South Africa. This contrast was noted during an informal discussion with a group of domestic workers in a small suburban park in Bloemfontein. My assistant Meisie explained that we were planning to drive to Ficksburg to try and meet with some more Basotho domestics there; this prompted Palesa to observe: 'You go out, we stay indoors'. Indeed, I also helped Meisie to procure a passport to enable her to travel to Lesotho for research purposes, but was unable to help our research participants in the same way.¹³

Crossing boundaries: social barriers and bridges

The Lesotho border gates were not the only boundaries that required negotiating in the course of the fieldwork. Dynamics of race, class, nationality, culture, language and age also presented significant barriers between myself, my assistants, and the respondents. Although all the individuals involved did challenge and traverse these – reaching across to meet and connect with one another – the barriers never fully disappeared. As a white, Australian, highly educated, non-Sesotho-speaking, unmarried young woman, I was extremely reliant on my assistants to act as bridges for me to witness and enter new worlds, both social and personal. However, while they acted as 'insiders' in some ways (for instance in terms of language and race), as university-educated women under the age of 30, all the assistants also occupied a very different socio-economic position to the less-educated, usually older domestic workers they were interviewing.

In anthropological circles these social distances or barriers are commonly cast as a challenge to be overcome, and as a threat to the accessibility and reliability of data gathered. The traditional 'ethnographic ideal of "total immersion"' (Cerwonka and Malkki 2007: 121) assumes the ethnographer's aim to be complete acceptance as an

¹³ See below for an in-depth discussion of the dynamics of help and harm during the research process.

‘insider’ in the community she is studying. However, in reality such barriers can be used strategically, such that adopting an outsider role is potentially fruitful – rather than undermining – for data collection, and can actively produce insights into social or political processes and norms. Similarly, forging stronger relations and rapport with the researcher can be understood as a strategic approach of research participants, such that this does not per se lead to greater or more reliable data generation. The delicate negotiation of insider-outsider status is therefore continual and dynamic, involving the strategies and responses of both the researcher and the researched.

In the course of the fieldwork I found that the ‘outsider’ status afforded me as a foreigner to both South Africa and Lesotho worked to my advantage in several ways. I was able to draw on this fact to encourage respondents – particularly government officials – to step outside the assumption of ‘common sense’ or ‘local knowledge’ and explicitly describe and comment upon perspectives, policies, and local dynamics. For instance, I offered the comparison of Australia’s governance and border control situation, or pointed out that live-in domestic service is virtually non-existent in Australia, to demonstrate that I was seeking to understand not only the content but also the context of South African domestic service regulation and labour migration control. At other times, it was more rewarding for me to admit my familiarity with local contextual factors like corruption, for instance to minimise senior officials’ potential embarrassment in admitting their failure to prevent practices of bribery at the border gates (as ‘we all know’ that corruption is rife throughout South African government).

Axes of difference also intersected in interesting and often unpredictable ways. While planning the fieldwork, I suspected that my status as a foreigner might help to ‘offset’ racial barriers, as King (2007: 10) indicated in her study of domestic workers in South Africa: ‘As I was a ‘foreigner’, the women ... understood that I had not been part of their apartheid past and were keen to explain to me what life had been like for them under the regime.’ However, the majority of the women interviewed in this study worked for black employers; some even had employers who were also from Lesotho. Many of these women expressed a preference for white employers, claiming that they are more likely to pay minimum wage levels, set reasonable working hours, and seek to register their domestic workers. By contrast, black employers were seen to have a more lax attitude toward legal regulations of domestic service. As a result – and because women from Lesotho are less likely to carry the images and experiences of white oppression under the apartheid

regime – race presented less of an obstacle than it may have, were the interviewees South African.

Ironically, my ‘outsider’ status – as a foreigner only temporarily present in South Africa and Lesotho – also helped in building trust, by convincing migrant women of the confidentiality of their contribution to the study. This was particularly the case in South Africa, where trust was such a crucial issue in accessing and speaking to interviewees. Explaining that I would be returning to Australia to analyse the data and write up my findings acted as a further reassurance of the anonymity and confidentiality of participation, possibly because in their eyes it distanced me from the networks and agendas of threatening South African government officials. In the villages of Lesotho, where suspicion was less significant, any white visitor is known to be a foreigner (and not necessarily South African). Hence, participants in Lesotho had often heard of me and my arrival in the village days before we met and held the interview:

Nthonts'i: So, did Thato tell you the news?

Khajane: No, she just said the whites are coming. I said what are the whites coming to do?! Yoh!

In such cases, the novelty of a foreign visitor to the village was balanced by the intimate familiarity that interviewees often had with the assistant or her family.

In South Africa, Meisie's nationality as South African (and not Mosotho) presented a potential barrier to gaining participants' trust. However, it also provided a valuable opportunity for encouraging a distancing and reflexivity that is crucial in research that depends upon individuals' descriptions of and observations about their own lives and circumstances. Meisie did share several significant experiences with the Basotho domestics we met and interviewed. Similarly to live-in domestic workers, she was staying and working in Bloemfontein while supporting and regularly visiting dependants who lived in her hometown (approximately 88km from Bloemfontein).

Using her excellent skills of inter-personal communication, Meisie was able to engage the various axes of difference and sameness between her and the Basotho domestics we were seeking and speaking to in South Africa, to put women at ease and encourage them to share and reflect upon their own stories. This reflexivity was essential to produce colourful and useful interview data, and shaped the direction of the project as a whole:

every anthropologist's reflections on a society are always and necessarily informed by the reflexivity of those whom s/he studies and interacts with, and it is the latter's reflections, ideas and opinions that set the framework for the ethnographer's own interpretation and analysis (De Neve 2006: 74).

Reflecting on De Neve's (2006) account, Unnithan-Kumar and De Neve (2006: 8) also acknowledge that the reflections and interpretations 'of the assistant are crucial'.

In both locations, gender represented common ground between the assistants and I, as well as the research participants. This certainly enhanced spatial and social access in a range of settings: in approaching and then sitting and chatting with domestic workers in South African suburbs, staying with assistants in their family homes in Lesotho, and being welcomed into women's homes in Lesotho for interviews. However, as Warren and Hackner have noted, the spatial access enhanced by gender 'does not mean access to the *meaning* of the worlds of informants' (2000: 6, emphasis in original). Certainly, shared gender – for instance between migrant workers and their employers – means little in the face of structural inequalities and power imbalances. Fortunately, although most of the women were also employed by women, my young age (mid-twenties) and unmarried status generally placed me outside the potential classification as an employer-type. Ultimately my particular place and role in the field was subject to dynamic processes of interaction and negotiation with research participants (see Warren and Hackner 2000: 11, 14) and, of course, with and through the research assistants.

While the research assistants in South Africa and Lesotho helped me to bridge these various social divides and to negotiate insider/outsider status, my own relationships with each of them were also shaped by dynamics of race, gender, class, and culture. Their English fluency and higher education enhanced their familiarity with my own 'modern' culture; thus much of their role was to explain and demonstrate their own local contexts – in effect to teach me the lay of the socio-cultural land. Facing and negotiating the considerable fieldwork challenges together fostered our own closeness and confidence, as we shared our time and frustrations, and celebrated successes. However, our relationships were also inevitably shaped by differences in status and wealth, the limited budget (and timeframe) for the fieldwork, and the inescapable history of race-inscribed patronage relations in a postcolonial setting.

Throughout the fieldwork, although I was effectively managing (and training) a team of researchers, I was conscious of my utter dependence upon these young women, whom I knew were the true guardians of respondents' trust and cooperation. From sampling to archival research, and most especially in carrying out the interviews: without their efforts this study simply would not have been possible. Each of the assistants, in her own manner, also influenced the practical and social realities of the fieldwork process; the interview recordings also evidence these differences.

'I am not sick in the mouth': managing the interview experience

The interviews with migrant Basotho women were complex encounters, and they differed greatly depending on the context and the individuals involved. As mentioned above, trust and comfort were crucial in the interviews carried out in South Africa. Location, time and privacy presented further challenges: once a Basotho domestic worker had been identified in South Africa, the study explained and her participation offered, the logistics of where and when to hold the interview(s) posed a difficult question. Almost all of the women interviewed stayed at their employer's house, so it was usually impossible or impractical to hold the interview there. A public and more comfortable location, like a mall or café, would be too noisy and would preclude the level of intimacy we sought. To interview participants in an office would have been foreign and intimidating. For these reasons, and because interviewees' time was often precious and limited, interviews were carried out in the car, while sitting in a local park, or at a nearby shopping centre carpark. They were typically carried out on weekends or weekday evenings, during workers' time off.

The frequency with which participants cancelled, postponed or simply failed to attend scheduled interviews in South Africa often reflected their lack of control over their own time and movements. This control apparently rested with employers – from whom most of the women concealed their involvement in the study, out of a fear of triggering conflict and risking dismissal. Following their absence from an arranged interview, women sometimes explained that they had been unable to attend because their employer had stayed home instead of going to church, or had unexpectedly given them more work. Returning to Lesotho to attend a funeral was another common explanation, which shadowed the devastating HIV/AIDS epidemic in the region. Some women also had full-

time care of their employers' children, and could use them as an explanation for their outings – for instance 'taking the children to the mall': interviews with these women therefore involved employers' young children (with all the challenges of keeping them occupied during the process).

Interview length varied, with an average of around one hour. The interviews with migrant women were run almost entirely by the research assistants, such that an interview comprised a conversation in Sesotho witnessed by, but not really involving, myself. My own limited contribution typically consisted of a brief greeting and thank you, asking the occasional follow-up question, or answering specific queries, for instance about official regulations or government offices. Research assistants were prompted by a written list of general themes and questions, though the list was often placed aside in favour of a more casual and unstructured conversation – particularly in South Africa, where the aim was to put the participant at ease and allow her to speak freely and share potentially incriminating information. The interview schedules also changed during the course of fieldwork, to account for new themes and information.¹⁴

A total of 70 Basotho migrant women were interviewed throughout the fieldwork. Though most interviews were carried out in a single sitting, we did visit some women more than once, and numerous participants in South Africa kept in touch via phone messages, notifying us when their situation had changed or perhaps requesting assistance with a particular problem.¹⁵ Many of the interviews were carried out with two workers simultaneously. This was always the respondents' choice rather than our suggestion: it presumably allowed the women to feel more comfortable and confident than having to meet and speak to us individually. It was also sometimes a necessity due to a participant's inaccessibility if she did not own a mobile phone – hence her neighbour or friend would contact us to let us know when and where she was available and they would meet us together. Paired interviews undoubtedly complicated the issue of trust, but on the whole, this usually helped to foster a more casual and intimate atmosphere. On two occasions, the friend present was a South African rather than a Basotho, thereby providing an opportunity for the comparison between women's experiences and work situations, and reflection on the impacts of nationality on domestics' working lives.

¹⁴ Regarding interview schedules generally, see Berg (2004: 82-7) and Kvale (2009: 129-35).

¹⁵ This issue of assistance is discussed further in the next section.

In addition to individual or paired interviews, a number of larger group discussions were also held in South Africa, mostly involving impromptu conversations with small groups of domestic workers already gathered on street corners and in suburban parks.¹⁶ Most of these were unrecorded, though a select few were recorded (with the consent of everyone present). Again, this situation often enabled more general discussions among workers about the different (or not-so-different) circumstances of Basotho domestics versus South African domestics. It also offered valuable insights into the dynamics and utility of socialising – something which was important for understanding the implications of many Basotho women’s *lack* of participation in such groups. We never relied on Basotho women’s personal comments in these mixed groups, as their occasional nervousness and consequent silence about such topics as ‘illegal’ border-crossing and forged documents was apparent. Individual (or paired) interviews were therefore essential, and group discussions were merely supplementary.

The fieldwork included two interesting exceptions, involving larger group discussions among Basotho domestic workers only (i.e. with no South African domestics present). The first was a gathering of women who had all attended a Sesotho church service at a popular church in a neighbouring suburb. One of the women in the group had met us before and she phoned to alert us to this group of Basotho women sitting on a street corner. We arrived, shocked to see so many Basotho women together, and a friendly conversation about the research and about their situations ensued. In this setting, women were more confident, joking and laughing; several explained that they had been too suspicious and hesitant to contact us individually, or that they had in fact been sitting in church with their employers when we had attended. The women had very limited time before they had to return to their employers’ houses, so we used this chance to build a minimum level of trust and familiarity, gathering women’s names and contact details so that we could follow up with individual interviews.

The second exception involved an organised meeting, again after a Sesotho church service, and including some of the same women, though this time we met at the shopping mall next to the church and proceeded to a nearby lawn, sitting under some trees for shade. As

¹⁶ Though much has been written regarding group discussions (e.g. Berg 2004: Chapter 5; Liamputtong and Ezzy 2005: 75-99; Madriz 2000; Morgan 1997), the scope is typically limited to structured or orchestrated ‘focus groups’, which have been carefully arranged and are professionally moderated. In contrast, the group discussions in this study were generally much more informal and spontaneous, and often involved more passive observation than active direction of topics.

we had spoken to all of the women before, and had arranged the meeting ourselves, we were able to make better use of this opportunity to facilitate group discussion of the research themes. All the women showed a great appreciation for the opportunity to meet and be heard, and we continued chatting for more than two hours, until the women had to return to their employers' houses. In this meeting, several children (of employers) were among the group. While the conversation was generally lighter than individual interviews (involving much joking), it also included frank discussion of hardships and strategies, for instance in dealing with employers. The ease and trust among Basotho women was noticeably different to the mixed groups, thereby confirming the significance of nationality in group dynamics among domestic workers. The majority of women interviewed in South Africa had such limited control over their own time and mobility that it was not possible to organise further group discussions.

During interviews in South Africa, interruptions and distractions were common, as we struggled to find and occupy some quiet and private space in the suburban landscape. Interviewees and assistants alike received messages and phone calls, suspicious car park attendants enquired about our presence and activities, children became tired or hungry, the weather dictated whether we were able to sit or meet outside, and passers-by casted curious glances. Figure 3.4 depicts the settings of two interviews carried out in public spaces in South Africa: one a single interview held while sitting on a blanket on a small grassed area behind a suburban corner store; the other a joint interview with two women accompanied by three children of their employers', held while sitting on crates and blankets in a shaded area of a shopping centre carpark.



Figure 3.4 Settings of two interviews held in South Africa, with assistant Meisie Matolong.

The interviews in Lesotho were less shaped by suspicion, risk and trust. In addition, women generally had more flexibility in terms of their availability. Most of the interviews

were carried out in participants' rural homes: these women were in Lesotho either because they were visiting home during month-end or their Christmas break, or because they had finished working (or were between jobs) in South Africa. The interviews were generally more structured, and less time was spent on their organisation, as cancellation and postponement were uncommon. Rather, interviews in Lesotho were interruptions to women's home-based tasks and responsibilities, such as caring for their own children or grandchildren, tending their fields, and attending funerals.

Interviews in Lesotho therefore highlighted the broader life circumstances of women's migration and employment in South Africa, as well as the contrasts between the two locations. For example, women's movements in Lesotho were freer and less fearful; facilities in Lesotho were more basic, typically with limited or no access to electricity or running water (thus several interviews were held by lantern inside, or outside where the setting sun still cast some light – see Figure 3.5). As interviews in Lesotho also involved women who were no longer working, they illustrated life trajectories that were less easily captured in the South African interviews. For example, Nthonts'i and I interviewed Likhopiso while sitting under a small orchard of fruit trees on her property in a Lesotho village. Her health was failing, but she countered Nthonts'i's concern by confirming her capacity and enthusiasm to be interviewed:

Nthonts'i: I ask you questions then.

Likhopiso: Are they many?

Nthonts'i: There are so many, you are going to end up sleeping. I will even go and buy you grandpa [painkillers] when we finish. Are you sick?

Likhopiso: I am so sick. ... I have even been to the AIDS [clinic], I told them I want to be healed. I got sick immediately after I put on my mourning cloth for my husband. ...

Nthonts'i: Truly, I can see that I am going to finish you off. ... I can see the sickness has finished you.

Likhopiso: Me?! I don't get finished. I am always talking, and you will hear them saying "Hee! She is talkative, this patient." I then tell them, "I am not sick in the mouth, hey!"

While interviewing women in their homes allowed a sense of safety and familiarity, women's anonymity was potentially undermined. Although neighbours and family members were asked to leave the room, concerns about propriety and village gossip

persisted – especially since the assistants were usually well known to the participants. Thus Nthonts'i found herself instructing Manthona to 'take it as if you don't know me', encouraging her to spell out personal details that she already knew about her.



Figure 3.5 Settings of two interviews held in Lesotho; with assistants Nthonts'i Qokolong and Mahlape Motsatse respectively.

Given these concerns, and how suspicious or uneasy Basotho women were upon being approached for participation in South Africa, the interviewees' honesty and openness was remarkable. Women shared with us not only stories of 'illegal' migration and employment, but also their strategies or experiences of abuse, deception, infidelity, forgery, even incest. As many of the women recounted their incredibly difficult circumstances, it was a concern not to create further stress or trauma for them (and for the assistants) during these interviews. Most of all, it was essential to treat their time and their trust with respect: we were therefore conscious to heed the boundaries, whether personal, emotional, informational, time- or location-related, that each woman set for the interview process.

Help and harm: navigating the ethical minefield

As the above sections have hinted, the ethics of conducting fieldwork were complicated and difficult to navigate, especially in South Africa. Within the literature on ‘ethically responsible research’ (Sieber 2009), much has been written about the perils of researching ‘vulnerable’ populations,¹⁷ and the bureaucratic hurdles for such projects can be significant. To present Basotho women with papers to read and sign would have been not only impracticable (given their sometimes limited literacy, even in Sesotho), but inappropriate and rude; it would also have confirmed any suspicions they held about us and the research project, and deterred participation. As a result, and as required by the access difficulties outlined above, we always verbally explained the nature and purpose of the study before verbal consent or referrals were given.¹⁸

Interviewees often asked questions out of concern for anonymity or confidentiality,¹⁹ for instance by asking whether recordings of their voice or visual images of them would be broadcast on television:

Likhopiso: You record me there and you are going to call my name there and they are going to hear me talking?

Nthonts'i: Who?

Likhopiso: People.

Nthonts'i: No, we just do it because she doesn't hear [understand] Sesotho, then I am going to ask you in Sesotho and then I am going to type it for her.

Likhopiso: She is going to put my picture on the TV.

Nthonts'i: No! She is not going to do that. Oh! You fear the internet. No, she won't put you there; she is only going to write her things.

In South Africa, women were especially concerned about the possibility of their employers finding out about their participation in the research: ‘Will they [employers] be

¹⁷ For instance see Liamputting and Ezzy (2005: Chapter 10). I frame this term with quotation marks to reflect the nature of respondents' ‘vulnerability’ as socially and discursively constructed.

¹⁸ Of course, this was also required by the University of Melbourne human research ethics committee, whose approval for the project was granted prior to the fieldwork. See Sieber (2009: 110-5) for a discussion of ‘adequate, respectful informed consent’; see also Fine et al. (2000: 113-5).

¹⁹ Regarding the connections and differences between confidentiality and anonymity, see Berg (2004: 65-7).

able to recognise our voices, because we stay with them?’ (Litsoako). Some women, like Likenkeng, were familiar with the concept and practices of ‘research’: ‘When you explained we understood, because [we know] people do research to pass their studies.’ For others, we sometimes referred to other more familiar relations involving guarantees of confidentiality (for instance medical professionals). The process of changing names, and the protection of voice recordings, was always explained.

Studies of ‘illegal’ migrants always involve elements of risk, and this project was no exception. As domestic workers in particular, concealment and ‘invisibility’ was a significant aspect of these migrants’ lives in South Africa. To be targeted, interviewed, reported upon and thereby made visible, was a risky and potentially ruinous experience for them. This was contrasted with the need to carry out interviews and group discussions in public spaces. Hence I had to avoid meeting and discussing the research with local police during most of the fieldwork, out of a concern that if they saw me conducting an interview in public, they would know the interviewee was from Lesotho and may target her for interrogation, extortion or deportation. The effective paranoia I had to adopt during the fieldwork provided a glimpse into the lives of migrants who attempt to maintain their concealment while managing their oscillating work lives.

Keeping women’s participation secret from their employers presented similar challenges:

If I tell you, what will you do so that they will not know that we have been talking to you? I’m at the mercy of my employer, how do I know that my job is safe [and that] you won’t get me arrested or fired? ... The following day I’m dismissed because I have been talking to you (Mantja).

Women’s concern for their employers not to find out about their involvement acutely demonstrated the precariousness of both their employment and their presence in South Africa, as well as women’s burden of managing the employment relationship in their attempts to counter or stabilise this precariousness. These elements of risk only really became apparent during the sampling and interviews in South Africa, where women themselves experience the ongoing threats of dismissal and deportation.

The risk of potential harm to participants – whether in the form of exposure to state authorities, or threats to the stability of their current employment – was complicated by

our compulsion to offer something in return for participation.²⁰ It felt morally repugnant to ask women – particularly those in South Africa – to go to such lengths and to jeopardise their own safety to be interviewed, while offering nothing in return. Our resources for the fieldwork were very limited, so payment was usually not feasible, and at any rate represented mere temporary relief in a time of difficulty.²¹ What interviewees most sought was documentation, which we were in no position to obtain for them. While we could provide the contact details of various government offices (such as the Department of Labour), we could not guarantee that the officials at such institutions would be of any assistance, or even that they would not hand over the women to more hostile agencies like the police or immigration officials.

Machopo's involvement in the study exemplified these risks. She was actually born in South Africa but had been raised in Lesotho from a young age, and did not possess a South African ID or birth certificate. During a discussion with a Department of Home Affairs (DHA) official, Meisie and I briefly explained her situation and asked how she might go about proving her South African citizenship and obtaining an ID. The official asked all the details of her circumstances, and then pressed us to tell her to approach the DHA offices for assistance. We explained that she was afraid to do so, given the risk of being taken as a foreigner and deported accordingly. The official was understandably more concerned that she might be violating immigration law by working in South Africa without a work permit or ID. While we tried to assist Machopo by helping her to contact the South African primary school she had attended as a young girl, ultimately she was unable to secure an ID (at least during the time we maintained contact with her). Our efforts on her behalf elicited a strong reminder of the opposing positions of officials and migrant working 'illegally'; this experience also encouraged me to maintain caution about the official's ongoing interest in the project more generally, including his curiosity about where and how sampling and interviews were conducted.

In South Africa, Meisie and I distributed information on the official regulations regarding domestic service, including minimum wages, hours and overtime, pay deductions for

²⁰ Regarding the 'balance' of research risk versus benefit, see Berg (2004: 48). Such a utilitarian approach simplifies the question of 'harm', ignoring the complexities of different kinds of harm, the difficulties and ultimately subjective nature of 'measuring' such harm, and the different degrees and kinds of harm that a decision or action may cause to different classes of research participants.

²¹ Fetterman (2009: 580-1) suggests that while 'reciprocity in some form is essential during fieldwork ... it should not become an obtrusive, contaminating, or unethical activity.' (Also see Liamputtong and Ezzy (2005: 216-8) regarding reciprocity and compensation.) Judging the ethics and complexities of payment is incredibly difficult, and ultimately depends upon the context of any specific exchange.

accommodation, etc. But knowing how precarious most of these women's work situations were, we had to warn them of the dangers of demanding these pay levels and working conditions from their employers, lest they be dismissed or reported to the authorities. We prepared a written summary of regulations to distribute, and this provided a discussion point in several of the group meetings as well as the interviews. Reflecting the tension between South African migration and labour law, it was difficult for me to answer questions about the extent to which these rights applied to Basotho women, and how they might go about enforcing them. Ultimately, their experiences and treatment as 'illegal' migrants undermined the relevance or utility of this information, as the elaboration of rights which they didn't feel or behave as if they held.

Several interviewees openly stated, 'we have many problems, please help us if you can' (Malisebo). Thus it was essential to address women's expectations at the outset; that we could not offer job opportunities or material resources, nor provide assistance with documentation or dealing with the authorities. All the same, some women thanked us, commenting that they appreciated the opportunity to talk about their situations and problems, especially in the context of such social isolation while working in South Africa.

In the end, all I could really offer these migrant women in return for their participation was a promise to maximise the benefits of the research²² project by making the results known to a wider audience, in the hope of advocating changes to the laws and regulations which contributed to their hardships. Even this was a difficult commitment, as I knew that the political realities of xenophobia and migration policy in South Africa made legal reform unlikely. Similarly, to expose the migrant group's existence and employment – while essential for any awareness-raising or calls for legal reform – risks triggering alarm among state authorities and prompting greater official attempts to target and exclude migrant domestic workers from South African homes. In dealing with this concern while writing the thesis, I have been guided by this joint interview with Maleshoane and Relebohile:

Mahlape: How would you like things to be different in your work?

Maleshoane: We want to have representatives, or join a union of people from Lesotho who work as domestic workers, so that we can stop lying every time

²² Regarding the maximisation of research benefits, see generally Sieber (2009: 130-6). As she notes (2009: 136), in research involving 'vulnerable' populations, this is critically dependent upon an understanding of the different ways in which members of these populations may be 'vulnerable'.

we cross the border, because after a month the days that they give us expire – after only a month!

Mahlape: How could you achieve that?

Relebohile: If we come together and make it known that there are women from Lesotho who work as domestic workers in South Africa, just like it is known that the miners have contracts to go and work there.

As Malkki (2007: 179) has summarised, ‘ethical challenges must be negotiated in real time, as they happen, and they are not neatly bounded ... Ethnography as ethical practice is necessarily social and therefore necessarily improvisational.’ As the following section discusses in greater detail, the ethical challenges and accompanying ‘improvisation’ for this thesis extended well beyond the fieldwork in Southern Africa.

Data analysis and communication

The research ethics dilemmas of concealment and advocacy also continued beyond the fieldwork to the process of data analysis and writing. As Wolf (1996: 32) admits, '[t]he problems of hierarchy, exploitation, appropriation and empowerment do not end with the fieldwork encounter – in some sense, they only begin there.' In order to ensure participants' confidentiality, I have changed or omitted all interviewees' and officials' names within the thesis. I have also altered migrants' faces in any photographs, and omitted other details such as migrants' home villages in Lesotho or their suburb of employment in South Africa. As Sieber (2009: 118) notes, respecting privacy is more complex than mere promises of confidentiality and the gathering of anonymous data. Privacy is always shaped by context, including the characteristics of the research community (Sieber 2009: 119-23), and the nature of the relationship between the researcher and the researched. Recognising that privacy concerns continue from the collection of data to their communication to a wider audience, in writing this thesis I have attempted to respect the privacy of respondents (in particular Basotho women) while communicating their experiences and hardships as honestly as possible.

In addition to ethics concerns, data analysis was also influenced by the particular ways that the data were generated in communications with Basotho migrant women. In particular, this thesis echoes women's own accounts²³ of their journeys and working lives: as complex narratives involving inter-connections between self, family, work, and movement, wherein women strategically engage with border relations and practices. As Bryman (2008: 553) discusses, narrative analysis:

entails a sensitivity to: the connections in people's accounts of past, present, and future events and states of affairs; people's sense of their place within those events and states of affairs; the stories they generate about them; and the significance of context for the unfolding of events and people's sense of their role within them.²⁴

²³ Quoting Roberts (2002), Bryman (2008) acknowledges that 'narrative analysis' refers to both an analytical approach and the data sources themselves. Basotho women's own use of narratives during interviews encouraged me to incorporate a narrative analytical approach to the data more generally. This reflects my concern to offer the reader an understanding of Basotho women's own point(s) of view, as Fetterman (2009: 544) notes is the aim of ethnographic writing.

²⁴ Regarding narrative analysis, also see Liamputtong and Ezzy (2005: Chapter 6).

For instance, Chapter Seven examines the factors leading to women's labour migration, attending not only to the objective criterion of poverty, but also the narrated (subjective) experience of 'my family had problems'.

In writing the thesis, I have also been attentive to the complexities and ethics of my own role in producing Basotho migrant domestics as subjects. As Foucault has noted: 'The turning of real lives into writing is no longer a procedure of heroization; it functions as a procedure of objectification and subjection' (1977: 192). In the case of legal research, this concern is only heightened, as the writing of women's lives contributes to their production not merely as subjects, but as particular *legal* subjects. One way of addressing my anxieties around these issues has been to uncover migrant 'illegality' as socially, legally and discursively constructed; thus, rather than presenting a study of 'illegal' migrants or 'illegal' migration, the thesis shifts to the nature and incidence of the experienced 'illegality' as a distinct focus of analysis and inquiry. As Darian-Smith (2004: 550) observes: 'Writing ethnography is implicitly, and increasingly for many anthropologists explicitly, a political and ideological practice and form of engagement with a variety of human experiences and social arrangements.'

A central theme of this thesis is Basotho women's continual objectification and dehumanisation, while the thesis itself risks contributing to this very dehumanisation by focusing on the circumstances and subjectivities that these women occupy, rather than the women per se.²⁵ During fieldwork and particularly during interviews, it was not any 'essential' or 'private' identity that my research assistants and I sought to uncover; the thesis therefore reflects the analytical and personal boundaries that were set and navigated by us and – more crucially – by Basotho women themselves. Although the risk of dehumanisation persists, I consider this strategy to be a more respectful and ultimately more ethical one, than if I were claiming to 'know' and therefore to 'represent' Basotho women in some deeper sense. The knowledge that I gained through these interviews, and that is presented here, is a very detailed account of the circumstances that these women occupy, their everyday experiences of those circumstances, and their strategies for engaging with them.

²⁵ For an insightful discussion of the complexities of objectification in ethnographic research, see De Genova (2005: Chapter One).

I have also been concerned to frame Basotho women's own accounts – as reproduced here – within the context of the interviews through which they were shared. Thus, in many places throughout the thesis I have retained interview dialogue rather than simply deleting or redacting interviewees' questions or interjections. Such editing has been a delicate process. As any ethnographic researcher will know, detailed transcripts of interviews and conversations often appear incoherent and much editing may be required to enable or enhance 'readability' (see Kvale 2009: 266-7). I have aimed to edit only enough to ensure women and their narratives do not appear grammatically nonsensical, while preserving such details of the conversation as exclamations or repetitions. This deviates from the conventional approach:

Interview quotes should be rendered in a written style. Verbal transcriptions of oral speech, with its repetitions, digressions, pauses, "hms", and the like, are difficult to grasp when presented in a written form. Interview excerpts in a vernacular form, in particular local dialects, provide rough reading. To facilitate comprehension, the subject's spontaneous oral speech should in the final report be rendered in a readable, written textual form (Kvale 2009: 267).

It is significant that Basotho women's accounts were *not* provided to me and my research assistants in written textual form, but as interview responses in a set of very specific circumstances. My style of citing women's words encourages the reader to continue remembering and sensing – rather than to ignore or forget – this important context.

The data generated through interviews and observations of Basotho women were also supplemented by data from a range of other sources, including: media (local and national newspapers, as well as television programs); archival sources (particularly in Lesotho, from the Morija Archives, and the Archives at the National Library in Maseru); official documents and forms (e.g. permits, passports, registration forms); legal instruments and documents (legislation, regulations, case law); and government publications and reports. However, it must be acknowledged that the analysis was principally guided by the interview and observation data, as these other sources generally produced a resounding silence as to the existence of Basotho domestic workers in South Africa. The legal sources have also been considered within a socio-cultural context of lack of enforcement, corruption, and so on. This context, and the shifting 'gaps' between law and practice, also became apparent through interviews and observations.

This thesis therefore represents a synthesis of the narratives and accounts of migrants and others involved in the fieldwork. By weaving women's stories together and combining them with a range of other data and artefacts, I have acted as the ultimate narrator. Of course, the experience of fieldwork, and my interactions with those whose stories are used for the thesis, has inevitably changed me and the ways I perceive the thesis itself:

[E]thnographers both create and are created by field sites. Such sites are material but also intellectual spaces that define the limits and contexts of authorised interpretation. The delineation of a context for study has an active, performative character (Coleman 2006: 34).

I have largely written myself out of the remainder of this thesis, in my attempts to tell the stories of others; however, this chapter, as well as outlining the fieldwork experience, acts as an essential reminder of my own role in the narration and analysis of others' life experiences. I offer this moment of reflexivity as a necessary exercise of framing the analysis that follows, as well as a gesture of assuming responsibility for my own role as one representing others who have not been afforded any opportunity to view, contest or edit the analysis as presented here.

Conclusion

This chapter began by outlining the planned approach to fieldwork, then contrasted this with the lived experience of data collection, which was shaped by significant challenges of access, trust, and ethics. The key themes of the fieldwork process – including sampling difficulties, mobility and transnationalism, and the traversing of social worlds and barriers – demonstrate various aspects of Basotho women's migration and employment as considered in the remainder of the thesis. Thus, the context and procedure of interviews often revealed as much about Basotho women's lives as their explicit content. This chapter also outlined the fraught ethics of help and harm, including their significance in the processes of data analysis and thesis-writing. In writing this thesis I have glimpsed the anxiety and hope attached to the act of revealing the unknown (or unknowable) lives of Basotho domestic workers in South Africa; of making the invisible visible.

As an ethnographic account, this thesis necessarily presents itself as a whole (and holistic) account – a coherent narrative – while resting upon a reservoir of data that is both defined and limited by the intersecting perspectives and strategies of myself, my assistants, and the research participants. Researchers' interpretations inevitably collapse contradictory data into a rational, streamlined account (see Fontana and Frey 2000: 661).

Darian-Smith (2004: 555) has commented on the potentials of ethnographic approaches to the study of law, by suggesting that:

Ethnography helps us to overcome the resistance of law to more nuanced analysis on the ground, among real people. It allows us to begin to explore how law features in different ways for individuals from different ethnic and socioeconomic backgrounds.

It is worth reiterating that this thesis is *not* intended merely as an account of the ways in which law is experienced or negotiated by a particular group or community. Neither is it an account of the ways in which this group or community is shaped by a particular border (even with the conception of border as disciplinary apparatus). Rather, the law, the border, and migrant 'illegality' are seen as actively constructed by and through these individuals' everyday experiences and their relations with others. As discussed in Chapter One, the term 'borderwork' is intended to highlight this view, whereby the

thesis presents an analysis not simply of the border's impact on work, or how women 'work' the border, but how the border itself arises from and is enacted through these 'ground-level' experiences.

This chapter has therefore outlined the character and origins of the research data both to contextualise the chapters which follow, and to contribute to their messages and themes. Reflecting the multi-sited conceptualisation of the border outlined in the previous chapter, it can now – in 'working backwards'²⁶ – be observed how the research process itself was, and continues to be, shaped by the border's insidious dynamics of knowledge and representation. The following chapter launches the in-depth analysis of this border and its role in Basotho women's lives.

²⁶ See Coutin and Yngvesson (2008b: 66-7).

Chapter Four

The Wrong Papers:

Ports of entry and the production of 'illegal' migrants

It's hard, when you have to approach the window you ask yourself questions and you're afraid that you're going to be locked in jail.

(Likhopiso)

All they think is to detain us. We don't have IDs – that makes us illegal immigrants in South Africa.

(Malikabiso)

South African migration law and policy aim to exclude Basotho migrant women from entering or working as domestic workers in South Africa, but routinely fail to do so. This ostensible failure produces the subjectivity of the 'illegal' migrant domestic. This chapter commences the in-depth account of the border and migrant 'illegality', by examining this ostensible failure and its production of migrant 'illegality'. It begins by outlining the legal regime and its reliance on a system of documentation, including passports, stickers, stamps and South African IDs. The following section details the precise ways in which this formal system fails, in that it does not effectively regulate Basotho migrants' access either to South African territory or to the labour market. The key challenge faced by officials attempting to enforce the legal system is to prevent visitors from working in South Africa. This leads to an account of migrant 'illegality', focused on the everyday experiences of 'illegal' migrants such as the constant threat of deportation, and an intense fear of state authorities. Finally, the significance of the ports of entry between Lesotho and South Africa is re-cast according to the alternate conceptualisation of border as developed in this thesis.

This detailed account challenges popular and scholarly conceptions of borders by explaining how the Lesotho-South Africa ports of entry, with their walls and fences, merely represent sites of documentation and disciplining rather than regulating any access to territory. Indeed, in the case of Basotho migrant domestics, these ports of entry signify the *only* sites of such physical barriers, whereas the remainder of the Lesotho-South Africa frontier remains open and easily traversable. While women retain access to

territory and to the South African labour market, the (ostensibly failing) regime of documentation and surveillance continually disciplines these migrants as 'illegal'; as unwelcome and subject to extortion, intimidation and deportation by various officials. Through documentation and corporeal indicators, Basotho women's 'illegality' bounds them within a panopticon of constant visibility and precariousness, while the practices (both licit and illicit) by which they are disciplined are largely hidden from public record or view.

The 'illegality' thus produced sets the context for the analysis in the ensuing chapters of this thesis. Migrants' deportability and their fear of government officials are crucial to their experiences of employment, both in terms of their labour market position and the individual employment relationship. 'Illegality' and documentation also bound women's spatial and social worlds while working in South Africa, and shape their transnational mobility. The subsequent chapters therefore build upon the analysis here, examining how the border disciplines migrants as 'illegal' – that is, how migrant 'illegality' is produced – through a range of other sites and relations.

Welcome and unwelcome migrants: the state of South Africa's migration law

As in other popular destination countries, South African immigration law judges would-be migrants based on their potential economic contribution, either directly through their existing wealth or through participation in the formal labour market. As stated on the Department of Home Affairs website, the country:

can accommodate only a certain number of immigrants ... for a number of valid reasons ... In the first instance South Africa has a vast reserve of unskilled and semi-skilled workers who are entitled to employment opportunities and to an economically viable lifestyle for themselves and their families.¹ For this reason no one in the unskilled and semi-skilled categories will normally be accepted as an immigrant worker in South Africa.²

South African immigration law therefore prioritises highly-skilled labour migrants, and those who address particular (usually skilled) gaps in the local labour market. This leaves the formal channels for labour migration to South Africa largely inaccessible for most Basotho – and especially for rural Basotho women with limited formal education or training.

The legal regime governing – or aiming to govern – cross-border labour migration into South Africa is anchored in the *Immigration Act 2002*³ (the Act), supplemented by the *Immigration Regulations 2005*⁴ (the Regulations). This regime operates through a complex system of documentation involving passports, identity books, papers, stickers and stamps. A database of information accompanies this documentation. Table 4.1 provides a summary of the various grounds for legal presence and employment in South Africa, according to specific provisions of the Immigration Act. These categories are explained and expanded upon in this section.

¹ According to the most recent official figures, 25.3% of working-age (15-64 years) South Africans are unemployed (Statistics South Africa 2010).

² This text featured on the DHA website (www.dha.gov.za/immigration_policy_doc.asp) at the time of fieldwork (in 2008-2009). In mid-2010 the website was updated, and this text no longer appears. The paragraph can still be found, however, on the websites of South African embassies in other countries.

³ No. 13 of 2002 (amended in 2004 and 2007).

⁴ No. R. 616 of 2005.

Table 4.1 Grounds of legal presence and/or employment in South Africa⁵

Grounds of legal presence in South Africa (section)	Document	Eligibility	Limitations
Permanent Residence (ss 26, 27)	South African ID	Child or parent of citizen or resident; Possess specific skills; Substantial wealth.	(none)
Temporary Residence (ss 11 – 23)	Work permit affixed to foreign passport	Employer-sponsored; Possess specific skills.	Only work in specific job/sector.
	Visitor's permit affixed to foreign passport (maximum 90 days)	Nationals of specific scheduled countries (e.g. Australia).	No working.
	Visitor's permit affixed to foreign passport (maximum 30 days)	Nationals of remaining scheduled countries (e.g. Lesotho).	No working.
Cross-border permit (s 24)	Separate single-page document	Residents of neighbouring countries, who frequently cross the ports of entry.	Must not work, stay overnight or travel beyond border-town.

Source: Adapted from the Immigration Act and the Regulations.

Permanent residence

The Act declares that for a foreigner to be legally present in South Africa, she must have either a permanent or temporary residence permit affixed to her passport and stamped (s 10, reg 7). Permanent residence is granted either on 'direct residence' (s 26) or on 'other grounds' (s 27). For 'direct residence', the foreigner must have held a work permit (a particular type of temporary residence permit) for five years and have received an offer for permanent employment. 'Residence on other grounds' is granted to a foreigner who:

- possesses sufficient resources to support herself;
- has a minimum 'net worth' (which according to the Regulations refers to a sum of R7.5 million);
- has demonstrated extraordinary skills or qualifications; or

⁵ Generally, only the latter two categories (visitor's permit for maximum 30 days, and cross-border permit) are accessible to Basotho migrant domestics.

- has received an offer for permanent employment, where the position features on a list of specific professional categories and occupations, or for which no suitably qualified citizen or permanent resident is available.

Such residence is also possible on grounds of intending to retire in South Africa (s 27(e)), or establishing (and/or investing in) a business in the national interest (s 27(c), reg 23(6)). These provisions therefore reflect the perspective that a migrant's value and desirability is determined primarily by her financial means and/or her ability to sell her labour power to fill particular gaps in the South African formal labour market.

Permanent residence is also available on grounds of being a refugee (s 27(d)), or as the relative of a citizen or permanent resident (s 27(g)). As a relative, the applicant must be related 'within the first step of kinship' (s 27(g)), which refers to 'biological or judicially adopted children or adoptive parents and step parents' (reg 23(12)). Given the frequent and repeated movements of people between Lesotho and South Africa, many Basotho – including several women involved in this research – fall into this category.⁶ As a result there are many Basotho who have gained permanent residence in South Africa in this manner, although this does not necessarily mean that they consequently decide to live and work there.

A Mosotho woman who acquires permanent resident status in South Africa is unlikely to remain employed in domestic service. This is because the documentation accompanying such status – namely a South African ID – is generally required for, and therefore facilitates access to, more lucrative employment in the formal labour market. Thus, while potentially accessible to some Basotho women, the category of permanent residence is for the most part not applicable to the case study group, Basotho domestic workers.

Temporary residence

Without permanent residence status, for a foreigner to be in South Africa legally, she must have a valid temporary residence permit affixed to her passport and stamped with an official Home Affairs stamp (s 7(7)). The Act (at ss 11-23) sets out a variety of such permits, such as the study permit, business permit, medical treatment permit, and

⁶ See Coplan (2001b; 2009) for a discussion of these historical and contemporary cross-border ties.

corporate permit. Most relevant to Basotho labour migrants are the work permit and the visitor's permit.

Reflecting the general approach to labour immigration as outlined above, a work permit is only accessible to a foreigner who:

- has qualifications which fall within a gazetted list of specific professions or occupational classes (s 19(1)); or
- is sponsored by a prospective employer, who must demonstrate that a South African could not be found for the particular job (s 19(2)).

As 'unskilled' work for which many un- or under-employed South Africans already compete, domestic service does not satisfy either of these conditions. There are many Basotho migrants in South Africa working in skilled occupations, including in government service (see Cobbe 2004). However, in terms of un- or semi-skilled labour migration from Lesotho, this legal framework effectively means that work permits are available only for mining work (as throughout much of the twentieth century) and seasonal agricultural work, principally on asparagus and cherry farms hugging Lesotho's western border.

The visitor's permit is the default category of temporary residence permit, which 'may be issued for any purpose other than those provided for' by the other categories (s 11(1)). To be granted a visitor's permit a foreigner must generally hold a visa before arriving at a South African port of entry (s 11(1)(a)). In addition, a visitor's permit may not exceed three months, but can on application be renewed for a further period not exceeding three months (s 11(1)(b)(i)).

Schedule C of the Regulations provides a list of 'Countries whose Nationals are Exempt from Visas' – that is, the nationalities of foreigners who need not hold a visa to arrive at a port of entry and apply for a visitor's permit. The various British territories and Australia are listed separately – such that I, being an Australian passport-holder, was able automatically to secure a 90-day visitor's permit upon first arriving in South Africa. The remaining countries are divided into lists of those whose nationals may be issued a visitor's permit for an intended stay of 90 days or less, or 30 days or less. Lesotho falls in

the latter category,⁷ such that upon arrival at a port of entry into South Africa, its nationals can usually only secure visitors' permits valid up to 30 days.

Although visitors' permits are therefore relatively easy to obtain, a crucial exclusion remains. Section 11(2) of the Act explicitly states that 'the holder of a visitor's permit may not conduct work', subject to the possibility of official authorisation in certain circumstances. Thus, while a visitor's permit is relatively accessible for a Mosotho migrant and apparently grants her legal access to South African territory for 30 days, it still excludes her from the formal labour market. This distinction is crucial, as illustrated in the remainder of this chapter and indeed of this thesis.

Cross-border permit

The final category of permit relevant to Basotho labour migrants is the 'cross-border permit', which is distinct from both temporary and permanent residence permits.⁸ This is a curious creation of the Act, seemingly devised to allow communities living along South Africa's land border to function without causing congestion and inefficiency at the ports of entry. Under s 24(1) a cross-border permit may be issued to either a South African citizen/resident or a foreigner who is a citizen/resident of a neighbouring country. This section neither defines 'cross-border permit' nor imposes any restrictions or conditions, and there is no mention of this permit on the Department of Home Affairs website.⁹

The Regulations offer a number of vague stipulations in regards to the cross-border permit. When such a permit has been issued 'to a person who regularly crosses the border at a port of entry, that person shall only be required to report to an immigration officer for examination upon expiry of such permit' (reg 21(1)). 'Regularly' remains undefined. The regulation holds further that 'the period of validity of a cross-border permit shall not exceed six months at a time' (reg 21(2)). All that a Mosotho applicant for

⁷ It is worth noting that not all of South Africa's immediate neighbours share this ranking. The placement of various countries within these schedules evidences a deliberate strategy aimed at controlling and limiting the flow of desired, undesired and tolerated cross-border visitors.

⁸ As Dodson and Crush (2004: 112) note in their insightful gender analysis of the Act, these passes 'are of particular significance to women in the region'.

⁹ This includes the website at the time of fieldwork, and as updated mid-2010.

such a permit need submit is a valid passport, a valid temporary or permanent residence permit, and 'proof of the required status contemplated in s 24(1)' (reg 21(4)).

The flexibility of these permits is intended for the benefit of South African immigration officials rather than migrants. An immigration officer may at any time require the holder of such a permit to produce it (reg 21(5)) and may, for 'good cause' (which is nowhere defined or limited in the Regulations), withdraw it (reg 21(6)). As becomes evident upon examining the Regulations, the cross-border permit was created to address the ongoing problem of congestion at ports of entry. Indeed, at Maseru Bridge – the busiest Lesotho-South Africa port of entry – separate checkpoints and queues have been established for those border-crossers who carry such permits.

Based upon my interviews with migrants and government officials, cross-border permits are intended for Basotho's daily trips to South Africa and back. Such a pass authorises the holder to be present on South African territory only between the hours of 6am and 10pm. In addition, access is restricted to the areas of South Africa adjacent to the Lesotho border, meaning the border towns such as Ficksburg, Ladybrand or Wepener (see Figure 3.1). According to migrants interviewed, officials tell them that this pass is intended 'for shopping only' (Malebaka) – that is, to allow residents of Lesotho communities along the frontier to enter nearby South African towns to buy groceries or other items. However, its necessity for any particular migrant is evidenced not by any proof of residence closeby, but by her passport holding a series of consecutive temporary residence permits, signalling that she is a frequent (and sustained) crosser through a particular port of entry.¹⁰

Passports, stickers and stamps

Accompanying this legal framework is a regime of documentation. A valid passport is required for any cross-border movement (s 9(3)(a)). For legal access to South African territory, on the passport must be fixed either a permanent or temporary residence permit, accompanied by an official stamp of the particular Department of Home Affairs office issuing the permit. Cross-border permits also grant access to territory, though with

¹⁰ For a full listing of the South Africa-Lesotho ports of entry (including their hours of operation), see the Department of Home Affairs website (<http://www.dha.gov.za/>) under 'Immigration Services' – 'South African Ports of Entry'.

strict conditions. Permanent residence status, as with South African citizenship, is most commonly signified by the obtainment of a South African identity card (commonly known as an 'ID' or 'ID book'), as required by law.¹¹ Figure 4.1 depicts several of these documents.

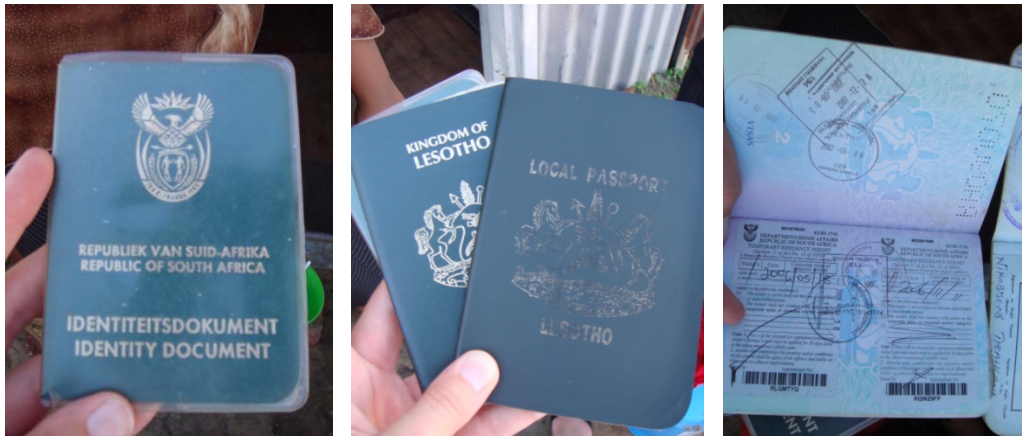


Figure 4.1 A South African ID; a Lesotho passport, accompanied by its older equivalent (labelled 'local passport'); stamped visitors' permits in the newer Lesotho passport.

Thus lies the official landscape of labour migration regulation, as applicable to Basotho migrant women seeking domestic service work in South Africa. Judging from these legal provisions, no such foreign workers should exist, as they do not fall under any of the legal categories for labour immigration. And yet, as this research demonstrates, there are considerable and apparently increasing numbers of Basotho women currently working in the South African domestic service industry. That is to say, the official regulatory system apparently fails.

¹¹ *The Identification Act 1997* (No. 68 of 1997) stipulates that anyone eligible must apply for an identity card upon reaching the age of 16 years (s 15(1)).

The impossibility of control: how the state system ostensibly fails

Official immigration control in South Africa is fraught with a plethora of weaknesses and limitations. Many of these were revealed during fieldwork, through interviews with migrant women, discussions with immigration officials, and my own observations. This section outlines several of the most significant or common ways in which this official system ostensibly fails to regulate the working lives and movements of Basotho migrant women in South Africa.¹² A number of these relate to the South African government's inability to restrict access to territory, while others relate to the impossibility of excluding migrant Basotho from the labour market. Most involve the regime of documentation arising from the legal framework outlined above. These practices are grouped according to their geographic location: the insecure Lesotho-South Africa frontier; practices occurring at ports of entry; and the extension of bribery and corruption to government offices throughout South Africa. The role of corporeal indicators, and their complex connections to documentation, is also noted. The section ends by considering the central difficulty of stopping visitors from working, and hence the repeated failure of the official regulatory regime.

Insecure frontier-line

First, and most visually evident, the Lesotho-South Africa territorial frontier as a whole is very poorly controlled. Fences or other barriers are largely absent beyond ports of entry. Much of the territorial borderline between Lesotho and the Free State province of South Africa follows the Mohokare (Caledon) River; the remainder lies amidst farmland in the Caledon Valley (see Figure 4.2; also see Figure 3.1). In either case, depending upon the season (and hence the water level in the river), border-crossers in either direction are usually able simply to walk or wade across. The policing of such crossings is shared by several organs of both the South African and Lesotho governments. On the South African side – where most policing and enforcement occurs – this includes the Department of Home Affairs (DHA), the South African Police Service (SAPS) and the South African National Defence Force (SANDF).

¹² This chapter focuses on the ostensible failure of *migration* law and policy, while Chapter Five outlines the failure of South African *labour* policy and institutions.



Figure 4.2 The Lesotho-Free State border as viewed from central Maseru; the line of trees follows the path of the Mohokare River and thus the territorial frontier.

Covert border-policing operations by SANDF regularly shift locations along this frontier, both for effectiveness and so as to maximise the impression of effective control ('so that they can see we are there', according to one officer). Along with other policing efforts along the South African border-towns, these covert operations – where officers lay in wait to apprehend border-crossers – focus on the crimes of dagga (marijuana) smuggling, stolen vehicle smuggling, cattle theft, and grazing theft.¹³ While the undocumented movement of persons across the border per se is secondary to these concerns, if a pedestrian border-crosser from Lesotho to South Africa is unable to present valid documentation authorising her presence in South Africa, she is apprehended and transported to the nearest port of entry for processing and deportation by DHA.

At any given time, the vast majority of this territorial frontier remains unpoliced and effectively open to would-be crossers. Historically, when the South African government (or even individual farmers residing along the frontier) has attempted to erect any effective physical barrier, such as a fence or wall, the materials are simply disassembled and stolen. Even when individuals clandestinely crossing the border have been expelled from South Africa and deported back to Lesotho, they are able to cross in the same manner once again.¹⁴ As SANDF, SAPS and DHA officers alike commented to me, 'it is

¹³ For a discussion of such border patrol operations see Steinberg (2005). Grazing theft refers to the practice whereby a Mosotho cattle-minder will guide his livestock onto a South African farm to graze. Upon the appearance of any authorities he then signals to the cattle (for instance by whistling) and they quickly return to the Lesotho side of the borderline.

¹⁴ For this reason, officers report apprehending the same individuals time after time, as deported individuals continue returning to South Africa. This indicates the ease of migrants' crossings, rather than any inevitability of their detection and deportation by officials.

impossible' to 'cover' the entire frontier-line; 'we just can't stop' Basotho entering South Africa.¹⁵

Ports of entry: state incapacity, corruption, deception and forgery

The designated ports of entry are similarly characterised by official incapacity.¹⁶ The South African sides – where most government regulation occurs – are often under-staffed and routinely experience crippling congestion of both pedestrian and vehicular traffic. Ironically, people regularly cross 'illegally' (that is, through the river) at or close to the ports of entry. These sections of the frontier are actually *easier* to cross in this way, as all government officers in the vicinity are distracted, too busy processing the queues of 'legal' crossers at the port of entry to notice or apprehend any others. In fact, their responsibility is officially restricted to the fenced and paved premises of the port of entry itself. The wire fences erected at a port (which are themselves easily cut) abruptly stop less than half a kilometre away, with 'illegal' pedestrian crossings made even simpler by the worn tracks of previous crossers (see Figure 4.3).¹⁷ As covert border policing operations occur further away, the land directly either side of a port of entry presents the safest and usually most convenient option for a would-be 'illegal' crosser.

¹⁵ These comments do not suggest a general attitude of defeatism or resignation among officials. While they recognised the impossibility of fully securing the frontier, all officials I spoke to nonetheless took their mandates seriously and continued attempts at enforcement and control. Regarding the experiences of Department of Home Affairs officials see Hoag (2010); regarding the frustrations of immigration officials more generally, see Mountz (2010).

¹⁶ Judging from Coplan's (2001b: 105-10) review of post-1994 border relations, this general context of official inefficiencies, laxities, lack of resources, and congestion at the ports of entry has existed for some time.

¹⁷ Although I never personally witnessed migrants crossing 'illegally' close to ports of entry, I was told of this practice by migrants, officials and residents alike. I did personally observe the fences and worn tracks.



Figure 4.3 Ficksburg port of entry, viewed from the South African side; the line of trees traces the Mohokare riverbed, while the barbed fence alongside it ceases abruptly.

DHA's information systems at ports of entry are dated, in terms of hardware and software, and its databases (of the optimistically named Movement Control System) are port-unique. For instance, a person's details are entered and stored separately when crossing at Maseru Bridge or Ficksburg Bridge; the system therefore makes it impossible for the Department to track any individual's movements effectively.¹⁸ Coordination between the various government departments operating at these ports – including DHA, SAPS and the South African Revenue Service (SARS) – also provides a source of confusion and tension. For example, some DHA staff perceive SAPS officers as incompetent or poorly trained, and therefore resent their reliance on these officers to obstruct and properly inspect any pedestrians or drivers not presenting themselves to the DHA processing windows.

Corruption constitutes another significant weakness at the ports of entry. It is common practice for border-crossers to 'pay their way' simply by handing cash over to DHA officers when they present their passports for inspection. After tentatively raising the issue of corruption with a senior DHA staff at a port of entry, I was surprised at the candidness with which they admitted its ubiquity, to myself and my research assistant Meisie:

Corruption is rife – everywhere.¹⁹ If a person finds a loophole in the system, they're going to take advantage of it. They'll take it. The other thing is, at night I'm sleeping; I don't know what's going on, while the border is open 24 hours. So

¹⁸ At the time of fieldwork, one DHA official advised me that they had been told the department was 'in the process of linking' these separate systems.

¹⁹ It is worth noting that by the word 'everywhere', this official may have meant throughout South Africa more generally, or at all the South African borders more generally. My own rather hesitant question referred to 'corruption at borders' generally, saying that I had read of it.

yes, there are people. Even during the day, I'm sitting there in my office, busy typing or so – I don't necessarily know what's going on. It's because they can manipulate the system; the officials I mean.

Another senior DHA official at a different port of entry also tied the prevalence of 'corrupt activities' to a general 'lack of control'. Hence corruption, particularly in the form of DHA inspectors accepting bribes from border-crossers in return for validating their documentation, is openly acknowledged.

Many migrants interviewed explained that their strategy for passing through a port of entry was to bribe the official processing their documents. As women typically encountered problems upon returning home rather than entering South Africa, it was difficult during interviews to distinguish between the payment of bribes, and the payment of official fines for having over-stayed the 30 days on a woman's temporary residence permit. According to the Regulations, official fines depend upon the number of days by which a woman has overstayed: R1000 for having overstayed by up to 30 days, R1500 for 31 days to three months, and R3000 for more than three months (reg 35).

During interviews many migrant women recounted having to pay such fines, or to abandon the use of a passport if such a fine was outstanding on it. They typically referred to being instructed to pay fines of R1000 or R1500. However, many also narrated incidents of officials demanding that they pay other sums, such as R700, 'between R200 and R300', or even R5000. This indicates likely acts of extortion or bribery rather than payment of officially sanctioned fines.²⁰ This ambiguity – between bribes and fines – was not simply a lack of clarity during interviews, but reflected migrants' own confusion and doubts:

Nthonts'i: Is it difficult to cross the border?

Itabeleng: It is difficult when we cross [back] to Lesotho, because we have to pay a bribe due to the expired stamp.

²⁰ I never discovered the precise 'loophole' which enabled this practice. According to senior DHA officials, when the barcode on an expired temporary residence permit is scanned and the crosser has overstayed, the computer comes up with a 'hit'. The only way for this to be removed on the system is for the DHA official to 'punch in' their own password. The fact of them having done so stays in the system itself, thereby indicating that the requisite fee should have been received by that officer. Officials' strategies for circumventing the (potential) auditing of this information remained a mystery to me, as I was only ever able to meet and speak with less senior DHA officials in the presence of their superiors.

Nthonts'i: What happens when your stamp has expired?

Itabeleng: You pay for the time you have stayed in South Africa since it has expired.

Nthonts'i: Where do you pay this money?

Itabeleng: We pay at the window where we're given stamps.

Nthonts'i: They wanted a bribe?

Itabeleng: Well I don't know if it is a bribe or I had to pay, but every time I've crossed the border I have paid something.

Other than as a response to an official's demands, many women offer bribes as a matter of routine, simply by enclosing cash when presenting their passport. The use of some other documentation (such as a South African ID or a six month pass) usually precludes having to pay bribes for passage at ports of entry, as the need generally arises when a woman has stayed beyond the expiration of her visitor's permit. Among migrant women using such permits, this kind of routine bribery comprised their main explanation as to why they experienced no difficulties when crossing the border.²¹ As with demanded bribes, these sums also varied (ranging from R20 to R200), but typical amounts were R100, R120 or R150.

These bribes are frequently paid through the use of agents, most often taxi drivers, who collude with officials to get migrants' expired documents validated:

Nthonts'i: But did you have to bribe border guards or lie about the reason for your visit to South Africa?

Malironts'o: No, I never had to pay bribery. But actually, yes I can say the bribery was when I took my money to Johannesburg to the drivers to come with my passport to be discharged.

Presumably drivers extract their 'cut' of these bribes, but during interviews this exact portion was never known or divulged by migrant women.

This strategy is particularly useful for Basotho women staying in South Africa who hold 30-day visitors' permits but who, for one reason or another, are reluctant or unable to

²¹ The other common reason is that they returned within the prescribed 30 days (see Chapter Seven).

return to Lesotho on a monthly basis. That is, a woman may be able to pay a taxi driver in the city where she works to take her passport to the port of entry, pay a bribe to have another visitor's permit affixed to it, and deliver the validated passport back to her the same day: 'I was never deported because I used to give the taxi drivers my passport if I'm not going home, so they got it discharged' (Mamoroesi). In such cases, the documentary trail reflects a departure and re-entry that never occurred. However, the bribery services of taxi drivers are also utilised by women who do personally accompany their documentation to the port of entry and actually re-enter Lesotho. Thus the documents themselves and the related details stored in the DHA databases may, but do not necessarily, reflect migrants' actual movements.

Some migrant women are ignorant of or unable to utilise such mechanisms as bribery, in which case they might resort to deception to gain access to documents or to have them validated by officials. For instance, when seeking to enter South Africa via a port of entry, migrant women are sometimes subjected to officials' scrutiny in the form of questions about intentions to work in South Africa, or the reasons why they require the full 30 days possible:

South African government are the ones that give us the permits. They sometimes ask how many days we will be staying in South Africa, and when you say a month they ask what you will be doing here for such a long time. So we have to hide that we are working, because once you tell them that you are working they will only give you 14 days (Malikhopiso).

In such circumstances, incoming migrants might explain (that is, lie) that they are visiting an ill husband or mother who stays at a particular location in South Africa. These are believable stories, given that many families span both sides of the border. In contrast, Mamoroesi stated 'they know that we're going to work', suggesting that such deception is usually unnecessary or futile.

However, deception is a more needed, but less effective, strategy when travelling in the other direction – that is, when migrants seek to leave South Africa and re-enter Lesotho:

Itabeleng: It is difficult when we cross [back] to Lesotho because we have to pay a bribe due to the expired stamp...

Nthonts'i: Did you have to lie about the reason for your visit to South Africa?

Itabeleng: Yes.

Nthonts'i: What happened thereafter?

Itabeleng: I still had to pay.

Perhaps reflecting the strength of the bribery system, the vast majority of women claimed that they had never lied (that is, they never had to lie or never tried lying) when presenting themselves at a port of entry: 'we don't have to lie about anything but we just pay the bribe' (Khopotso).

Aside from payments for having over-stayed temporary residence permits, migrant women also pay officials at the ports of entry to obtain cross-border permits. According to the Regulations (and my discussion with one official), no official payment is required to attain this exemption – 'you only need this form, and your passport'. However, some Basotho women purchase a cross-border permit by paying a bribe of around R100. There are limitations though, as the particular office for obtaining six month passes is only open during weekdays, and only during regular office hours. For a migrant, perhaps the best aspect of holding a six month pass is the isolated nature of this single bribe. Bribes are not needed upon each return to the border, nor to obtain further cross-border permits after the first has been issued: 'When you have it, you just renew it' (Mamorena).

As well as directly or indirectly bribing DHA officials, some people at the ports of entry produce or manipulate crossers' documentation. This practice is distinct from bribery or extortion, as these people do not collaborate with officials at the port of entry but attempt to deceive them. For instance 'loiterers' or 'runners' – as officials call them – sit halfway across the Maseru bridge and offer their services to those who are approaching, or have just passed through, the South African side of the port of entry (see Figure 4.4). They alter passports by removing temporary residence permits (green stickers) from one passport and inserting them in another. To make the passports appear authentic, they must also fabricate a false stamp. They draw the stamp using a R2 coin, which is exactly the same size.²² As one DHA official explained, 'they are so professional, it will look genuine'. These runners even know the unique numbers on the stamps issued to DHA officials at a particular port of entry.

²² Such practices have led to changes in stamps systems, to the use of stamps less easily counterfeited.



Figure 4.4 People walking or loitering on the Maseru and Fickburg bridges (between the South Africa and Lesotho checkpoints at either end).

A key use for this strategy is to alter a person's passport by way of removing the evidence that she has an outstanding fine, as created upon discovery that she has overstayed her temporary residence permit. That is, when a migrant has stayed more than 30 days in South Africa and returns to the border, if the fine is left outstanding (i.e. bribery has not occurred) this persists on her record on the DHA database, and her passport is endorsed with a stamp. If unable to pay the fine she is still allowed to return to Lesotho. However, the next time she attempts to re-enter South Africa through the same port of entry, the evidence of the fine will not only appear as the stamp in her passport but will also re-appear on the database. As a DHA official explained to me, the runners' falsification system is therefore limited. This is because the temporary residence permit contains a barcode, which is scanned by DHA officials. If the barcode is scanned and the name subsequently appearing on the computer screen differs from the name in the passport, officials will be alerted to the tampering. According to the same DHA official, migrants 'pay them [the runners] something like R500 or R600, only to realise when they arrive here that no, something is wrong.'

None of the migrant women interviewed for this study reported having employed the services of such 'runners'. According to their accounts, once a woman has overstayed her temporary residence permit, her only options are to pay a bribe (either directly or via an agent like a taxi driver) to the particular DHA officer originally identifying this fact, or to dispose of her passport. They reasoned that once such an enormous fine was placed on their record, they could no longer use that particular passport to return to South Africa 'legally' through the port of entry.

Several Basotho women recounted times when DHA officials at the port of entry had destroyed their passports upon discovering that they had overstayed their 30-day visitors' permits. No South African immigration law or regulation permits such destruction. As with other countries, every passport from Lesotho expressly states in the front pages that it 'remains the property of the Government of Lesotho'. It goes on to warn that: 'If the passport is found in the possession of an unauthorised person, or is mutilated in any way or if any amendment, endorsement or addition is made by any person other than a duly authorised officer, it is liable to be impounded.' Unsure of the potential authorisation South African DHA officials could have for such impounding, I asked a senior DHA official whether Lesotho passports were ever confiscated; he assured me they were not. This implies that such destruction or confiscation is itself illegal, and represents an intimidation technique in service of the bribery system.

As explained, if a departing migrant's passport has been damaged or destroyed by a DHA official, or has a large fine outstanding on it, she is authorised to return to Lesotho but cannot easily (or 'legally') re-enter South Africa with the same passport. In such cases, she may resort to entering South Africa 'illegally' (by *paqama*), or she may apply for another passport in Lesotho, by using an alternative name such as her maiden name.²³

Bribery and documentation beyond the Lesotho-Free State frontier²⁴

The South African state, as with the general public, is well aware that there are substantial numbers of foreigners who have entered the country 'illegally' or who stay and work in South Africa in violation of their permits.²⁵ Government attempts to limit and control this population are therefore multi-sited: efforts located along territorial frontiers are complemented by street-level policing aimed at identifying and

²³ In addition to the names given them by their parents, Basotho women gain new first and last names at particular events, such as bearing their first child (though this differs from family to family). Women therefore often have multiple names from which to choose when applying for various forms of identification.

²⁴ Documents are also issued in Lesotho, namely Lesotho passports. Basotho women sometimes experience lengthy delays or bribery or extortion when attempting to acquire these passports. However, during interviews this topic was not raised as frequently and with the same sentiments as the 'problem' of documents issued by the South African state. This discussion is therefore limited to the regime of South African documentation as experienced and engaged by Basotho migrant women.

²⁵ Public knowledge and discourse surrounding the presence of 'illegal' migrants in South Africa is discussed further in Chapter Six.

apprehending such foreigners and removing them from South Africa.²⁶ The Act provides for these individuals' apprehension and deportation (and their detention pending such deportation) (s 34 (1)), and expressly provides for the sharing of these responsibilities by both DHA and SAPS officers (s 41). Indeed, section 44 requires 'any organ of state' to 'endeavour to ascertain the status or citizenship of the persons receiving its services', whenever possible.²⁷ While in South Africa, a migrant's documentation is paramount, as it provides evidence of her legal presence on South African territory (and possibly the legality of her employment), if she should happen to encounter a state official.

As ports of entry are not the only sites where migrants' documents are requested, issued or validated, they are not the only sites of bribery and corruption. For instance, during interviews, the most commonly cited avenue for obtaining a South African ID was through bribery.²⁸ As evidence of citizenship or permanent residence, ID books are issued not at ports of entry but at DHA offices within major South African cities. At the ports of entry, migrants are regularly drawn into direct contact with DHA officials. In contrast, access to paying bribes for IDs is more restricted, and typically depends upon the use of agents.²⁹ In this regard, migrant domestic workers are more dependent upon their employers or their social networks – that is, upon 'knowing someone'.

This limited access, and women's reliance on agents, creates opportunities for cons or scams. Engaging the services of someone who can carry out this bribery with DHA, and secure an ID, is therefore an exercise of trust and considerable risk:

Meisie: Have you tried to get an ID?

²⁶ Regarding the everyday policing of migrants in South Africa (and the experiences of 'illegal foreigners' in this regard) see Klaaren and Ramji (2001); Madsen (2004). These practices, and their significance for Basotho domestic workers, are re-visited in Chapter Six.

²⁷ This is 'provided that such requirement shall not prevent the rendering of services to which illegal foreigners and foreigners are entitled under the Constitution or any law' (s 44). The role of health services in this regard is discussed further in Chapter Five.

²⁸ As seen in the review of South African immigration law above, it is usually impossible for a domestic worker born in Lesotho to obtain a South African ID through legal means. The one exception is through immediate family connections, or marriage to a South African man (as mentioned below). Predictably, those few women who had visited DHA offices in the city where they worked, attempting to register for an ID, had been turned away due to their inability to produce the requisite documentation; namely a South African birth certificate or equivalent evidence.

²⁹ As Coplan (2001b: 97-8) mentions, these tactics are also used by Basotho ex-mineworkers seeking casual work in South Africa: 'Officials of the Department of Home Affairs sell them false identity documents ... Corrupt police, local government and even union officials may also 'fix things' for a price.'

Litsoako: No, we have a problem because people con us if you ask them to help you.

Meisie: Have you tried talking to someone?

Litsoako: I did. She said it is R2000.

Meisie: Is it someone from Home Affairs?

Litsoako: They work together.

Meisie: I don't understand, how do they work together?

Litsoako: There are people that she knows who work at Home Affairs.

Meisie: Where does that person come from?

Litsoako: She stays in the township.

Meisie: There is a person who helps people?

Litsoako: Yes but it is illegal as she charges R2000. My child took that route. He has registered it. At his work they wanted an ID. He paid R1500 for it.

Meisie: He is still waiting for it.

Litsoako: Yes, we hope that he'll get it. It is tough out there.

These kinds of arrangements depend on migrants' relationships with their employers, or their access to social networks, which is often limited. Rumours circulate among migrants about swindlers who have accepted payments and simply 'disappeared', thus increasing their concerns about this strategy. They might also hear rumours or advice that marriage to a South African man would make them eligible for an ID, but this option is rarely possible or attractive, again due to the high risks and domestic workers' social isolation.

The amounts quoted above are standard: women who have heard of or used such opportunities have typically been quoted between R1500 and R2000. Given the more private and closed nature of the bureaucratic processes involved, I was unable to learn exactly how these 'purchased' ID books were produced. Judging from the considerable expense, and migrants' statements that they had actually visited DHA offices for fingerprinting, the ID books thus issued are most likely authentic and not counterfeit. This suggests that an officer involved may be exercising some kind of bureaucratic

discretion; perhaps falsely claiming that they have received or viewed evidence supporting an individual's application.

Forged or modified ID books are also in circulation throughout South Africa, as revealed in this incident, narrated to me by a SANDF soldier whose company had been patrolling the Lesotho-Free State border:

We came across this 17 or 18 year old guy [near the border-town of Wepener], we asked him for documentation, and he gave us an ID of South Africa. But then his name was Afrikaans, like mine – Coetzee. But it's a black guy. So we check it, something's not right. We check the date of birth. Now on the ID it said he was something like 40 years old! The thing is the photo, you can see they had cut it nicely, there, and they'd put a small other photo ... But it was so nicely done; for some of them you must look very carefully; you must be more clever.

Several migrants, speaking either of their own experiences or those of family or friends, remarked that in the past it was easier to get IDs. Such comments referred to incidents of legal or official means rather than bribery. Thus it would seem that the tightening of regulations (or bureaucratic procedures) in South Africa in regards to the issuing of IDs has fed a lucrative market for false, or falsely obtained, documentation.

Work permits can be obtained similarly to South African IDs, though they are less common among domestic workers. Out of the women interviewed, only a handful had ever attempted to obtain a work permit, and most of these by simply approaching DHA offices in the (ignorant) hope of being issued one. When Puleng's employer attempted to obtain one for her, she advised Puleng that it would cost R400, which she would deduct from her month's wages of R900. Puleng declined, instead making her own arrangements and securing a cross-border permit. None of the Basotho migrant women interviewed held a work permit. Thus, despite the official system's ostensible failures in terms of bribery and corruption, Basotho migrant domestics' access to documentation is still limited.

A scar to match her papers: the role of corporeal indicators

In regards to Basotho migration, South African officials tend not to rely on documents alone to determine a person's citizenship and therefore her 'legality'. This is sometimes because an individual is unable or unwilling to produce documentation, but is also a more general response to the ease with which migrants are able to obtain documentation through bribery, deception or forgery.

A number of subtle corporeal indicators can signal that a person is from Lesotho. First, the Sesotho language, as spoken in Lesotho, differs slightly from the Sotho spoken in the Free State (and more markedly from that spoken in more distant locations like Gauteng province), including a different accent and different pronunciation of certain words. Second, Basotho women often wear traditional dress involving a woollen blanket or traditional patterned fabrics. Third, those vaccinated against smallpox during childhood in Lesotho carry a small scar (known as an ENT scar) on their inner, upper left forearm (see Figure 4.5), whereas those vaccinated in South Africa carry it higher on the outer arm, close to the shoulder (as in most Western countries). This distinction is complicated by the fact that some Basotho have never been vaccinated, while others have been vaccinated in both countries. What is more, due to the frequent movements of families across the Lesotho-South Africa border, some people were born in South Africa but vaccinated in Lesotho, or vice versa, ultimately making these scars unreliable evidence of birthplace and consequent citizenship.



Figure 4.5 ENT scar on the forearm of a Mosotho interviewee.

Despite the dubiousness of these indicators, South African officials regularly rely on them to assess a person's nationality.³⁰ For instance, during SANDF operations along the Lesotho frontier, if a person is found entering South African territory without any documentation, officers will inspect her forearm to determine whether she is a national of (and therefore 'belongs in') Lesotho. This technique is also relied upon by DHA officials working in South African cities, as Malikhopiso discovered: 'I went to seek for an ID, but when I got to Home Affairs they asked me to roll up my sleeves to look for the ENT [scar].'

Police who seek to apprehend 'illegal' migrants on the streets of South Africa also rely on this technique, especially in the absence of documentation. In exceptional cases, migrants can even use this to their advantage:

Lineo: Were you ever deported from South Africa as an illegal migrant?

Khauhelo: Not at all! But most people were deported due to fear. Police used to patrol our places all the time. For me, I used to tell them that I was from Harrismith. Since Harrismith is near Lesotho, they understood and believed me because my Sesotho was very clear and good. I was very brave. If they asked me for an ID, I always told them that I forgot it at home. If they asked to see my scar, I just showed them because I knew I had none from either Lesotho or South Africa. So it was difficult for them to know if I was from Lesotho or South Africa.

Migrants may therefore manipulate the indicators of language or documentation, but the ENT scar usually presents a much more serious challenge. Likhopiso recounted that people 'who did not feel pain used to destroy it, but they would still see it and tell them, "You are a Mosotho", and then take them back to Lesotho'.

In their discussions with me, officials from DHA, SANDF and SAPS all openly admitted to relying on this method to determine a person's nationality; keen to explain to an outsider the exact differences between the scars of a South African national versus a Mosotho. The checking of scars is commonly regarded as a (if not *the*) reliable indicator at officials' disposal (despite its use not being explicitly mentioned or authorised in any

³⁰ This use of corporeal indicators is significantly different from the issue of bio-metrics, as explored in recent academic literature (e.g. see Zureik and Salter 2005). Corporeal indicators are here used as an alternative to documentation, rather than migrants' documents recording or presenting any biological 'information'.

South African law). As a result, when documentation is presented but officials are still suspicious, they will check a person's forearm for the scar. Migrants are then expected to account for any discrepancy, which may necessitate further deception: 'If you have an ID and have the Lesotho scar they ask why you have it. You have to lie to say that you're born in Lesotho and then got married to a South African man' (Maleshoane). In their encounters with migrants, officials therefore depend upon both documentation and corporeal indicators – both of which are ultimately dubious, and hence enable the ongoing ostensible failure of the official regulatory system.

Stopping visitors becoming workers

Beside the chronic congestion at ports of entry, the key weakness of the regulatory system, according to conversations with DHA officials, is the difficulty of stopping visitors from working in South Africa. Due to the great volumes of Basotho crossing into South Africa and back again, for instance to visit family or to access nearby facilities, a more streamlined system of documentation and inspection is necessary, and actively preferred by the officials responsible for handling these flows. However, this entails granting Basotho migrants ready access to South African territory. The difficulty is to prevent migrants then violating the terms of this entry by entering the labour market and working 'illegally' – a mandate largely borne by the same authorities.³¹

Immigration officials' dilemma mirrors a more general tension faced by the South African state as a whole. On the one hand, South Africa must allow the citizens of its neighbouring countries (such as Lesotho) access to its territory, at least for limited time periods and for limited purposes. To deny such access would prove politically perilous, and practically impossible. On the other hand, the South African state attempts to regulate labour migration in ways that will minimise competition for jobs and maximise national economic growth. Simply to authorise all cross-border migrants to work in South Africa is unthinkable for a country with such high unemployment rates. The balance currently struck by the Immigration Act and its Regulations is one of granting

³¹ Steinberg (2005: 8) contends that the 'South African government has neither the capacity nor the will to stop Basotho entering South Africa to seek work.' However here he is discussing the incorporation of Basotho labour on a seasonal basis, on farms in the Caledon Valley. He does not address the movements of Basotho across the Lesotho-Free State boundary for the purposes of employment further 'inside' South Africa (with the exception of Basotho 'traders').

ready but temporary access to territory, with extremely limited access to legal employment.

Exemplifying this tension is the cross-border permit. Even the lexicon surrounding this document depicts different actors' perspectives. DHA officials prefer to call it a 'border exemption' or 'border concession'. This indicates its function as exempting an individual from the usual requirement for inspection or issuance of a temporary residence permit, and reiterates its geographic constraints (where it purportedly allows access to the 'border' area only). Migrants, on the other hand, refer to it as a 'six month pass', thereby suggesting that the permit facilitates access to South Africa more generally, for a period of six months. Indeed, this is exactly how many Basotho use it, to the knowledge and continuing frustration of DHA officials: 'they take it as a free pass, only coming back after six months staying in South Africa'. At the time of fieldwork, DHA officials claimed that in response to this practice, they were beginning to restrict access to such permits. This was corroborated by migrants' accounts, both explicitly and in their statements of having paid bribes to obtain these passes. After the ever-elusive South African ID, the six month pass was still a very popular preference among women interviewed, whether or not they were able to procure one.

Although Basotho migrants routinely work in defiance of the cross-border permit's conditions, this does not mean that its geographical and temporal restrictions are irrelevant to migrant domestic workers. As explained above, the six month pass only authorises a Mosotho's presence in South Africa between the hours of 6am and 10pm, and only at the border-towns close to ports of entry. While the pass facilitates easy passage through the ports of entry, it therefore provides little defence against DHA or SAPS officials encountered elsewhere within South Africa.

While staying in South Africa, domestic workers typically reside with their employers and are therefore not usually susceptible to street-level policing. However, the necessity to return home entails the hazard of passing through potential road blocks, which SAPS and DHA frequently set up on key highways like the N8 – the main highway from Bloemfontein to Maseru Bridge. This risk caused Malikabiso great anxiety:

Mahlape: Is it difficult to cross the border?

Malikabiso: At the border, I don't have a problem because I have a six month border pass. The problems arise when they find you in South Africa, when they demand passports ...

Mahlape: Do you try to avoid the state or avoid deportation? Is it a concern for you?

Malikabiso: They will find me anyway because there is no where I can go. I have to go [visit home], so when they meet you they demand a passport or ID. I use the six month border pass. I have never been detained. It is a great concern to me because I'm always scared whether I'll make it to the border gate without problems.

Malikabiso's comments also highlight the major themes considered in the remainder of this chapter, namely: migrants' continued engagement with the regime of documentation despite working 'illegally'; the subjectivity of the 'illegal migrant'; and the multi-sited nature of the border as a disciplinary apparatus, operating through and beyond the ports of entry. While the system of documentation apparently fails, it succeeds in reproducing migrant 'illegality' by subjecting migrant domestics to a constant and fearful state of deportability and visibility. The ports of entry must be understood within this context, as a site of disciplinary encounters.

Ostensible failure and the creation of the ‘illegal’ migrant

The preceding sections illustrated two points: first, there exists a strict legal regulatory framework regarding (and in nearly all cases, prohibiting) the labour migration of Basotho domestic workers; and second, this framework customarily fails in practice, in a range of ways. This ostensible failure comes as little surprise – the South African state’s incapacity to enforce its territorial borders is well known and even readily admitted by officials. The paradox, however, is the continuation of this failure; or rather, the continuation of *attempts* at effective regulation in the face of ongoing failure. Put another way, why do Basotho migrants keep engaging with the official system, and why do officials keep attempting to restrict their labour migration? If women can easily access South African territory and the labour market without engaging with officials or documentation, why do they not simply cross ‘illegally’, instead of regularly returning to bribe officials for validation of their documents? Conversely, why do officials restrict the ‘days’ allocated to Basotho migrants when they know that doing so won’t stop these women working, and won’t ensure they depart South Africa within the prescribed time?

This paradox can be resolved by examining the border’s successes rather than its ostensible failures. This chapter outlines one key success – the production of the ‘illegal’ migrant. This is achieved not through the complete failure or disintegration of the official regulatory system, but through a delicate balance of regulation and laxity. South African immigration laws are violable such that migrant women can easily enter South Africa and easily enter the labour market – but this does not render them irrelevant. On the contrary, DHA officials habitually cite specific sections of the Immigration Act, explaining official procedures and strategies in terms of these provisions. Migrants alike are often conscious of the various categories of permit available, and the particular conditions accompanying them.

As Coplan (2009: 21; 2001b: 108-9) keenly observes, this balance can be read as serving economic profitability (for officials and ‘runners’ alike):

While very little is at stake politically for either government, levies and fees large and small, official and unofficial, are charged wherever possible, and controls are kept just strict and visible enough to encourage crossers to pay to evade them, and just lax and unmonitored enough so that the business of evasion can be safely and invisibly transacted.

Thus Coplan (2001b: 90) has even summarised that the Lesotho-Free State ‘border has been, from the time it was demarcated, less a regulatory boundary than a business.’ This analysis is certainly reflected in the transactions between Basotho women and South African officials at the ports of entry. And yet it ignores the larger surveillance complex whereby this control and surveillance is enforced throughout South Africa, and the principal means by which migrants engage with it: the documents themselves.

The various South African regulations are primarily enacted through the regime of documentation. The value of various papers, stamps and stickers is evidenced by the lengths to which women go in order to obtain and validate them, most notably through their cross-border movements and regular payments of bribes. As the above account demonstrates, Basotho women will incur repeated costs and assume significant risks in their pursuit of documentation: by sacrificing a large portion of their incomes³² to border officials and/or taxi drivers; by perilously employing strangers to acquire ID books fraudulently; and even by presenting themselves at DHA offices throughout South Africa. By chasing papers, these migrants seek neither access to territory nor employment; rather, they are seeking to evade ‘illegality’.

Scholars often perceive ‘illegality’ in terms of the documentation of migrants and their movements. Guild (2004: 16) presents an alternative conception whereby it is not through the medium of documentation that ‘the foreigner becomes an illegal migrant [but] when he or she comes in contact with a state authority which categorises him or her as such ... [I]t is the moment of interface with the public official which determines the individual’s status.’ Guild suggests that until this occurs, a migrant occupies a kind of ‘grey zone of uncertainty’. However, the Basotho women interviewed for this study invariably perceived and experienced, with no degree of uncertainty, a continued state of ‘illegality’ whilst in South Africa. This ‘illegality’ is examined here as a socially and discursively produced subjectivity, rather than merely as the result of some defining act of judgement or determination by a sovereign state (see Kostakopoulou 2004).

The connection of ‘illegality’ to documentation rang through all the interviews with Basotho migrant women, surfacing in numerous ways. As Likenkeng simply stated: ‘The problem that we have is that we are not here legally – almost everyone does not have the

³² Interviewees’ wage levels are discussed in Chapter Five.

right papers.’³³ Assertions that ‘I am illegal’ or ‘we are illegal’ were also common. Most telling were women’s responses to questions about obtaining South African IDs. When asked if they wanted one, every single woman³⁴ replied ‘Yes’, even if this was qualified by a statement that having an ID would not necessarily cause them to move permanently to South Africa. Migrants commonly stated that an ID – and its accompanying ‘legality’ – would give them ‘freedom’ and make them feel at ease: ‘I will have peace of mind in South Africa once I have an ID’ (Itabeleng).

These remarks portray a migrant’s state of ‘illegality’ as a subjective experience, characterised primarily by anxiety and fear. Migrants’ fear is demonstrated by this typical excerpt from an interview with Mosele, which also highlights the connection of ‘illegality’ or fear with documentation:

Meisie: How many days do you have in your passport?

Mosele: I have six months.

Meisie: You use six months. How did you feel when you first come here to start working?

Mosele: I was nervous.

Meisie: What were you thinking about South Africa in general?

Mosele: I was not free because I thought I’ll be arrested.

Meisie: When you came you started work straight away, has there ever been a time that you were involved with the police?

Mosele: No.

Meisie: When you first came you were using 30 days border pass.

Mosele: I did not use it for long because I asked for six months.

Meisie: How did you manage, because other people struggle?

Mosele: At the time it was easy to get it. Things have changed.

Meisie: Have you tried to get an ID?

³³ I have retained this direct translation rather than amending it to ‘almost nobody has the right papers’. Likenkeng’s original comment reflects two important points: first, her imagining of a broad community of migrant women domestic workers who fail to possess the correct documentation (instead of emphasising those few who do); and second, she refers to her experience not of lacking any papers but of lacking the *right* ones.

³⁴ Obviously this includes only the interviews with women who did not currently possess an ID.

Mosele: No.

Meisie: You don't want it?

Mosele: I want it but I'm fearful. I heard they ask lot of questions, especially if they can see that you're from Lesotho.

Meisie: You don't know what happens.

Mosele: I can't do it, I'm too scared.

Such accounts indicate that the fear accompanying migrants' 'illegality' is constant or perpetual, rather than limited to the times or locations of interaction with government officials. This 'existential fear' also mirrors the experiences of the 'illegal' migrants portrayed by Willen (2007: 17-9). A migrant's fear is also regardless of having overstayed the 'days' allocated by her particular documentation; not once did a Mosotho woman claim that her state of 'illegality' was contingent upon time and having over-stayed. Thus 'illegality' is best understood as a social category or subjectivity, rather than a straightforward reflection of documented status.

Mosele's account also highlights the geographic nature of women's fears and insecurity – that is, that the experience of 'illegality' is specific to a woman's presence on South African territory. This occurs regardless of whether she entered by *paqama* or through the port of entry. In either case, the fact of her working in South Africa has made her presence, and by extension herself, 'illegal'. The Act defines an 'illegal foreigner' as 'a foreigner who is in the Republic in contravention of this Act' (s 1).³⁵ Thus, as experienced by Basotho migrant women, their violation of visitors' or cross-border permits by being employed technically renders their mere presence in South Africa 'illegal', and hence precarious.

As with similar studies of migrants' 'illegality' elsewhere (e.g. De Genova 2002; 2004), the threat of deportation is central to Basotho women's experience of being 'illegal'. According to section 32 of the Act, any 'illegal foreigner' shall depart from South Africa or be deported. Section 34 authorises such arrest and deportation (and detention pending such deportation) by DHA officials. Indeed, the threat of arrest and deportation is a key aspect of Basotho women's experiences of fear and 'illegality'. As noted earlier, it is not

³⁵ The 'illegal foreigner' is not only a figure of immigration law but of public and political discourse in South Africa – see Vigneswaran (2007).

only DHA officials but also SAPS officers and SANDF personnel who are involved in the detection and apprehension of 'illegal foreigners'. Deportability is thus a defining feature of a Mosotho woman's identity in South Africa, and her relationship to the South African state as a whole:

Nthonts'i: What are your general thoughts or feelings about the border, and border controls?

Mathabang: I'm scared of them.

Nthonts'i: How do you feel about the South African government?

Mathabang: I resent them because they send us packing.

Nthonts'i: How are you treated by the government in South Africa?

Mathabang: They oppress us.

Mamatsoele also characterised this fear of deportation as central to the lives of migrants in South Africa.³⁶ When asked whether there were any disadvantages to being a non-citizen in South Africa, she replied 'Yes! They always keep reminding you that you're a non-citizen and we're always in trouble with the police ... You're always scared that you'll be deported.'

Remembering the ease with which Basotho migrants are able to enter and re-enter South African territory, I was intrigued by the ongoing practice, and migrants' perpetual fear of, deportation. Although almost none of the women interviewed admitted to ever being deported themselves, some acknowledged that they knew (or knew of) others who had been. Even in such cases, women admitted that after being returned to Lesotho, the other person had simply 'gone back' to South Africa. Deportation itself is therefore not a barrier to (re-)accessing South African territory. And yet, most of the women who were interviewed divulged that they were afraid of being deported. This included holders both of visitors' permits and of cross-border permits, though obviously excluded anyone who possessed a South African ID.

There are two key reasons for Basotho migrants' ongoing fear of deportation, despite its irrelevance as any restriction to entry into South Africa. First, deportation is feared as a

³⁶ Indeed, studies confirm similar patterns of fear and deportability (with its attendant bribery and extortion) among other migrant groups in South Africa. For example, see Human Rights Watch's (2007) in-depth study of Zimbabwean and Mozambican migrant farm workers in South Africa's northern provinces of Mpumalanga and Limpopo.

potentially catastrophic disruption to women's working lives. A domestic worker's forced removal from South Africa without notice jeopardises her relationship with her employer, and therefore her ability to establish and maintain stable working and living conditions. The gravity of this threat – in spite of the fact that once deported a woman could re-enter South Africa in the usual fashion – therefore exposes the severe precariousness and instability of Basotho women's working lives, and by extension their labour migration to South Africa more generally. Likhopiso's explanation of deportation demonstrates this dynamic:

Likhopiso: They will look at you on the [points to her inner forearm] and look for the vaccine scar on you ... When he just approaches you he will hold your [arm] and he will tell you, "You are a Mosotho" ... They will then take you to the farm and when you are able to fill up the truck, you are then taken to Lesotho – but they will leave you at the border and then you will see to yourself what you will do. But there is no problem because you will be holding your passport; you will be able to cross.

Nthonts'i: But was deportation a concern for you or not?

Likhopiso: Yes I am afraid of it! You want me to stay there without anything to eat?

Likhopiso's reference to having nothing to eat refers to the consequence that her employer would terminate her employment if she were deported.³⁷

Second, being deported is a powerful disciplinary device in terms of intimidating and disciplining migrants, while reproducing their 'illegal' subjectivity. Given the (political and practical) impossibility of erecting any effective physical barrier between the two countries, the South African deportation of Basotho migrants will always fail to achieve its ostensible purpose. That is, deportation will never effectively exclude Basotho migrants from South African territory, or the South African labour market, as admitted by state officials. Instead, the practice operates as a disciplinary technique, continually re-creating a multitude of 'illegal' migrants. The continued deportation of Basotho migrant workers reminds each of them that they are, and always will be, unwelcome and

³⁷ It also evokes her actual experience of working in South Africa, in that her employment not only earns her money with which she can feed herself or her family, but that her employer is literally the person providing her with food each day that she stays in South Africa. The importance of the employment relationship, including its significance in terms of women's ongoing presence in South Africa, is discussed in Chapter Five.

‘illegal’ in South Africa: ‘They don’t want us there ... They don’t want us working, that’s why they are deporting us’ (Itabeleng). The ongoing deportation of Basotho migrants is therefore a powerful disciplinary device, reinforcing a generalised fear of authorities among ‘illegal’ migrants.

This view helps to explain the lengths to which Basotho women go to obtain various forms of documentation, even when they know (and experience on a daily basis) that the most accessible kinds do not constitute them as ‘legal’ migrants in South Africa. What migrant domestic workers seek most is a status of ‘legality’ and the peace of mind – that is, the security and stability – that this entails.³⁸ As this is only possible with a South African ID, it remains unobtainable to most Basotho domestic workers. In these circumstances, the best they can do is adopt any available strategies to avoid deportation and deportability itself. These strategies are thus best understood not as the pursuit of ‘legality’, but the negotiation and concealment, by any means possible, of ‘illegality’ and its ensuing deportability. As explained, the key to this is obtaining and validating documentation, as supported by various strategies like bribery, circular migration patterns, deception, and concealment. Many of these strategies are practised when migrants engage with the Lesotho-South Africa ports of entry. Understanding the production of migrants’ ‘illegality’ thus clarifies this site’s precise role within a larger apparatus of migrants’ surveillance and disciplining.

³⁸ This is confirmed by Coplan’s (2001b: 103) observation that ‘women migrants stated emphatically that they would prefer to cross the border legally and remain visible to the formal system if this were made easier for Lesotho citizens. In the meantime they must be content with overstaying visitors’ passes or purchasing false papers, with all the worry, danger, and extra expense this incurs.’

Facing the gates: understanding the border within the border

As Bigo (2004: 66) observes, a 'frontier is always a political process'. The Lesotho-South Africa ports of entry constitute a key site where the ostensible failure of South African immigration control produces and disciplines Basotho domestic workers as 'illegal' migrants. This is not because these ports perform the usual or apparent purpose of border gates. They do not effectively regulate access to territory. The fences and barriers erected at these sites present a farcical image by suggesting that people are unable to cross the Mohokare (Caledon) River except through the officially constructed and fenced pathways. Nobody on either side of the barriers is fooled. The only potential practical justification for these fences is to help contain pedestrian flows such that congestion does not create large, chaotic crowds around the buildings found there. While the fences signify the supposed authority and power of the South African government to regulate and manage the flows of Basotho migrants, in fact these women's labour migration and lives are shaped by the small stickers and stamps which happen to be issued at the windows of the buildings found at these ports (see Figure 4.6; also see Figure 3.3).



Figure 4.6 Pedestrian border-crossers queuing and navigating the fencing at the Ficksburg port of entry.

Although they do not determine or obstruct a Mosotho woman's access to South African territory or to the domestic service labour market, ports of entry are significant to Basotho women because they form the key site of confrontation between migrant domestic workers and governmental officials, as mediated by the regime of

documentation.³⁹ The two most accessible permits – 30-day visitors' permits and cross-border permits – are issued at the ports of entry. What is more, if a woman has overstayed her permit, or 'eaten her days',⁴⁰ the port of entry is the location where this is identified and (hopefully) remedied by officials. In such circumstances a migrant could easily circumvent the DHA buildings to physically return to Lesotho, but possessing valid documents is valuable to her – worth paying bribes and even braving direct contact with the very officials she has spent her time in South Africa avoiding.

The uncertainty of these confrontations is created by a delicate balance between the ongoing ostensible failure of the official regulatory system, and its continued enforcement. As illustrated earlier in this chapter, presenting oneself to DHA officers at a port of entry can be a swift and straightforward dealing; alternatively, it can result in extortion, hefty fines, intimidation and threats, and even destruction of a woman's precious documents. The unpredictability of this encounter itself disciplines Basotho women by maintaining the fear and uncertainty which accompany migrant 'illegality', as officials may be generous and helpful, or intimidating and extortive. There are several ways migrants can mitigate this danger, and attempt to ensure a peaceful (and affordable) transaction.

The most obvious and accessible option is for a migrant to pre-emptively offer a bribe, as a matter of routine. Those women who have learned to 'work' the border system in this way are much less likely to find the experience an anxious one. However, the particular DHA officer on duty still presents an unknown entity. Some women therefore select their window strategically, favouring or avoiding certain officers based on criteria like race:

Ntsoaki: When you go days after your days have expired they fine you between R200 and R300. It is much better if you find the white person.

Meisie: You mean at the border gate?

Ntsoaki: Yes, black people are mean.

Given the risks, a migrant's best option is to avoid this personal encounter altogether, and employ an agent to deal with DHA officials. This agent may be an employer or a family member, or more commonly, a taxi driver.

³⁹ This also explains Coplan's (2001b: 105) finding that Basotho women's 'greatest dissatisfaction ... was with border-post operations and passport control, something they shared with the officials of both countries stationed at these posts'.

⁴⁰ This is a literal translation of *o jele matsatsi*, a Sesotho expression denoting having overstayed.

The use of these strategies ultimately depends upon a particular migrant's means and her knowledge of ways to engage strategically with the system of documentation. This is shaped by her disposable income (wages and expenses), her social networks, and her ability to contact agents (both by phone and in person). Thus a single exchange at a port of entry is inexorably linked to a migrant's broader circumstances and a range of relations and processes unfolding at other geographic and social sites throughout both South Africa and Lesotho. To attempt to understand the nature and significance of ports of entry in isolation from these other processes and sites is to paint an incomplete picture of Basotho women's migration and the ways in which it is regulated.

The conceptualisation of border in this thesis explains these exchanges, and the fear with which many Basotho women approach a port of entry. According to this perspective, the port of entry is recognised as merely one among a range of sites where Basotho domestic workers are constituted and disciplined as 'illegal' migrants. This helps to explain the contradiction whereby Basotho women generally encounter more difficulty upon their *departure from*, rather than entry to, South African territory. This phenomenon also challenges Salter's (2005) model of 'border examination' as a liminal state distinguished from the preceding 'upstream' and subsequent 'surveillance' stages. In the case of Basotho migrant women, the port of entry and attendant 'border examination' upon *departure* collapses the distinction between the surveillance and liminal states in particular. These migrants continually negotiate liminality, 'illegality' and surveillance throughout and even upon the completion of their migration circuit.

The immigration laws concede that people carrying passports of Lesotho should normally be granted visitors' permits of up to 30 days, thereby minimising (though not eliminating) the potential for officials to refuse to grant a Mosotho woman a visitor's permit. But the inevitable violation of that permit's terms, by its granting rights merely to visit and not to work, and/or migrants' overstaying of those days, creates a window of opportunity for recurring bribery, forgery, intimidation, and deportation – in short, for the ongoing reproduction of the 'illegal' migrant.

Viewing the border as a disciplinary apparatus, this effect is seen to be produced through the actions and interactions of various actors, involving both state and non-state agents and forms of power. Hence the payment of fines and bribes, while technically contrasted

by their licit/illicit nature, in practice serve the same purpose and achieve the same effect(s) – the disciplining of ‘illegal’ migrants by officials. This approach challenges scholarly assumptions that responsibility for the production of migrant ‘illegality’ always rests with the state and its law.

The role of the South African official is not simply to enforce the legal regime, but to produce and reiterate the ‘illegality’ of migrant domestic workers, whether by official or unofficial means – hence their practices of identification, extortion, intimidation, and even destruction of migrants’ documents. The legitimacy or authority of officials’ actions is not only difficult to ascertain, it is irrelevant. In the knowledge that Basotho migrants can enter South African territory and job markets without their assistance, often the only disciplinary tactics available to DHA officials are to limit migrants’ ‘days’, to engage in illicit transactions or intimidations with them, to confiscate or destroy their documents, and to deport them (with the knowledge that they will simply return the following day). These tactics all fail in their apparent aims, but succeed in disciplining the ‘illegal’ migrant and reinforcing her fear of state agents. The ‘illegal’ migrant is thus bounded within a panopticon of constant visibility, as her presence in South Africa is subject to the constant threat of detection or confrontation by officials, and potential deportation.

Where state officials do not or cannot perform these functions (which themselves involve a mixture of state and non-state power), other actors do. For instance, taxi drivers or other agents contract with migrants in exchange for validation of their documentation. Employers reiterate migrant domestic workers’ deportability and in effect perform this deportation when they terminate a migrant woman’s contract of employment. The roles played by these and other agents are also expanded upon in the remainder of the thesis. The common outcome of these actors’ strategies is that the border in fact includes – rather than excludes – Basotho migrant women into South African territory and labour markets. However, their presence in South Africa is constructed as a frightfully precarious one: this is achieved through the border’s social and legal production – and continuous disciplining – of the ‘illegal’ migrant.

Conclusion

This chapter has illustrated the analysis of the border as a complex apparatus which socially produces and disciplines Basotho domestics as 'illegal' migrants. It began by delineating the current legal framework regarding labour migration into South Africa, and the regime of documentation through which officials attempt to implement this framework. This was contrasted with a detailed illustration of the various ways in which this official regime fails to achieve its ostensible aims. Practices constituting this apparent failure are seen to occur throughout a range of sites, both geographic and social, and primarily involve migrants' strategic engagement with officials through the medium of documentation. The effect of these negotiations is the continued reproduction of the 'illegal' migrant who lives in a perpetual fear of detection and deportation. The experience of 'illegality' explains a migrant's ongoing struggles to obtain and validate the various forms of documentation despite her ability to access South African territory and jobs without them. This view also helps to situate the various sites and actors that perpetuate the apparent failure of the official system and its latent or alternate successes.

This chapter has outlined how the ostensible failure of migration law and policy can be viewed as continually productive of migrant 'illegality'. It has also offered an account of 'borderwork': first, in terms of the strategies by which Basotho women negotiate and therefore 'work' the official regime and the ports of entry to their advantage; and second, in regards to the ongoing social, legal and discursive 'work' of constructing the Lesotho-South Africa border as a material and social reality in migrants' lives. The interests and interactions of various actors have also been contextualised within an account of the border as disciplinary apparatus, thereby unsettling popular distinctions between 'legal' and 'illegal' exchanges and relations, between state and non-state power. In their repeated defiance of the official regulatory system, Basotho women's labour migration appears legally unbounded; however, the everyday production of their 'illegality' through this ostensible failure is shown to confine or bound them within a regime of constant surveillance and fearful deportability.

The resulting analysis challenges two commonly held assumptions about the nature of 'illegal' migration. First, 'illegal' cannot be equated with 'undocumented'. A Mosotho migrant worker's main 'problem' in South Africa is not that her movements go unrecorded, or that she possesses no papers – rather, her movements (whether real or

imagined) are meticulously and repeatedly recorded, because she holds the *wrong* papers. The forms of documentation typically available to Basotho migrant domestic workers do not offer them 'legality' in South Africa: if they did, these women would generally cease being employed as domestic workers. Instead, Basotho women scramble and struggle for documents so that they may hide their 'illegality': the possession of documents can either ease her passage back and forth to Lesotho (with a cross-border permit), or pacify any potential inquisitive officials further inside the country (with a visitor's permit). Rather than offering them 'legality', these papers merely serve to reinforce and reproduce migrants' 'illegal' status.

Second, this chapter complicates assumptions and understandings regarding the role of international boundaries or frontiers. The 'border' as erected by South African officials on the Lesotho frontier is not merely porous: ironically, fences and barriers exist *only* at those particular locations deemed ports of entry. Thus, rather than comprising a barrier with several open points, the territorial frontier rolls along kilometres of open fields or riverbeds, dotted by occasional clusters of buildings and fences incongruously termed ports of entry. Migrants engage with these sites not to gain access to South African territory or employment, nor to legitimise their presence in South Africa, but because they happen to operate as accessible and convenient document-processing centres.

As the system of documentation is intimately tied to 'illegality', these ports are still significant sites for the social production of migrant women as 'illegal'. Domestic workers are generally less susceptible to street-level policing than other migrants – hence these sites also take on a particular significance for them, as the primary site of their relations with and disciplining *by government officials*. (Such disciplining also occurs at the hands of other agents, as subsequent chapters demonstrate.) Basotho women's repeated intimidation by DHA officers at the ports, while issuing and validating their documents, constructs these migrants' broader perception of the South African state as unpredictable, fearful and threatening. This fear is a central and powerful aspect of a migrant woman's 'illegal' subjectivity.

Migrant 'illegality' incorporates a range of intersecting aspects. This chapter has outlined the production of 'illegality' and migrants' disciplining in terms of their inability to secure the 'right' papers (namely, a work permit or South African ID), the constant threat of deportation, and migrants' fear of officials in South Africa. The remaining aspects of

Basotho domestics' 'illegality' are explored in the following three chapters. These aspects are mutually reinforcing, such that those considered in this chapter create and maintain the conditions for the remaining aspects (and vice versa). For instance, the next chapter reveals how a lack of documentation restricts migrants' employment options in South Africa, how women's fear of officials undermines the operation of labour laws that should protect them, and the connections between migrant domestics' dismissibility and their deportability. Also highlighted are the connections between the Lesotho-South Africa ports of entry and various other geographic and social sites, seen as a transnational constellation that constitutes the border.

Chapter Five

Un-bounded Workers:

Employment and the production of 'submissive' domestics

No I did not know [that I can go to the CCMA if I have a problem with my employer], and I never even think that I may go there. We only hear about these things on the news, but I never experience them nor think about them, because I ask myself how it will work? Because I am a Lesotho citizen who uses a passport and does not have an ID, what will I first say when I arrive there? And what if they want an ID? Won't they tell me to go back to Lesotho? So we tend to be satisfied with everything.

(Limphe)

We understand they [employers] are helping us, because they know that there are no jobs in Lesotho. If you put forth your own conditions it becomes difficult to secure a job. It is easier for them to desert you, because we don't have work permits.

(Maponts'o)

I'll help her, though she doesn't value my efforts because she is cheating me. The worst part is that I know that she is cheating me. I'm still with her for the sake of my children.

(Mamoselantja)

The workplace and the domestic service labour market are key sites of Basotho women's disciplining as 'illegal' and un-bounded workers. Focused on these two sites, this chapter extends the analysis of migrant 'illegality' and the border's production of un-bounded migrant workers. The first section outlines the position of Basotho domestics in terms of South African labour law and reveals how women's legal rights are not accessible in practice, due to their lack of documents and fear of officials. As illustrated through the remainder of the chapter, the failure of labour agencies and unions to reach 'illegal' migrants gives rise to the particular subjectivity of the 'illegal' domestic worker. This subjectivity is continually reproduced through a worker's employment relationship, and her position in the labour market more generally.

In terms of an individual employment relationship, 'illegality' involves the absence of law and contracts, and a constant threat of dismissal, mirroring and reinforcing the constant threat of deportation outlined in Chapter Four. The 'illegal' domestic's dismissibility

makes her exploitable, as evidenced by her wages, working hours and limited access to leave. 'Illegality' also entails a dependence upon the employer for housing, healthcare, and even food. Thus 'illegality' unbounds the employer's discretion from the restrictions that would otherwise apply. Not only can an employer dictate a Mosotho domestic's working and living conditions, but the impacts of her decisions even extend to relations and circumstances in Lesotho. An 'illegal' domestic's key strategy for managing this relationship, and thereby stabilising her employment, is to cultivate a mannerism of obedience and industriousness.

Basotho domestics' strategic submissiveness both rests upon and actively reinforces their distinct position in the labour market. As 'hardworking' and 'submissive' domestics, Basotho migrants are attractive to some employers in South Africa, but as 'illegal' migrants these women still struggle to access the jobs and employers they would prefer. As a result, most women experience a sense of being 'cheated' by employers, and of being dehumanised through their employment in South Africa. Their continued engagement in this employment – as well as their reliance on strategic submissiveness vis-à-vis employers – depend upon the lack of options arising from their 'illegality' as migrant workers and the desperate circumstances they face in Lesotho. Finally, Basotho women's exploitability and their attractiveness to employers serve to justify their continued targeting and exclusion as unwanted and 'illegal' migrant workers.¹

Continuing to draw on Basotho women's own accounts of their employment experiences as domestic workers,² this chapter outlines how these practices unfold in migrants' everyday lives. In doing so, it traces how the border produces migrant 'illegality' through various social and geographical sites, with particular emphasis on the employment relationship. While demonstrating the particular aspects of migrant 'illegality' produced through these sites, the chapter also reveals the various ways in which Basotho women are disciplined as un-bounded workers in South Africa; as workers unbounded by labour law or union membership, but ultimately bounded by their employers' discretions. As discussed in the chapter's concluding section, the implications of this analysis extend beyond 'illegal' domestics, to all domestic workers in South Africa (as well as their union and labour rights), and to understandings of un-bounded wage labour more generally.

¹ Parts of this chapter's analysis have been published elsewhere: see Griffin (2011; 2009).

² Chapter Three explains why employers were not also interviewed in this research.

Can 'illegal' migrants have workers' rights?

Labour rights of foreign domestic workers in South Africa

This section outlines the rights of foreign domestic workers according to South African labour law and regulations. Basotho women employed in domestic service in South Africa generally possess neither South African identity documents (IDs) nor work permits. By working while present in South Africa on visitors' permits or cross-border permits (or no valid permits at all), they violate immigration law. This renders their employment contracts 'illegal'. However, this does not mean that such workers have no rights.

The South African Constitution³ includes a Bill of Rights. Most of these rights explicitly apply to 'everyone', not only citizens. This includes section 23(1) ('Labour Relations'), which states that 'Everyone has the right to fair labour practices'. The *Labour Relations Act 1995*⁴ creates the foundation of and institutional machinery for the country's body of labour law and regulation, and provides: 'Every employee has the right not to be unfairly dismissed' (s 185). This Act does not define 'employee' anywhere. However, in his detailed analysis of relevant caselaw, Bosch (2006) argued that foreigners working 'illegally' could be regarded as employees for the purposes of this Act.

Following Bosch's analysis, a change of heart ensued within the South African labour regulation system, whereby the Commission for Conciliation, Mediation and Arbitration (CCMA)⁵ decided to embrace foreigners working 'illegally'. The South African Labour Court then confirmed Bosch's assertion (and the new CCMA policy) by stating that, as employees for the purposes of the Labour Relations Act, foreigners working 'illegally' do have a right against unfair dismissal.⁶ Thus the institutional mechanism for labour rights-claiming has officially opened to migrants working 'illegally' in South Africa.

³ *Constitution of the Republic of South Africa*, No. 108 of 1996.

⁴ No. 66 of 1995 (amended in 1996, 1998 and 2002).

⁵ The CCMA is the independent dispute resolution body established by the Labour Relations Act. It is the forum for workers seeking to resolve disputes with their (present or former) employers. The CCMA may refer cases to the South African Labour Court. (See <http://www.ccma.org.za>)

⁶ *Discovery Health Limited v Commission for Conciliation, Mediation and Arbitration and Others* (JR 2877/06) [2008] ZALC 24; [2008] 7 BLLR 633 (LC) (28 March 2008)

The *Basic Conditions of Employment Act 1997*⁷ sets out minimum working conditions for all employees in South Africa, such as working hours and overtime, leave, termination, and so on. 'Employee' is broadly defined, as 'any person, excluding an independent contractor, who works for another person or for the State and who receives, or is entitled to receive, any remuneration' (s 1). This Act also allows the Minister of Labour to vary these basic conditions by establishing sectoral determinations for different industries. In 2002, then Minister Mdladlana introduced Sectoral Determination Seven,⁸ regulating the domestic service sector and setting out, inter alia:

- minimum wage levels (increased annually by amendment) (ss 2-3);
- a requirement for the employer to provide the employee with written particulars of employment (s 9);
- ordinary hours of work (maximum 45 hours in a week) and overtime (ss 10-12);
- strict limitations on night work and standby times (ss 13-14);
- requirements for daily and weekly rest periods (s 16);
- entitlements for paid annual leave, sick leave and family responsibility leave (ss 19-21); and
- conditions for termination, including a notice period and a requirement for the employer to provide notice in writing (s 24).

The Sectoral Determination applies to 'the employment of all domestic workers in the Republic of South Africa'.⁹ It also notes that: 'The provisions of the Basic Conditions of Employment Act apply to all domestic workers covered by this determination and their employers in respect of any matter not regulated by this sectoral determination' (s 1(4)). This would seem to include 'all domestic workers' in South Africa. Hence Basotho migrant women arguably also have particular labour rights as domestic workers (though this has not yet been tested in any legal precedents in South Africa).

Although the Sectoral Determination is potentially broad enough in its application to offer protection to foreign domestic workers working 'illegally' in South Africa, it assumes that all domestic workers are in fact South African citizens. This assumption

⁷ No. 75 of 1997 (amended in 2002).

⁸ Sectoral Determination 7: Domestic Worker Sector, South Africa, No. R. 1068, 16 August 2002.

⁹ Section 1(1) lists a number of specific exceptions, none of which are pertinent to this discussion.

becomes apparent in the Annexures, which provide templates for the ‘Written Particulars of Employment’, ‘Payslip’, and ‘Certificate of Service’. The latter two contain spaces where an employee’s 13-digit ID number must be written. A similar pattern arises when considering the *Unemployment Insurance Contributions Act* 2002.¹⁰ This Act requires ‘every employer and employee’ – including domestic workers and their employers (s 4(2)) – to make regular contributions to the Unemployment Insurance Fund (UIF).¹¹ However, the form by which such contributions can be made for domestic workers in particular (Form UI.19D) requires that the employee’s South African ID number be provided.¹²

Thus an ambiguity or tension exists in South African labour law concerning foreign domestic workers. While the trend is towards official inclusion of foreigners working ‘illegally’ in South Africa in terms of basic labour rights and institutional accessibility, the precise mechanisms by which domestic workers are to be registered and officially acknowledged assume that all domestic workers hold South African IDs. ‘Illegal’ migrant workers definitely have a right against unfair dismissal, though the precise labour rights of domestic workers do not explicitly extend to non-citizens. As the following section illustrates, Basotho domestic workers themselves tend not to perceive or experience any such uncertainty about their labour rights in South Africa. Rather, women’s experiences reflect their subjectivity as ‘illegal’ migrant workers.

Exercising rights in practice: who to turn to?

Despite their apparent entitlements and rights under South African labour law, Basotho migrant domestic workers perceive that they have no rights in South Africa. This is because their experiences in South Africa, including their impressions and experiences of labour law, are shaped by (and reinforce) their subjectivity as ‘illegal’ migrant workers. These workers’ disengagement with labour law and regulation occurs in several ways. To begin, many Basotho migrant women are unaware of any laws regulating domestic service, or even any more general labour laws. As many other women interviewed, when

¹⁰ No. 4 of 2002.

¹¹ The UIF, established under the *Unemployment Insurance Act* (No. 63 of 2001), is based on compulsory employer and employee contributions to provide security to workers when they become unemployed.

¹² Interestingly, this is an explicit contrast with the general form (UI.19), which allows an employee’s ID number or *passport number* to be supplied.

asked whether she was aware of any legal rights or obligations of hers or her employer's, Mathabelang simply replied 'No! I don't know any'.

Other Basotho domestic workers are more informed, aware that there are laws regulating domestic service. For instance, although Masekoala claimed not to know anything about laws or regulations about domestic service, when asked how she would like things to be different in her employment, she remarked: 'They should pay us and register us, so that when they expel us we should take them to the law courts.' This suggests that she had in fact heard of UIF registration and that domestic workers could, when unfairly dismissed, take legal action. The way she suggested this could be achieved was 'if we find people who sit us down to clarify how things work'. Hence Basotho women may have some awareness that laws or regulations exist, but little knowledge about their content, or how to exercise or enforce them.

Similarly, most Basotho women have little or no knowledge about the organisations or institutional mechanisms involved in exercising their labour rights. After stating that she knew nothing about laws or regulations for domestic service, Likeleli continued:

Nthonts'i: Do you think domestic work is under-regulated or over-regulated in South Africa?

Likeleli: Ach, it is under-regulated.

Nthonts'i: Do you think there should be more regulations?

Likeleli: Yes, so that we will know where to go when we have problems.

When asked whether they knew of any organisation in South Africa they could go to for help, most Basotho women again answered 'No, I don't know any' (Malikabiso).

Migrant women's own reluctance to learn more or to make use of different organisations can be understood in terms of their subjectivity as unwelcome and 'illegal' migrant workers in South Africa.¹³ As 'illegal' migrants, they typically perceive that the regulatory institutions are there to help only South African domestic workers:

Nthonts'i: Did you know of any organization in South Africa you can go to for help?

¹³ This includes aspects of 'illegality' not covered in detail in this chapter, including women's social isolation (see Chapter Six).

Likhopiso: To go for help? How can you get help, being a Mosotho?

Nthonts'i: Is there any that you have used?

Likhopiso: No.

Nthonts'i: But is there anyone you know who once used it?

Likhopiso: No, it is just that they [South Africans] knew where they would go when they have problems. Me, I could not, because I am a Mosotho.

Rather than a matter of general difference in nationality, this exclusion or inaccessibility is connected to Basotho women's 'illegality' and more specifically their lack of appropriate documents. Hence Likenkeng declared: 'I can't go to CCMA because I don't have a work permit', while Lesedi remarked that 'another advantage of having an ID is when you want to claim your money from UIF they need an ID.' While UIF registration does in fact require domestic workers to hold a South African ID, neither the CCMA nor the Labour Department do. Yet almost all of the migrant women involved in this study were ignorant or fearful of these institutions.

Basotho women's reasons for not approaching these organisations also reflect their fearful relationship with the South African state, arising from their subjectivity as 'illegal' migrants. For instance, several women confused those agents or departments responsible for their detection and deportation (namely the Department of Home Affairs) with those responsible for their protection and labour rights (i.e. the Department of Labour, CCMA or UIF):

Mahlape: Do you know of any organization in South Africa you can go to for help? Have you used one before, or know anyone who has?

Khopotso: I can go to Home Affairs to claim because the employers have to register us. Our main problem is fear to go to Labour Department and do the right thing. You find that other workers encourage us to go and register with the Labour Department. I just know people who are South African citizens who go and register.

The difficulty or impossibility of approaching these organisations renders the applicable labour law meaningless for Basotho women. As 'illegal' migrants, they perceive either that they have no labour rights, or that they have rights but are unable to exercise them. As Mamoroesi pointed out, this effectively amounts to the same thing:

I have rights in my home, but in South Africa I would like to know more. The problem with not having rights is people walk all over you ... If something has happened to you, there is nowhere to turn to. These laws don't protect me ... It is true that laws exist but in practice they don't apply.

Hence even those women who affirmed that they did have rights, or that the laws existed, explained that these rights meant nothing if they were unenforceable. When asked whether she knew her or her employer's legal rights, Likhopiso replied 'Very well! But if she doesn't do them, what can you do to her? There is nothing you can do to her.'

As the inaccessibility of rights-claiming institutions is perceived to be based upon documentation, so is migrant workers' lack of rights. Thus Basotho women experience holding an ID (or failing to do so) as central to their rights as workers in South Africa:

Lineo: Do you feel like you have rights when you work in South Africa like the residents from there?

Maleloko: I think when I have an ID then I do have rights, but when I do not have [one] then I do not have rights because I am in a foreign country ... There are many things that may help when you are in South Africa and you have an ID. But if you don't have it and you are from Lesotho and where you are working it's not nice, then you wouldn't know where to go for help. At least if you have an ID then your life will be changed and simplified.

When asked whether the domestic service laws had changed her employment situation or her life in South Africa generally, Lijeng exclaimed 'No! We are still regarded as illegal immigrants.' Thus, despite moves by the CCMA and the Labour Court to include 'illegal' migrant workers, for migrant domestics, rights become relevant or applicable only to ID-holders, and are perceived as incompatible with 'illegality'.

As well as tainting their relationship with other (protective or empowering) state institutions, migrant 'illegality' also undermines the potential for migrant domestic workers' involvement in labour unions. As demonstrated in the comments above, most of the women interviewed claimed to have little or no knowledge of any organisation for domestic workers in South Africa. This included the labour union. However, the South African Domestic Service and Allied Workers Union (SADSAWU) has a long history (see Ally 2008a; 2009: Chapter 6) and has branches in several of South Africa's major

cities. Most of the Basotho women involved in this study either knew nothing about any domestic workers' union (none could mention SADSAWU by name), and/or they confused it with other organisations or institutions.

In her insightful study of domestic service regulation in post-apartheid South Africa, Ally (2008a; 2009: Chapter 6) traced how legislative changes have drawn SADSAWU into a de-politicised role of supporting state regulation of the industry. This trend helps to explain migrant women's conflation of the union with state-based institutions like the CCMA or the UIF:

Nthonts'i: Do you know anything about a union for domestic workers?

'Nete: Yes, I am just holding back because I don't have rights.

Nthonts'i: Unions like which ones?

'Nete: That one of UIF is for domestic workers.

When asked if she knew about a union for domestic workers in South Africa, Likhopiso even confused it with the Department of Home Affairs: 'Yes it's that one which is at Home Affairs, that will teach you about your rights at work.'

Those Basotho women who knew of a union for domestic workers saw that their own access to it was (or could be) limited by their 'illegal' status – just as for the state-based institutions discussed above: 'they are South Africans and they have unions' (Lesedi). Officially, SADSAWU does not exclude non-citizens from membership or representation. As it does not require members to produce a South African ID, it has no records of members' nationality. However, SADSAWU officials admit that Basotho women account for a very small proportion of their membership.¹⁴

SADSAWU officials have also pointed out that migrant women's involvement in the union is hindered by their unstable presence in South Africa. While still working in South Africa, migrant domestics are afraid to approach the union.¹⁵ Hence the only time that such workers approach the union is once they have been (unfairly) dismissed. They then expect assistance and representation despite having made no effort at membership

¹⁴ For further discussion of the relationship between SADSAWU and Basotho domestic workers, see Griffin (2009).

¹⁵ This fear can be understood not only in the context of migrants' fear of state officials, but also in the context of the employment relationship and workers' concern to avoid conflict (as discussed below).

before that point, and if successful in the dispute with their former employer, they simply return to Lesotho rather than continuing any affiliation with the union. Indeed, in most cases, dismissal entails immediate return to Lesotho, with little or no opportunity to seek any organisational assistance. Basotho women's capacity to develop any meaningful relationship with SADSAWU is therefore precluded by their 'illegality' and the precariousness of their presence in South Africa.

Law's ostensible failure and the 'illegal' domestic

This section has demonstrated that labour law potentially applies to non-citizen domestic workers under basic legal protections – indeed, branches of the South African state have explicitly included 'illegal' migrant workers under laws against unfair dismissal. Nonetheless, in practice Basotho workers are largely unable or unwilling to approach these institutions, or the domestic workers' union, for assistance or representation. Once again, South African law ostensibly fails to regulate these women's labour migration; as 'illegal' migrants their employment is unbounded by the legal and organisational framework that would otherwise apply.¹⁶

However, as with the ostensible failure of migration law, this failure can be seen as productive. In the case of Basotho domestic workers, their unboundedness from South African labour regulation constitutes them as a different kind of domestic worker: that is, they occupy the subjectivity of the 'illegal' domestic. 'Not having rights' is only one of numerous ways in which the 'illegal' domestics' employment differs from the South African (ID-holding) domestic worker. The remainder of this chapter explores Basotho women's experiences of employment by considering the ways in which 'illegality' shapes their everyday working lives and employment relations, as well as their position in the labour market more generally. Of course, these two realms are intrinsically connected.

¹⁶ This is not to suggest that the regulatory framework is effectively enforced or accessible for all South African domestic workers. As Fish (2006:188) and Hertz (2005) have noted, socio-economic conditions in South Africa undermine the efficacy of these laws and policies. In addition, SADSAWU experiences significant difficulties recruiting domestic workers in general (see Ally 2008a; Stevens and Grumiau 2007). However, my research does suggest that Basotho migrant workers, as 'illegal' domestics, are *especially* excluded from the effective operation of labour protections.

Experiences of employment: the working conditions of the ‘illegal’ domestic

For many Basotho domestics, ‘different’ employment conditions are central to their experience of ‘illegality’ in South Africa:

Mahlape: Are there any disadvantages to being a non-citizen? What are they?

Mamoroesi: Yes, I’m from Lesotho. The working conditions differ.

This section focuses on the specific ways in which Basotho domestics’ working conditions, and their employment experiences more generally, are ‘different’. Migrant domestics’ ‘differences’ as workers illustrate the significance of employment as a key site for the reproduction of migrant domestics’ ‘illegality’. Beginning with the absence of legal protections or regulation, this section goes on to describe ‘illegal’ Basotho migrants’ disciplining as exploitable domestic workers, and their acute dependency upon employers to provide basic necessities during their stay in South Africa. This leads to a more detailed analysis of the employment relationship and the employer’s unbounded discretion in shaping the lives of these ‘illegal’ migrants.

Precarious employment in a legal void

To begin, as foreshadowed above, the ‘illegal’ domestic worker’s employment is experienced as transpiring in a kind of legal void, with a complete lack of official (state or union) recognition or intervention. For reasons already outlined, none of the Basotho women interviewed was registered with the UIF, nor had they any involvement with or membership within the union, SADSAWU. Thus Mamosa perceived her employment as a space without law, or beyond the law’s reach:

I feel like it [legal status in South Africa] would make a big difference because I will be able to search for a job, and after I have found the job I think it will be fine because there is the law now.

Mirroring the absence of official or legal regulation, none of the migrant domestic workers had signed a written contract with their employers (or received a Written Particulars of Employment). They often characterised the lack of a contract as reflecting their ‘illegality’ as domestic workers. As with other aspects of migrant workers’

experiences of 'illegality', this was commonly explained as a consequence of their lack of correct documentation: 'I don't have [a contract] because to sign one you must have an ID or work permit' (Puleng).

Without a written contract, or the means of making an official complaint, a Mosotho domestic worker is susceptible to unfair dismissal: her employer could arbitrarily dismiss her at any time, without notice, and she would have no legal recourse. As Manthona explained: 'These people [employers], when you arrive they do not tell you about any contract. Whenever they want to throw you out, they do.' As domestic workers are typically paid at the end of each month, instant dismissal could also mean loss of wages already earned. Thus Lesedi described the disadvantage of being a non-citizen as: 'you go empty handed if you're expelled.'

Basotho women's presence in South Africa depends on their continued employment. As such, dismissal amounts to expulsion from the employer's home, and from South Africa more generally: 'You know the problem with this kind of job, a person can fire you when they feel like it. You'll be back in Lesotho in no time' (Khopotso). 'Illegal' domestics therefore endure a constant threat of dismissal (alongside the constant threat of deportation), which reinforces the precariousness of their presence in South Africa.

Setting the terms of employment

As 'illegal' migrant workers, most Basotho women exercise little control over the terms and conditions of their employment. Given their limited access to work opportunities in South Africa (as discussed below), they usually seize whatever job they can find. Most women accept the located job and set off to South Africa without discussing wages or working conditions: 'I just went without knowing how much I was going to be paid' (Manthona). Thus, when asked how wages and conditions were negotiated, Khopotso's reply was typical: 'I talked with my employer when I got there.' Given the effort and expense of departing from their home village and venturing to the employer's home, the worker has already made a significant investment in securing the job; as the employer knows, by the time wages and conditions are discussed, the Mosotho migrant cannot easily walk away.

When wages are discussed prior to a migrant's arrival, it is easier for her to decline the job. However, the timing of this discussion is seen to be at the employer's discretion: 'Sometimes they tell you beforehand, so if you're not satisfied you don't bother going to work. But others tell you at the time you get there' (Lesedi). In addition, wages and conditions are usually simply announced by the employer. There is no question of consultation, compromise or negotiation:

Mahlape: How were wages & conditions negotiated? ...

Mathabelang: You know what? Wages and conditions are not negotiated; employers just tell you how much they are going to pay you at the end of the month without asking for your opinion on wages.

Sometimes, wages are not discussed at all. In such cases, a worker may only learn what her wages are when she receives her first pay.

As the terms of a Mosotho domestic's employment are simply prescribed by her employer, even when they have been announced, they can effectively be changed at any time. Thus uncertainty may continue past the initial stages of the employment: 'They tell you that you will be off duty on Sundays, but then they disregard that' (Mamoroesi). Employers may even vary wages over time (for instance making deductions or giving pay rises) without discussing this with the worker, as in Nerea's case:

She said she will give me a raise. She gave me R1200 and I was happy with that but if I leave in the middle of the month she gives me half. Last month she gave me R1000 and said she'd give me the rest when I returned. I can't really tell you how much I earn.

Uncertainty regarding employers' expectations of them, and the instability of working conditions, also underlies many Basotho women's desire for a written contract: 'Yes [I would like a contract], so that I can know how much I earn, how often I have time off, that sort of thing' (Relebohile).

Exploitability: wages, hours and leave

Exploitation was a central feature in women's interview accounts of their employment in South Africa, and their experience of being 'illegal' migrant workers. Even those who

enjoyed comfortable working conditions and/or reasonable pay rates saw their position as fortunate rather than secure. Thus a further feature of the 'illegal' domestic's employment experience is her *exploitability*, rather than exploitation per se. As Itabeleng acknowledged, 'it's not all people who ill treat domestic workers.' Although not all Basotho domestics are exploited, given that their employment operates beyond the reach of law and is defined by a constant threat of dismissal, many of these workers are paid low wages, work long hours, and have little access to leave.

Basotho domestic workers are paid monthly, usually at the end of the month (as with other workers in South Africa). The monthly minimum wage for urban full-time domestic workers – as set by Sectoral Determination 7 – was R1166.05 at the time of research (2008-2009). The wage levels that women reported during interviews varied extensively, ranging from R300 to R2000. Interviewees said they received all kinds of wage levels in between these two extremes, for instance R450, R900, R1000, or R1200.¹⁷ Roughly half (49%) of the incomes reported by women interviewed were R800 or less.¹⁸ As Mamatsoele commented, 'sometimes when you're working you're underpaid just because you're from Lesotho.'

The interview data therefore reflect both that Basotho domestic workers tend to receive low wages (often lower than the minimum wage), and that their wage levels remain unpredictable. Mamoroesi also commented on this variability, as she had observed in her conversations with other domestic workers:

As we chat we find that the payments differ from place to place ... You find that you do the same job but the other person gets R900 or R800 but the next person doing the same job gets R1500.

The extreme variation in wages reflects a number of factors. First, wage levels often depend upon location (generally with higher wages in bigger cities than small towns, and higher wages in suburbs than in townships). Employers may also incorporate deductions

¹⁷ Some also mentioned that they had received even lower wages in past years, such as R25 in 1977, or R80 in 1981.

¹⁸ Several qualifications must be stated here. The figure was calculated based on interviewees' stated incomes at any full-time job during the 5 years preceding the interview. It excludes those interviewees who opted not to state their income, and those who only worked part-time, both of which comprised very small minorities of the sample. The incomes of other workers (not personally interviewed) were also often mentioned during interviews or group discussions, but these were not included in the calculation, given most workers' tendency to speak of others with particularly low wages.

for accommodation and food, though employers rarely discuss or state this explicitly. Some employers also give extra payments for particular purposes, most commonly for transport costs, as in Masekoala's case: 'I was paid R800 ... They also gave me transport on top of my salary'.

Wages also vary over time due to scheduled or ad-hoc pay rises. Many employers announce a starting wage, and promise to increase it in the future. This can act as a kind of probationary period, such that the pay rise depends upon the employee demonstrating her work capacity: 'she will tell you that after three months, when I see your hands, I will increase your salary' (Mamokotla). Some specify a particular time after which they will increase the salary, whether once or repeatedly – for instance, every year. However, even when promised, pay rises are not guaranteed and are impossible for workers to enforce: 'She promised me to raise my salary but it never happened' (Malebaka). As with other conditions or benefits, pay rises ultimately depend upon the employer's discretion.

Although Sectoral Determination 7 mandates annual raises of the minimum wage levels for domestic workers in South Africa, these typically have little or no bearing on 'illegal' workers' wages. Thus Lesedi asserted that the benefit of 'of having an ID is that your salary will increase every year.' Variability and instability in wages is therefore connected with women's experience of 'illegality' and their working beyond the reach of labour laws:

Nthonts'i: How would you like things to be in the application of the law?

Likeleli: I would be satisfied if we would get the same amount, and if there is an increase we should get the same increase. We should know how much the amount has been increased with, because [now] we are not paid the same amount.

As 'illegal' domestics, Basotho migrants' employment experience is also different in terms of their working hours. Although the Sectoral Determination sets out maximum working hours, including provisions for overtime, this has little relevance to Basotho domestics' experiences. When asked their working hours, many of the women interviewed stated extremely long hours:

Nthonts'i: So what is the average number of hours you worked per day?

Likhopiso: So many ... from 8am until 11 in the evening. [For other employers] I came in at five and then got off at around twelve, twelve midnight not in the day.

Most interviewees could not name a set start and end time to their working day. Some simply responded 'there are no said hours' (Mamoroesi), while others gave a start time but could not specify a time when they finished working. Long and indeterminate working hours are therefore common complaints among 'illegal' domestics: 'What I dislike about domestic work is that ... you work long hours. You don't have time to rest, since you work from the moment you open your eyes until you go to bed' (Lijeng).

Incredibly, even a worker's sleep-time may be interrupted by work. Several women explained that they slept with their employers' children, or had to attend to them during the night. For instance, Manthona slept with one of her employer's twin infants:

What I am doing is heavy. I have to guard the twins. I have become a nurse ... I take care of them during the day, I do the washing, I give them food, I wash them, and then at night I have to sleep with the other twin ... This one I am sleeping with at night, she has a problem of inhaling milk through her nose, so I have to give her a bottle at night; she does not suckle her mother.

In such circumstances, it was difficult for women to specify their working hours – indeed, some simply had no time off during their stay in South Africa.

Most Basotho domestics have particular days off – most typically Sunday, and sometimes also Saturday. However, even these days could involve some work: 'on Saturday I just do the laundry and on Sundays I just do minor chores' (Litsoako). Even during her 'off' days, a domestic worker may effectively be on call: 'Sundays I don't work but if she asks me to cook I do it' (Tselane). The flexibility of women's working hours and days therefore reflects the indeterminacy of their working hours versus time off. In such circumstances, workers experience no such limits as a maximum number of working hours per day or per week, and no over time:

Nthonts'i: Would you like to have more rights or better conditions at work?

'Nete: Yes ... It is only that one that if working hours have passed they have passed, because you will find them making you work after hours, and even on

Sundays when you work it is not over time. That is why I hate domestic work
– there is no over time ... I hate that thing of working after hours.

Notably, the experience of endless work and ‘no over time’ is not simply characteristic of domestic service, but of the ‘illegal’ domestic’s employment: ‘South African citizens know the hours that they have to work, but we just do the work’ (Relebohile).

Some Basotho women find advantage in the flexibility of hours while working in domestic service.¹⁹

It’s good to be a domestic worker because you can rest. It’s not like in the factories where you will stand from the morning. In the homes you will be able to sit down, drink tea and watch TV (Manthona).

This flexibility of hours and working times usually depends upon the employer’s presence. For instance, although she worked ‘Monday to Monday’ (i.e. seven days a week), Itabeleng explained that ‘I took my job easy during the day when she was not around’. Thus, even those domestic workers whose workload allows them to rest during the day, still generally cannot do so in their employers’ presence. This reflects their experience of being on call during the entire time they stay with employers in South Africa. It also suggests workers’ need to cultivate an image of themselves as ever working. Thus for many domestic workers, an employer’s absence may provide a precious opportunity for time off and rest.

Many Basotho domestic workers also find that their only time off is when they leave the employer’s house to travel home to Lesotho. For instance Mampoi complained: ‘I was working Monday to Monday and I did not have any rest, I only rested when I came home.’ This pattern reflects a key spatial aspect of women’s experience of employment in South Africa. That is, a live-in domestic worker experiences that she is effectively on call whenever she is at her employer’s home. Hence Maleshoane equated staying with her employer with long and indeterminate working hours:

¹⁹ However, domestic workers’ ability to rest must not be overestimated: despite this advantage, almost all Basotho women interviewed claimed that given a choice they would rather be employed outside domestic service (see discussion below).

We know the law that said ... the number of hours. If you don't stay with your employer you can start work at 8, but if you stay with them you work from the time you open your eyes until very late at night.

Basotho women's strategy of securing 'live-in' domestic work is also connected with their 'illegality'; thus the 'illegal' domestic, as a live-in worker, is taken to be perpetually on call.

As the only time many Basotho domestic workers have 'off', visiting home is also a point of concern and often conflict with employers. When asked what she dislikes about domestic work, Relebohile summarised: 'They don't give us time off. They don't realise that we miss our children.' Many Basotho women's employers routinely deny them permission to visit home:

Nthonts'i: If you needed to go home for some reason could you do this easily?

Tankiso: She would not agree, because they [employers] want you to spend three months without coming home.

This does not mean that every Mosotho domestic worker necessarily faces exploitative and severe working conditions in South Africa. A small minority of the women interviewed received generous wages and/or enjoyed a light workload or short working hours. However, in such cases, the favourable conditions were a matter of the employers' choice: 'employers are different' (Matsepo). With their discretion unbounded by law, employers are able to dictate the terms of employment; they can also restrict Basotho women's opportunities to visit family in Lesotho, and even their time spent sleeping. Migrant domestics' means of meeting other basic needs – such as healthcare and even food – also illustrate their disciplining as 'illegal' and un-bounded workers, as well as employers' power over their lives while in South Africa.

Dependence on the employer: housing, healthcare and food

As 'illegal' migrants without IDs, Basotho women cannot easily access basic services provided by the South African state: 'There are a lot of things that person will not be able to get [without an ID] ... Children may not be able to attend school; work, and you will also not be able to get a house' (Mamosa). As Likhopiso similarly observed, things that

are inaccessible without an ID are ‘things that would enable life; things like working, like going to the doctor and also housing.’ The inaccessibility of basic services and housing underlies Basotho women’s preference for live-in domestic service jobs. Living-in not only impacts on women’s working conditions – and particularly their hours spent working or on call – but also reinforces their dependence upon employers for basic services like accommodation, medical care, and even food. The ‘illegal’ domestic worker thus experiences a heightened dependence on her employer.

When asked whether she could access healthcare if she needed to, Mamatsoele simply replied: ‘You can’t if you don’t have an ID.’ However, the accuracy of this statement is questionable. Several of the Basotho women interviewed had used their Lesotho passports to access services at health clinics or hospitals. Nevertheless, it is still the perception among most Basotho domestic workers that without a South African ID, they cannot approach these institutions for help. This can be understood in terms of Basotho women’s subjectivity as ‘illegal’ migrants, and their consequent fear of government agencies and organisations. As Limpho commented, regarding other Basotho women who said they could not access healthcare in South Africa:

Maybe they are scared or there are people who scare them ... I also delayed going because I thought that when they looked at my passport they would realise that I have overstayed my welcome, because I had no more days. But somebody from that side [South Africa] told me that they do not look at those things and that they only want the passport number and to check if the passport is really yours. So I went and they took the names written there and the number and there were no problems.

Attempting to investigate the accessibility of health care for non-citizens, I approached two public clinics in Mangaung, the township next to Bloemfontein. The larger facility – the Mangaung Community Health Centre – had signs posted declaring that ID books must be produced by all patients (see Figure 5.1).



Figure 5.1 Entrance to the Mangaung Community Health Centre; notice at the information counter stating (in Sesotho) the requirement for patients to present their IDs.

However, I also visited a smaller clinic nearby, which was extremely crowded and had no doctors, only nurses. There, nursing staff confirmed that although they ask for ID books, if someone cannot produce one, they will still treat the patient:

What else can we do, because people don't normally walk around with their ID book in their pocket ... Yes, they have the rules and policies up there at the national level, but on the ground it's different – you have to treat people.

Whether due to their own fears or institutional barriers,²⁰ many Basotho women find that healthcare is inaccessible in South Africa. This reinforces their subjectivity as 'illegal' and unwelcome migrants. As a result, some women must return to Lesotho when they get sick:

Mampolai: Whenever I got sick, I went home.

Lineo: What if you got sick in the middle of the month, without money?

Mampolai: *Hae!* It never happened, luckily! However, if I got a cold or something not serious, my employers used to give me medication.

Depending upon employers for basic healthcare is another common strategy. An employer may provide basic medication, or take the worker to the clinic or hospital and have the appointment processed through her medical coverage.²¹

²⁰ Spatial constraints may also prevent women from accessing healthcare (as discussed in Chapter Six).

²¹ Basotho women's dependence on their employers for healthcare also creates opportunities for employers to send workers for medical tests without their knowledge. On the South African practice

Maleloko: I remember this other day when she [the employer] took the child to the clinic when he had flu, she took both of us because I was sleeping with the child and already I was coughing ...

Lineo: Was it at the private doctor or what?

Maleloko: It was a public clinic.

Lineo: Didn't they want any ID or anything?

Maleloko: Because they want the address where you stay when you fill in the forms, she said to them that I am her sister that is visiting her.

Once again, it is the employer's choice whether to provide any assistance to the worker in terms of healthcare and accessing medical services.

Employers' unbounded discretion also extends to their provision of accommodation to domestic workers. Migrant domestics either stay in 'servants' quarters' (that is, a small one-room building located in the back yard) or inside the main house (usually only when there are no 'quarters' in the back yard). For most women interviewed, accommodation was not a problem per se – they saw the facilities as adequate. A much more common concern among interviewees was the provision of food by their employers. In particular, women staying inside their employer's homes had no separate or private space to store, prepare and eat food of their own.

Many Basotho domestic workers experience conflict with their employers over provision and consumption of food; indeed, this is commonly seen as *central* to the experience of an 'illegal' domestic in South Africa. Basotho women often find their employers giving them insufficient food, or restricting their access to certain foods in the house. For instance, a domestic worker may only be given leftovers to eat (Mamoselantja), or limited to cheap (and often low nutrition) foods. Similar patterns have been observed among migrant domestic workers elsewhere (for instance, see Lan 2003). Unlike in other studies, Basotho women's restricted food consumption is considered here – as in interviewees' own perceptions – in relation to their 'illegality', rather than as a symbol of their disciplining in terms of racial, ethnic or class hierarchies.

of employers sending domestic workers for HIV testing without their knowledge – and consequently firing them if the test results are positive – see PlusNews (2008) and Thom (2001).

Basotho domestic workers also often encounter problems if they prepare food and in doing so deplete certain grocery items:

If you don't want to fight with them you need not go near their fridge. Leave it at that. She will voluntarily offer you whatever they are eating at the time she wants to ... If you do cook it, when it is finished they get angry ... I never take anything without her permission (Mathato).

Malikhopiso was also scared to feed herself; thus she would go hungry whenever her employer ate out, or simply forgot to give her dinner:

Sometimes she just comes in without even greeting [me], sometimes she just doesn't give me food, [then] I would go to bed with an empty stomach. I would see them in the morning when I go to work, in the morning when she sees me she will act so surprised and say that she forgot, but what is surprising is that they didn't forget to eat themselves.

Domestic workers' fear of eating the wrong thing or eating too much – and their consequent hunger – is intimately connected to their 'illegality'. First, it reflects their dismissibility. When asked what would happen if she ate food without permission, Tselanyane answered 'Jooee! They will send me packing.'

Second, as 'illegal' migrants, Basotho women tend to earn low wages and are concerned with saving their money for remitting to family members in Lesotho. This means they have less disposable income to spend on food for themselves while in South Africa:

Malikotsi: They'll complain about the food. It is like I don't buy food. Food is expensive. Sometimes when they go with their children they don't buy you food. You'll fend for yourself. Just yesterday I went to [a supermarket] to buy bread and she was coming from the doctor, she brought home KFC ... If they have bought takeaway food you'll just see the box when you empty the bin.

Meisie: You should buy something palatable for yourself to eat.

Malikotsi: How can I do that when I'm still worrying about the school fees?

Third, workers' hunger represents their dependence upon their employers, and the different (typically exploitative) treatment they see themselves as receiving as 'illegal' domestics:

Non-citizens are not treated well ... Sometimes you will hear a person saying 'I have had 14 days working there but I have eaten five times.' Can you hear how that is? Again what is most difficult to us is food, it is food because it really doesn't come easily from these people we are working for (Selloane).

As not all employers restrict their domestic workers' food consumption, hunger is not an inevitable experience for Basotho women working in South Africa. Rather, it can be understood as a manifestation of their precarious and drastically unequal relationships with their employers, as well as workers' boundedness within the limits set by their employers' discretion:

Masethlare: Life in Lesotho is much better because we are not finished by hunger.

Nthonts'i: By hunger, in what way?

Masethlare: The owners talk with their food.

The irony of Masethlare's comment is that hunger (either their own or their children's) is often what drives Basotho women to seek employment in South Africa in the first place. That a migrant woman may continue to experience hunger while in South Africa, the perceived land of plenty, illustrates her experience as an 'illegal' migrant, and more specifically, the unbounded power of an employer over an 'illegal' domestic worker.

As this section has demonstrated, the working conditions of the 'illegal' domestic worker are 'different' and often harsh. She typically has little control over the terms of her employment, endures long working hours for low wages, and usually struggles to satisfy even her most basic needs, of food, sleep, shelter, and medical care. Basotho women's everyday experiences of employment reflect and reinforce their subjectivity as 'illegal' migrant workers. The workplace therefore constitutes a key site of the border's production and disciplining of these migrants as 'illegal' and therefore 'different'. Women's accounts also demonstrate the ways in which the 'illegal' domestic is critically dependent upon her employer for even the most basic services and resources. Her employer has an unbounded power to dictate practically all aspects of her living and working conditions in South Africa; conversely, her everyday experience of working in South Africa is bounded by her employer's decisions. This makes the employment relationship itself enormously significant for Basotho domestic workers.

The un-bounded employment relationship

Employers' unbounded power

'Illegal' domestic workers are especially dependent upon their employers, and are less able to rely on external or institutional support in negotiating their employment conditions. As a result, their terms of employment tend to be determined (i.e. bounded) by employers' unbounded discretion rather than legal requirements, and are therefore subject to change at any time. However, the employer's power is further unbounded in that it even extends beyond merely setting the working and living conditions for the worker while she stays at her home in South Africa. As this section illustrates, an 'illegal' domestic's employer may also act as a kind of agent for her, mediating her relationship with the South African state. What is more, she effectively controls the success of the migration strategy, thereby also shaping the lives of a migrant's dependants in Lesotho.

As discussed above, the South African state – in the form of labour law and its affiliated institutions – ostensibly fails to mediate the employment relationship between Basotho domestic workers and their employers. In contrast, employers mediate the relationship between 'illegal' domestic workers and the South African state. Several conditions underlie this dynamic: 'illegal' Basotho domestic workers live with their employers; they are afraid to approach government offices or representatives in person; they generally have low levels of education and very limited financial or other resources to draw upon; and they have very limited social networks within South Africa. In contrast, their employers are generally more knowledgeable about South African society and law, with higher levels of financial, social and cultural capital.²² They are also the owners (or official tenants) of the South African homes in which Basotho women stay and work.

The employer's capacity to mediate her worker's relationship with the South African state can operate to an 'illegal' domestic's advantage. This is because many employers take on a protective role, shielding the employment itself – and by extension the 'illegal' worker – from the sight of government agencies or officials. Employers may also help migrant women to maintain and manage their documentation. For instance, an employer

²² For an explanation of the concepts of social and cultural capital, including their relations to economic capital, see Bourdieu (1986).

might give her Mosotho domestic worker extra money to pay a bribe for validating her documentation, or may even perform this transaction herself.

Some employers even attempt to secure more powerful forms of documentation for their 'illegal' workers, such as work permits or South African IDs. However, most women interviewed recounted their employers being unhelpful in their efforts to gain greater documentation in South Africa:

[My employers] were born in Lesotho but went to South Africa. They had legal documents of South Africa but I don't know how it came about that they got those documents ... I wanted it [legal status] but it's difficult ... I felt it was difficult because of my employer; there was never a time that she could sit down with me and explain to me how she and her sister got it (Mamosa).

Employers may also hinder women's ability to negotiate the system of documentation, by dictating the frequency and length of Basotho workers' time off and leave to visit home. For instance, Malikotsi wanted a cross-border permit²³ but was unable to obtain one because of her work hours: 'if I leave here at 3pm by the time I get to the border it's too late because they have already closed where we take six months. I was mopping.'

Some employers intimidate their Basotho domestic workers by reminding them of their 'illegality', and even threatening to report them to South African authorities.²⁴ When asked if she felt she had power to change her employment conditions, Tankiso replied: 'No. When we complain they threaten us with the cops, that they'll get you arrested.' Similarly:

Nthonts'i: If you had a dispute with your employer, how could you fix it?

Likhopiso: There was no way to fix it, because you can't go anywhere and she will tell you that you can't go anywhere, there is nothing you can do to me, you don't have rights here. She will even tell you "I will call 10111²⁵ now and post you to Lesotho if you don't have money. Should I call it?" So she is going to get you arrested because she doesn't want you in her house.

²³ The cross-border permit or 'six month pass' is discussed in Chapter Four.

²⁴ This phenomenon has been observed in research with 'illegal' migrant domestic workers elsewhere, such as in Western European countries and the United States. For example, see Chang (2000: 57); also see Anderson (2000: Chapter 10) regarding employers' 'power to report and deport'.

²⁵ 10111 is the phone number to reach the South African Police Service.

Hence employers not only reinforce Basotho women's 'illegality' by dictating the 'different' working conditions of migrant domestic workers, but through direct appeals to workers' deportability by state officials.

However, as 'Mamako pointed out in a joint interview with her co-worker, the 'illegality' of Basotho women's employment also implicates their employers: 'He wants us to live in fear; it is empty threats because he will not report us, since he could also be locked up.' Section 38 of the *Immigration Act 2002*²⁶ expressly targets employers, prohibiting any person from employing: an 'illegal foreigner' (as defined in s 1) or a foreigner whose status does not authorise him or her to be so employed. This section also imposes an assumption that employers know that the employment is a violation of the Act (s 38(3)), assigning a key role for employers in the surveillance and exclusion of foreigners from the labour market. South African law therefore arguably holds the employer even more responsible for the 'illegal' employment than the foreigner herself.

Yet, in practice, the employer is able to evoke the worker's 'illegality', using it to extract her labour-power under more favourable (i.e. flexible and exploitable) conditions. This is because the migrant's 'illegality' carries serious ramifications for her, including deportability, and loss of income or employment. But the threat of sanction for employers is minimal. There is no public record (for instance in media sources) of any employer ever being sanctioned for 'illegally' employing a foreign domestic worker in South Africa. No interviewee, including migrant workers and government officials, ever spoke of rumours or other accounts of employers being arrested or officially sanctioned by South African authorities. What is more, if an 'illegal' worker were to report her employer to the authorities, this would entail also identifying herself, and thereby realising the very threat of detection, dismissal and deportation that she spends so much time and effort avoiding.²⁷ Thus, while the employment itself is 'illegal', the burden of this 'illegality' is in practice shifted from the employer onto the 'illegal' migrant worker.

²⁶ No. 13 of 2002 (amended in 2004 and 2007).

²⁷ Practically, then, the only time at which a Mosotho woman would make any appeal to authorities is in the event that she has already lost her job (whether through resignation or dismissal) – in which case, she generally returns immediately to Lesotho. In contrast, see Heyman (1998: 169-70) regarding the possibility for migrants within the United States to strategically engage immigration authorities against employers. Basotho women's inability to do the same is related to the contingency of their presence in (or return to) South Africa on being employed, their limited social networks, and their individual employment in domestic homes.

In her detailed analysis of a symbolic and ineffective United States law imposing sanctions on employers of undocumented migrant workers, Calavita (1982; also see 1981) uncovered a similar dynamic:

Not surprisingly this law, which on the surface appeared to be aimed at the employer, in practice put the onus on the employee – both the undocumented and legally resident Mexican-Americans. Given the distribution of power in these employment relationships, any legislation which focuses on the kind of worker hired will disproportionately and adversely affect workers themselves (1982: 50).

Given the shifted burden of this ‘illegality’, Basotho workers experience that they – and not their employers – are ultimately responsible for managing the ‘illegality’ of the employment, more specifically in terms of maintaining their documentation:

Mamoitheri: They [employers] want a person who goes home once in six months. I go home every month ... I need to take [another] permit after a very short time. The lines at the passport office are very long ...

Meisie: What does she want you do with a permit which has expired?

Mamoitheri: It becomes your problem. But when she has problems it is like you can help her out.

As noted above, although they are not required or expected to do so, some employers do assist their workers with attaining or validating documentation (most often when doing so would also benefit themselves). Similarly, many employers offer their Basotho domestic workers other kinds of assistance. For instance, employers often give their workers old clothes, or even buy them new ones. Such generosity is also commonly extended to family members, including workers’ children: ‘I was satisfied because my employer used to pay for my children’s school fees’ (Likae). Other gifts or assistance include loans of money, or assistance paying with funeral costs for family members. Gifts are also often given when a worker is about to head home to visit family in Lesotho, particularly at Easter or Christmas:

Nthonts’i: Were there any other benefits you received from your employer?

Manthona: No I never got any.

Nthonts'i: Do you mean she never gave you anything even when you were coming for Easter holidays?

Manthona: Oh! Yes! Truly, she would give me some clothes, bake some cakes for me and she even gave me bus fare.

Many employers help with transport costs, which can otherwise account for a large portion of workers' expenses. Basotho employers who travel back and forth from Lesotho may bring workers with them; others may give their workers cash to help cover bus or taxi fares. These 'maternalistic' behaviours mean that some domestic workers are able to gain considerable benefits from their employers – again depending upon the employer's discretion.²⁸

For Basotho domestics, the employment experience and their relationships with employers are incredibly important. As discussed in Chapter Seven, a domestic worker often perceives her wage level as directly determining the success or failure of her labour migration as a survival or livelihood strategy for her family:

Mahlape: She wants to see if there has been a change since coming to South Africa or have you been empowered in any way?

Malikabiso: How can you change if people give you 400 a month, how can you progress?

Though Ntsoaki had made some important changes, she noted that 'if she was paying me for overtime I would have progressed much better.' With the power to dictate the terms of employment and any potential extra benefits, employers therefore wield an unbounded power, extending beyond working conditions and even beyond the workplace: employers can pay their workers well and actively assist them to meet their

²⁸ King (2007: 13-6) offers a brief discussion of 'maternalism', or 'pseudo-maternalism', in maid-madam relationships in South Africa, noting: 'The employer's maternal role may not be to encourage the growth of the child, but rather to ensure that the child does not grow and demand more in terms of the employment relationship' (2000: 16). Also see Ally (2009: Chapter Four) regarding the 'intimate work culture' and maternalism in domestic service relationships in South Africa. Studies elsewhere have illustrated domestic workers' strategic embracing (and benefits) of close relationships with their employers: see Lan (2003a); Ozyegin (2001: Chapter 4). Regarding 'personalism' more generally in migrant domestic service relationships, see also Hondagneu-Sotelo (2001: Chapter 7). Notably, none of these studies examine the role of migrant 'illegality', and the complex connections between such 'illegality' and closeness or patronage in worker-employer relations.

own and their families' needs, or exploit them and impose harsh living and working conditions, with impacts reaching to the living conditions of family members in Lesotho.

Under these conditions, it is unsurprising that many Basotho migrant workers hold their employers directly responsible for their circumstances, and their prospects for the future:

Mahlape: Has this kind of migration pattern helped you to achieve these aims?

Mathabelang: No! It has not helped me because I was hoping that my children would attend school to the tertiary level. My salary was not sufficient ... In South Africa they [employers] do not give us what they are supposed to give us. They cheat us. If there was justice we would have a brighter future.

As Likhopiso points out, employers differ:

People [employers] are not the same, there is one who will make you forget your problems that you have left at home, who can enable you to send enough money to your children, who feels sorry for you and gives you a better salary. Others don't care.

Thus a great deal depends upon the particular employer for whom a Mosotho woman works. However, as 'illegal' migrants Basotho women's options within the domestic service job market are restricted; they therefore exercise little control or choice over which employers recruit them for work. As she is generally unable to select between unsympathetic versus favourable employers, a Mosotho woman's key strategy for negotiating her employment experience – and by extension the success of her labour migration as a whole – is to focus on the employment relationship itself.

Bounded within the employment relationship: strategic submissiveness

As 'illegal' migrants, Basotho domestic workers have limited job options, no access to institutional support in their employment, are dismissible at any time, and can potentially gain considerable benefits from more generous employers. In these circumstances, an 'illegal' domestic's most effective strategy to mitigate the instability and uncertainty of her employment, is to manage the employment relationship itself.

Indeed, the employment relationship is often more important to these workers than any other aspect of their work:

Mahlape: What was your relationship with your employer like?

Mamoroesi: It was good, though the money was small. It's better if you have a good relationship with your employer rather than getting a lot of money with a sour relationship.

Likhopiso also saw the employment relationship as more important than wages, but her experience was less positive:

Nthonts'i: Do you think you had any power to change your employment conditions?

Likhopiso: It's not easy if you don't have an ID, you will not be able to change the way they think. Even if she gives you R10,000 a month, your heart will always hurt because of what she is doing to you.

Thus an 'illegal' domestic's experience of work (or exploitation) in South Africa is not simply determined by the terms of her employment, but the character of the employment as a social relationship, including the ways she is viewed and treated by her employer.

Many Basotho women see communication as an essential aspect of the employment relationship: 'Yes [I can change my employment conditions], if we can hear each other' (Mamokotla). However, the prospect of open communication is daunting for most Basotho domestic workers. They are wary of causing any conflict, because the 'illegal' domestic worker's avenues for resolving any dispute are extremely limited. Lijeng courageously threatened her employer with resignation: 'At first I didn't have time off. I threatened my employer with quitting if she doesn't give me time off. My tricks worked and she decided to give me time off during Sundays.' But hers was the only account in all the interviews of any Mosotho woman attempting this bold strategy. More commonly, women had the opposite experience, that is, that their employers routinely threatened them with dismissal.

Basotho domestics tend to view the prospect of making any open complaint as extremely risky: 'If you try to reason with them they expel you ... they dismiss you if you ask questions' (Mathabang). Thus interviewees typically perceived conflict with employers as synonymous with termination of the employment altogether:

Mahlape: If you have a dispute with your employer, how can you fix it?

Maleshoane: It cannot be fixed, they just expel you.

Relebohile: There is no way you can fix it.

For Basotho migrant workers, termination of employment also entails immediate departure from South Africa. Hence conflict with employers is equated to returning home to Lesotho. When asked how she would fix a dispute with her employer, Tankiso responded: 'We don't resolve it, or pack your bags and return to Lesotho.' In comments such as these, little or no distinction was made between dismissal and resignation; both simply constituted 'leaving'. Either way, the possibility of negotiation or resolution between a migrant domestic worker and her employer is usually absent. With legal recourse practically inaccessible, there is little meaningful difference between being fired and quitting, when this results from conflict with employers.

A key strategy for 'illegal' migrant domestics to stabilise or sustain their employment and presence in South Africa is therefore to manage the employment relationship by avoiding conflict with employers. This includes 'accepting everything' (Likenkeng), and not raising objections, complaints, or even queries about risky subjects. This approach is conceptualised here as a strategic submissiveness:

Meisie: Do you have a contract?

Keletso: No, she told me that I'm not registered but did not tell me why she hasn't registered me.

Meisie: Why, did you ask?

Keletso: I did not but we discussed it for a very long time after her friend's helper resigned and [the friend] told her that she needs to serve the notice. She told me that they know the law but they can't register us. I think she didn't register me because she'll be bound by the law to pay me a decent salary and have stipulated hours of work. ...

Meisie: How is your relationship with her?

Keletso: It is good because we chat a lot.

Meisie: Why don't you ask her why she doesn't register you? What do you think she will do if you ask?

Keletso: I think she'll say that I know too much and let me go.

Although Keletso chatted ‘a lot’ with her employer, she chose her words (and topics) with great care. The result was a more secure relationship with her employer, and thus more stable employment. Puleng likewise saw that her submissiveness could bring greater stability: ‘I just ignore her if she’s acting up, and do my work. She can be very rude at times, but when you have problems she can support you through and through.’

Strategic submissiveness does not simply entail obedience, but involves cultivating a particular image in the employer’s mind. Given the employer’s unbounded discretion and power, giving her the impression of an effective and cooperative worker can bring significant benefits:

I even end up increasing my job by going to [work in] the garden sometimes, because I am not used to staying without doing anything. They then increase my salary and say, “Ach! You have done what is not yours” (Mamokotla).

Working extra hours, or doing light tasks on days off, help to create an employer’s favourable perception. Thus Basotho women will work hard in front of their employers, and then take the opportunity for rest when they are absent:

Likhopiso: Mmm, [the employer would call] ‘*Jane, Jane, cup of tea!*’ Ok, I will run like anything. Whenever she was anywhere in the house, she would just call, ‘*Jane cup of tea please.*’ She will be making waves in the bath by that time.

Nthonts’i: In the bath?

Likhopiso: Yes, what can you do? If you hear that she is already putting water in the bath, you do it [make the tea] already and put it there ... You cheat your job so that you can give yourself rest; there comes a day that you just do it in the people’s [employers’] eyes.

Thus an ‘illegal’ domestic worker’s most effective approach is not simply working hard and being ‘on call’ at all hours, but cultivating the *image* of a diligent and compliant worker; that is, strategic submissiveness.

This pattern also became evident through the research process itself. While meeting domestic workers and carrying out interviews in South Africa, my assistant Meisie and I

distributed (and explained) written summaries of the Sectoral Determination, outlining the legal minimum wages and working conditions for domestic workers. Conscious of the precarious circumstances of Basotho domestics, and the power their employers exercised over their employment and presence in South Africa, we warned women to use the information carefully. Of course, to some Basotho women this undermined the utility or value of the information: 'How does it help? Because even if we know [the information] we cannot stand up to our employers' (Kholu).

In their insecure circumstances, many women saw the information – and particularly the written pages themselves – as both desirable and dangerous, as in this group discussion:

Palesa: Are you allowed to stand up for employees' rights?

Meisie: No, we'll explain the law, then if you want to confront your employer you can tell her that you know what the laws says. I cannot confront your employer on your behalf because I'm not from any organization. But your employer could decide to dismiss you because you know too much, especially since you're not registered.

Kholu: One lady was dismissed from her work for that reason.

Meisie: We don't want to stir trouble between you and your employer, because I cannot offer you any other job.

Kholu: At the end of month she expected a raise but her salary was the same so she asked and they told her she knows too much.

Tselanyane: I'm going to leave it on the table so that she can read it herself. Alternatively you can send it through the post. You have to connive ... I'm going to make sure that she sees it.

Basotho domestic workers knew that the papers we were providing could cause confrontation with employers that might cost them their jobs: 'It would be stupidity if you blurted out in front of your employer that you know your rights. She will expel you' (Puseletso). On the other hand, women wanted to make use of the pages, and ensure that their employers both read them and (if possible) saw that the worker had also read them. In her 'conniving', Litsoako trusted that her image as a submissive worker would help shield her from suspicion:

Litsoako: Do you give out these papers?

Meisie: If you want them.

Litsoako: I will put it in her mail box so that she finds it when she comes home from work. She will not know [I put it there] because she thinks that I'm stupid ... [Or] I'll tell her that it came with the mail ... She will never know. I'll put it there so she can read it; when she asks I'll tell her that there were people who were giving them to domestic workers.

Litsoako's pretext is believable, as SADSAWU and the Department of Labour commonly distribute flyers and other literature about domestic workers' rights under labour law.

Strategic submissiveness is closely connected to migrant domestics' 'illegality', as illustrated in Basotho women's comments about how confidently they would behave if they had a South African ID: 'Your employer, if you don't have an ID, won't treat you like a South African citizen. I believe if you have an ID you're more relaxed when you talk to the employer' (Mathabelang).

As this section has revealed, the employer's unbounded power over her 'illegal' domestic worker is countered by the worker's experience of being bounded by the discretion and decisions of her employer. A Mosotho domestic is constrained in her means of challenging or changing the terms and conditions of her employment; hence she typically relies on a strategic submissiveness in order to appease her employer and thereby stabilise her presence in South Africa. This pattern also reflects and reinforces her 'difference' as an 'illegal' domestic, and the distinct position of migrant women in the domestic service labour market.

‘Illegal’ domestics in the labour market

The saleability of submissiveness

Given the ‘illegal’ domestic’s employment experience – as a dismissible, exploitable, and dependent worker – Basotho women have earned a reputation in South Africa as particularly ‘submissive’ and ‘hardworking’ domestic workers. This reputation underlies their attractiveness to potential employers: ‘It makes a difference because they treat us differently from South African citizens. They prefer people from here [Lesotho] since we are submissive’ (Lijeng). Likhopiso also held this view:

Yes, they [employers] like them [foreigners] because they want to cheat them ... We can do hard jobs that those from Gauteng [in South Africa] will not do, because they tell her that ‘No, you don’t pay me this much’. But you do everything that she tells you to do. That is you go there with nothing, you just watch beyond and when they say, ‘Do this’, you do it.

These impressions were echoed in the views of a high-level official from the South African Department of Labour, who commented to me that Basotho as a cultural group are relatively ‘docile’ and ‘peaceful’ people, and that this different nature meant that Basotho are less likely than South Africans to join labour unions.²⁹

However, the above analysis suggests that such ‘docility’ can be understood as a reflection of Basotho migrants’ ‘illegality’; that is, their different position in the South African labour market, and the consequent precariousness of their employment: ‘People from Lesotho don’t have rights in South Africa, so they are very submissive and accept small salaries’ (Malikabiso).³⁰ Thus ‘illegality’ can be seen to underlie the ostensible characteristics motivating employer preference for Basotho domestic workers over their ‘troublesome’ (Masefako) South African counterparts. However, this does not give Basotho women a straightforward advantage in securing a job in the labour market.

²⁹ Similar narratives of cultural difference have been observed in other contexts, with racial and ethnic difference engaged as an explanation or justification for workers’ differential exploitability (for instance see Van Onselen 1976: 81-3).

³⁰ Johnston (2007: 511) provides a similar analysis of employer preference for Basotho farmworkers: ‘The image of innately ‘docile’ or passive migrant workers is clearly inappropriate. What is at issue are the factors that prevent effective [labour] organisation.’

Basotho migrant women's position in the domestic service labour market is revealed by the seemingly contradictory responses interviewees gave to the question of whether it is easier or harder for Basotho women or South African women to find work in domestic service. Some women, like Malironts'o, emphasised the disadvantages of not holding an ID: 'It's not easier for [us] to find work than the women from there [South Africans]. If you have an ID you can get a job anywhere.'

By contrast, other women like Mathabang claimed that 'it is harder for women from South Africa [to find work] because they expect to be paid a lot of money, so the employers prefer people from Lesotho.' Every assertion that Basotho women have an easier time finding domestic service jobs was accompanied by some comment about the worse working conditions that employers offer them or that they accept:

Itabeleng: It is easier for women from Lesotho to find work but we don't get better working conditions.

Nthonts'i: Are you advantaged or disadvantaged in any way by the fact you are from Lesotho?

Itabeleng: I was advantaged because I got the job. But I was disadvantaged in that I earned less than I was meant to, just because I'm from Lesotho.

Basotho women's exploitability therefore operates as a kind of labour market advantage, potentially enabling Basotho women to undercut their South African competitors. Certainly, every woman interviewed reported that their employers knew that they were from Lesotho and that they did not have a South African ID.³¹ Notably, the key difference between Basotho workers and their South African counterparts is not their nationality per se, but the absence of documentation. Hence other non-citizen domestic workers occupy a similar position, and are valued by employers in the same way: 'They prefer people from Lesotho, Zimbabwe and Mozambique' (Tankiso).

Being cheated: hired as a donkey and working like one

Through their being hired as 'illegal' (i.e. flexible and exploitable) domestic workers in preference to South African citizens, Basotho migrants' experience of employment is

³¹ This obviously does not include those women who did hold South African IDs. Even in their case, however, their employers knew that they were from Lesotho.

primarily one of being taken advantage of: 'people from Lesotho are taken as door mats' (Malebitso); 'they prefer people from Lesotho because they want to cheat us' (Mathabang). Interviewees' comments often connected being 'cheated' with their not having IDs, their lack of rights, and/or their inability to access legal assistance:

They [employers] like them [foreigners], they like to cheat them. Those ones from that side [South Africans], they cannot cheat them because if they have any claim they know where they can take that claim to (Malironts'o).

For 'illegal' domestics, then, employment is also a dehumanising experience. First, most workers see that they have been hired for the conditions accompanying their 'illegality'; conditions which constitute them as different – and less human – than legal workers in South Africa. Selloane described the different tasks that Basotho domestics will do and South Africans won't, summarising that 'They want people from Lesotho because they say they are donkeys, they just go on even if they are tired.'

Second, the employment relationship itself, as an un-bounded one, is dehumanising for the 'illegal' domestic worker: 'They don't treat us as human beings' (Khopotso). For instance, when speaking of being 'cheated' by employers, Mamoroesi stated, 'Basotho are toys.' This statement recalls an employer's unbounded power over an 'illegal' domestic, while the worker herself is effectively constrained by the whims and directions of her employer. Thus the 'illegal' domestic worker is continually disciplined as her employer's 'toy', whether that employer chooses to be exploitative or generous.

Third, the everyday experience of endless hours spent working or on call – that is, the experience of working like a donkey – is also dehumanising:

Nthonts'i: How would you like things to be [regarding your rights at work]?

Malironts'o: Like an individual; she has to know that a person has to rest. They don't take us as people. They think they are the only ones who have the right to have lunch, they think we don't need to sit down and rest. The only time that you will rest is when you go to sleep.

Lijeng also connected her endless work hours and need for rest with her humanity, describing her employer's request that she sleep with her child as 'the last straw ... I'm a

normal human being, I get tired.’ That migrant domestics’ simple need for rest or sleep creates such tension and conflict with their employers illustrates the extent to which Basotho women are dehumanised and disciplined as un-bounded workers in South Africa.

Bounded within the labour market

Two further conditions underlie Basotho women’s choices to endure such dehumanising employment conditions and their reliance on everyday strategic submissiveness. To begin, these migrants’ job options are extremely limited. If other job opportunities – whether outside of or within domestic service – were readily available, Basotho women would not accept such difficult working conditions, and would not need to cultivate an image of the diligent and submissive worker:³²

Nthonts’i: Do you think you have any power to change your employment conditions?

Manthona: No ... Because they [employers] don’t agree. They will tell you to go, they will find another one ... Just remember you are hungry, you will go nowhere.

Similarly, Malikabiso summed up her options as continuing to work for a harsh employer, or stealing to survive: ‘There is no way we can quit, because if you do that you come to steal. It’s better to be a slave in South Africa.’

Basotho women’s limited job options are closely tied to their ‘illegality’ as migrant workers, and more specifically, their lack of a South African ID:

Lineo: Didn’t you want to work somewhere else other than in domestic services?

Mampolai: I would have loved to work somewhere better. The problem was I didn’t have an ID. There are many jobs in South Africa I could have done. Only people with South African IDs can qualify.

³² Interestingly, the difficulties many Basotho women face when locating alternative jobs provide a parallel to the situation of ‘legal’ migrant domestic workers elsewhere, who are employed under highly regulated and documented labour migration regimes. In both cases, migrant workers’ employment options are restricted, and they are effectively tied to an individual employer. For a brief discussion regarding the experiences and exploitation of migrant domestic workers who are unable to change employers because of restrictions on their visas or agency contracts, see Human Rights Watch (2006: 76-8); also ILO (2010: 67).

Lineo: What would you do, if you had an ID?

Mampolai: I would be doing a better job than domestic service.

For women such as Maleshoane, the 'better jobs' which an ID would make accessible included factory work or retail jobs: 'I was not able to work in other sectors because we don't have work permits, but in domestic service they are still lenient ... I want to work in the firms [factories] because they pay a lot of money.' Most of the women interviewed therefore characterised employment in domestic service as a last resort, and confirmed that they would prefer to be doing something else. Thus Khopotso explained her choice to work in domestic service as 'I had no other options.'

Within the domestic service job market, Basotho women's options – as 'illegal' migrants – are further bounded. This is because not all employers are 'lenient'; some require any potential employee to provide a South African ID. This pattern is racialised, such that white employers are seen as more likely to ask potential domestic workers to produce IDs. Black employers are seen as more lax, and less concerned with immigration laws or provisions regulating domestic service in South Africa.

Racial generalisations also extend to the treatment of domestic workers, such that white employers are perceived as more likely to offer favourable employment conditions, including better wages: '[Without an ID] I don't get what I need. Even at the kitchens [in domestic service]; the white people want people with an ID, and with the white people there is more money than with the black people' (Selloane). As mentioned in Chapter One, most of the Basotho domestics interviewed were employed by black (or other non-white) employers. This pattern is experienced as a further 'difference' between South African versus migrant domestics, therefore reinforcing Basotho domestic workers' disciplining and subjectivity as 'illegal'.

The 'illegality' of Basotho women's employment may also carry certain risks *for their employers*. Hence the potential risks or repercussions of this 'illegality' for the employer – whether actual or perceived – can operate as a disincentive for hiring non-citizens. Mantemana was acutely aware of this dynamic and its implications for her ability to find work:

Nthonts'i: Do you think it is easier or harder for women from Lesotho to find work than for South African ID holders? That is, do you think you can get a job faster than the South African women?

Mantemana: No.

Nthonts'i: What about in domestic work?

Mantemana: Oh, I would say no because I used to hear that police used to go to the houses, and then the house owners don't like Basotho women because they fear the police.

As Relebohile commented, 'it is not all employers who prefer people from Lesotho'. Basotho women's attractiveness as domestic workers only heightens their access to *particular* employers. Those employers who actively prefer them over citizen domestics are likely (though not certain) to be individuals who seek to take advantage of the employment conditions accompanying their 'illegality': 'Oh yes, [employers like non-citizens] very much! ... Because they know they will pay them the way they want to, because they say we don't have IDs, we are not South African citizens' (Likeleli).

As discussed in later chapters, other aspects of Basotho women's 'illegality' further undermine their capacity to locate other jobs, including their oscillating migration, and most crucially, their limited social networks. Thus, most Basotho women, despite their perceived labour market advantage arising from their reputation as 'submissive' and 'hardworking' domestics, typically accept whatever domestic service job they can find.

A further reason Basotho women tolerate such dehumanising work conditions and rely on strategic submissiveness in their employment relationship, is the gravity of the circumstances and responsibilities compelling them to migrate and work in South Africa. As outlined in Chapter Seven, these circumstances are often desperate, and many women bear their heavy parental or other familial responsibilities alone. Remembering the reason (or the need) for their labour migration encourages women to endure difficult employment experiences in South Africa, and to sustain their strategic submissiveness on an everyday basis. For instance Likenkeng explained:

I try by all means to satisfy my employer because I don't want to go back home and do nothing ... You'll end up giving your children porridge as a meal. When you think of that, you withstand all the working conditions, because you don't want to go back to your old life.

Lesedi also saw poverty in Lesotho as reinforcing her exploitability in South Africa: 'I wish to be treated like South African citizens – for one, our pay is not the same. We can't refuse, because of poverty.'³³

Cycles of 'illegality' and employment

Basotho women's employment experiences not only result from their 'illegality', but reinforce and even provide a justification for it. These migrants' exploitability and their attractiveness to employers as 'submissive' and 'hardworking' domestics also serve as a political and economic justification for their continued exclusion. That is, because it perpetuates their different position in the labour market, accepting lower wages and worse working conditions also reinforces Basotho women's 'illegality':

Nthonts'i: How do you think the South African government feels about you?

Itabeleng: They don't want us working, that's why they are deporting us. There are laws regulating domestic service, so the foreigners are paid R600 whilst the normal pay is R1200. They say we take their jobs.

Thus employer preference reinforces Basotho women's 'illegality' by providing a rationale for their targeting and exclusion by the South African state: 'We don't have IDs, that makes us illegal immigrants in South Africa. They say we take their jobs from them. They can't work as domestic workers because they are lazy, yet they are jealous' (Malikabiso).

Whilst unsure of the government's position, Lijeng also saw Basotho workers' characteristics as underlying their unpopularity with South Africans more broadly.

Mahlape: How do you think the South African government feels about you? Why?

Lijeng: I don't know but sometimes they are not aware that so many people are in South Africa illegally. But the people are not happy because they say people from Lesotho are very submissive even when they are ill-treated.

³³ As the expectation for Basotho women to provide for their children and other dependents is strongly gendered, so is the submissiveness required of 'illegal' domestic workers: 'I took it as a job I can raise my children well with. If you are a mother you have to be patient at work' (Matsepo).

Thus Basotho women's reliance on strategic submissiveness continually reproduces and seemingly justifies their 'illegality' to the South African state, to South African domestics workers who compete for such jobs, to South African society more generally (especially given the importance of domestic service for so many poor families in the country), and ultimately to Basotho migrants themselves.

Conclusion

This chapter began by outlining the South African labour law regime, which potentially guarantees basic labour protections to 'illegal' migrant workers such as Basotho domestics. This regime ostensibly fails in practice, primarily due to 'illegal' migrants' fear of state officials and institutions. This ostensible regulatory failure gives rise to the subjectivity of the 'illegal' domestic worker. The remainder of this chapter illustrated the nature of this subjectivity in detail, as well as the various ways in which Basotho women negotiate their employment relationships and their labour market position. Migrants' everyday experiences of employment were considered, including: the absence of organisational assistance or representation; the lack of a written contract; exploitability (as evidenced by low and/or unstable wages, long working hours and restricted access to leave); and dependence on the employer for accommodation, healthcare and even food.

An examination of the employment relationship demonstrated its precariousness and significance, in addition to the unbounded power wielded by employers over the 'illegal' domestic's living and working conditions and over the success of her labour migration more generally. Employers also act as agents between 'illegal' migrants and the South African state, with the burden of 'illegality' effectively shifted to migrant workers. Given the instability of employment and the significance of the employment relationship, Basotho domestics rely on a strategic submissiveness vis-à-vis their employers; this further differentiates them in the domestic service labour market, and serves to justify their continued exclusion as unwelcome and 'illegal' migrant workers.

The analysis presented in this chapter develops the central arguments and concepts of the thesis in several ways. First, the border, as a disciplinary apparatus, operates through migrants' engagement with the labour market, through their everyday experiences of employment, and through their relations with employers. Employers therefore act as agents of the border, by subjecting 'illegal' migrants to discipline and surveillance on a daily basis. Hence the border's production of migrant 'illegality' extends through individual workplaces and the domestic service labour market as a whole, by continually reproducing migrant domestics as 'illegal' and therefore different workers.

Second, the three-fold theme of 'borderwork' has been illustrated. Employment, both in terms of everyday experiences of work, as well as employment opportunities – signifies a

key site and relation shaped by the border. The border is socially and politically constructed and reproduced throughout the South African homes where Basotho women work, involving efforts and roles of workers, labour institutions and employers. This chapter has also outlined the ways in which 'illegal' domestics navigate and 'work' their subjectivity as 'illegal' domestics in attempting to stabilise their employment and maximise the gains they may obtain thereby (including their management of the employment relationship through strategic submissiveness).

Third, this chapter has outlined several aspects of Basotho domestic workers' 'illegality', while showing how these connect and reinforce each other and the aspects covered in the other chapters of the thesis. Thus a Mosotho woman's limited employment options are connected with her lack of a South African ID; her dependence upon her employer for accommodation reinforces the precariousness of her presence in South Africa and its contingency on continued employment; her exploitability encourages a strategic submissiveness that entrenches her different labour market position as an 'illegal' and therefore 'different' worker, and so on.

Finally, the frame of un-bounded labour has been demonstrated: Basotho domestics' employment is unbounded or unregulated by labour laws and/or union involvement; their working conditions and terms of employment are unbounded, such that women may effectively be on call the entire time they are present in South Africa; the employer's power is unbounded (legally, socially and geographically), with impacts of her decisions extending even beyond the confines of her home to shape the lives and opportunities of others in Lesotho. Conversely, Basotho women's own experiences of employment (and employability) are characterised by a boundedness: women are bounded within a constant surveillance and control while working in South Africa; their experiences and opportunities are bounded by the employer's discretion; and their continued engagement in such dehumanising conditions is explained by their boundedness both within wage labour and within the particular labour market position of 'illegal' migrant workers.

This analysis poses a number of implications, both politically and conceptually. It uncovers the concerns and unique position of foreigners – and not merely Basotho – in the domestic service labour market, though of course most migrant women are able to discern these dynamics themselves. The harsh competition for even these most lowly-

paid and poorly-protected jobs is also cause for concern regarding tensions between local workers (and their families) and migrant domestics:

Nthonts'i: During that xenophobia in South Africa, were you already in there?

Selloane: No, I came afterwards.

Nthonts'i: But do you feel like it concerns you?

Selloane: Very badly, very badly, truly because it all affects us because we are all non-citizens. At the end you see they will end up treating us Basotho like that, now they are treating other people like that ... Like they are saying that Basotho are taking their jobs, Basotho are the ones who change these people [employers] because they agree to take the money that these people are giving to them.

As Selloane recognised, the implications of employer preference for 'illegal' domestics extend to South African domestics, and the industry as a whole. That is, the 'illegal' domestic, by 'changing the employers', threatens to depress wages and conditions for all domestic workers. In addition, 'illegal' domestic workers' presence – and in particular, their inability or reluctance to approach institutions for assistance – undermines the efficacy of labour protections and union representation for all domestic workers in South Africa. The failure of the CCMA and SADSAWU to reach and represent those workers who are most at risk of unfair dismissal and exploitation undermines their ability to understand and engage with the industry as a whole.

This chapter's account of 'illegal' domestics' employment experiences also carries implications for our understandings of employment and its regulation. Put bluntly, it demonstrates the dangers of un-bounded labour, by illustrating what happens when workers are not captured by labour regulations and organisations. The Mosotho migrant woman's experience of employment is largely one of dehumanisation. Although her employment appears unbounded, in fact her experience is one of strict boundedness and hence unfreedom:

Mahlape: Is it how you thought it would be [in South Africa], or different?

Relebohile: Things were different.

Mahlape: How?

Maleshoane: They are different in that we are not free as workers. You keep reminding yourself that you're from Lesotho, you're in a foreign country.

Maleshoane related this lack of freedom to her subjectivity as a foreigner and her 'illegality' as an unwelcome migrant worker. In the context of increasing 'irregular' migration in Southern Africa – and even beyond the region, in the context of globalisation – hers is a significant observation: it suggests that the production of migrant 'illegality' not only serves to generate an exploitable labour supply but effectively produces an un-bounded and hence unfree workforce, and one that is acutely dehumanised. This analysis not only suggests the productivity of ostensibly failing borders or migration controls, but also attests to the significance of labour protections and organisations in bounding the employment relationship and thereby checking the tendency of labour relations toward the dehumanisation of the wage worker.

The fulfilment of wage labour's tendency toward dehumanisation in the case of Basotho migrant domestics does not simply occur through relations and exchanges in the labour market. On the contrary, these conditions are intrinsically linked to the other sites of the border, and the other aspects of Basotho women's 'illegality' as migrant workers. In particular, these 'illegal' domestics' reduction to 'toys' or 'donkeys' relies on the suppression of any opportunities for these migrants to develop social relations beyond the employment relationship, and the bounding of their familial and community identities within Lesotho. The following two chapters expand on these dynamics, interweaving them with the account of un-bounded labour offered here.

Chapter Six

Solitary Spaces:

Social isolation and the concealment of Basotho domestics

We are scared to talk to strangers because we don't want to be deported.

(Mantja)

I got [the job] through a friend. When I'm working I make links, if it could happen that things don't go well between me and my employer I can quit. As we chat we find that the payments differ from place to place; we chat about things like payments, work conditions.

(Mamoroesi)

We are from outside and we are hidden.

(‘Nete)

As ‘illegal’ migrants and un-bounded workers, Basotho domestic workers’ experiences in South Africa are marked by captivity, social isolation and invisibility. Continuing the focus on women’s interview accounts, this chapter develops the analysis of un-bounded labour and migrants’ ‘illegal’ subjectivity. Whereas the preceding two chapters focused on sites of the border such as ports of entry or the domestic service labour market, this chapter examines the production and experience of migrant ‘illegality’ from the streetscape of suburban South Africa, through the (often transnational) social networks among domestic workers, to various government, media and other institutional records and discourses. The border’s production of Basotho migrants’ ‘illegality’ through these sites also reinforces the effects and dynamics already discussed in previous chapters, such as: women’s limited access to documentation, their disciplining as deportable and dismissible workers, and their unique engagement with the labour market.

The analysis in this chapter is divided into three sections, demonstrating three sites or modes of Basotho women’s un-bounding. The first section explores Basotho domestic workers’ experiences of immobility and their effective imprisonment whilst staying at their employers’ homes in South Africa, beginning with ‘illegal’ migrants’ preference for and experience of live-in domestic service. Basotho women typically stay indoors at their

employers' homes, with their physical access to the suburban streetscape constrained either by employers or by their own fears. Immobility – or spatial bounding – effectively protects migrants through their concealment from threatening authorities, though it undermines their access to institutional and other means of support.

The second section, forming the bulk of this chapter, examines Basotho domestic workers' experiences of social isolation while in South Africa. This isolation results from a range of impediments to social networking, including: workers' spatial immobility; their lack of time off; employers' excessive control over their workers' lives; and, once again, migrant women's own fears and suspicions, arising from their 'illegality' and the constant threat of deportation. The impacts of this social isolation are then illustrated: first, by considering the significance of contacts and friends to Basotho migrants in South Africa, and to migrant domestics in particular; second, by analysing isolation from the perspective of social networks.

The third and final section of this chapter focuses on Basotho women's concealment and invisibility. Building on the preceding sections, it discusses migrants' invisibility across four axes: spatial, social, formal and discursive. The border repeatedly conceals Basotho migrant domestics throughout suburban streetscapes, social networks and communities, official records and databases, and media and academic discourses. Building on the literature review in Chapter One, this section critically reflects on the silence of various accounts as to the existence of any Basotho domestic workers in South Africa. The chapter concludes by reiterating the analysis and considering how it develops the concepts and arguments of this thesis.

Imprisonment: spatial dimensions of ‘illegality’ in South Africa

This section outlines Basotho women’s choice of live-in domestic service, and how this leads to an experience of imprisonment (i.e. constantly staying indoors). As this occurs through the choices of employers and migrant domestics themselves, it can be seen that the border as an apparatus produces and disciplines Basotho women as imprisoned workers. This imprisonment also reinforces the aspects of ‘illegality’ and un-boundedness already outlined in this thesis, including Basotho women’s limited job options, their dependence on employers, and hence their exploitability.

Choosing live-in domestic service

As ‘illegal’ migrants, Basotho women prefer to secure live-in (as opposed to live-out) domestic service jobs in South Africa. Without an ID, a migrant cannot easily access housing in South Africa: ‘only people who have rights in there [South Africa] can get places to stay’ (‘Nete). Application forms for state-supplied housing must state an applicant’s ID number, and although corruption is widespread and people are able to purchase or rent homes outside this system, Basotho domestic workers typically lack the financial means to do so. In any case, given the need to leave their children behind in Lesotho (as discussed in Chapter Seven), Basotho women have little incentive to obtain a second home in South Africa, as doing so would entail paying not only rent but also transport to and from the employer’s home each working day.

Hence live-in employment provides a convenient arrangement for Basotho women as ‘illegal’ migrants, saving them the hassle and cost of finding and commuting to and from another home in South Africa:

In there I found that life was much better while I was staying with my employer in her yard. If I was not it would not be easy, because I would have to pay for the rent and to pay for transport ... What I liked was that I saw myself save while I was in that yard (Mamosa).

Living-in also often means that basic necessities, including food, are provided by the employer. These advantages are unique to domestic service in South Africa (as opposed to factory or domestic jobs in Lesotho), thereby enhancing its appeal to Basotho women:

For me it is very difficult to work anywhere else because, if you work at a factory, you are forced to take a lunch box, to pay transport and to pay school fees on the same salary. For instance, if you are paid 800, it's not enough to meet all these needs. On the other hand, if you are a domestic worker, it's easier ... because you do not have to buy food or pay for travelling expenses (Likae).

Migrant domestic workers thus become associated with live-in jobs: 'they [employers] prefer people from Lesotho because they pay us less and we stay with them' (Lesedi).

Staying indoors

The circumstances of live-in domestic employment lead Basotho domestic workers to a limited spatial experience of South Africa and the suburbs or townships in which they work. As Mathabang summarised, 'I was always indoors.' This became evident during the research process, as it was exceedingly difficult to meet with Basotho domestic workers in South Africa, even when their work location was known. Women's involvement in interviews was predicated on their ability and desire to come outdoors, which was often problematic.

There are several reasons why Basotho domestics may stay indoors. To begin, women often lack spare time: many Basotho domestic workers work or are on call for most or all of their waking hours while staying at their employers' homes in South Africa. For instance, Malikotsi explained: 'I stay indoors because I don't have time. The only time that I have is Sunday, and it's very limited.' Some employers actively discourage or even prohibit their domestic workers from leaving the premises:

Mamorena: Our employers don't want us to go anywhere.

Meisie: Why not?

Mamorena: I don't know.

Malisebo: They become cross.

Meisie: Even if you don't have anything to do?

Malisebo: Yes, they just want us to sit there.

Thus constraints may only apply while the employer is present, such that an employer's absence from the home may provide an opportunity to go out.

One means by which an employer can prevent her domestic worker from leaving the home even in her absence is not to provide her with a key to the front door or gate.³⁴

Lineo: How were the South Africans treating you as people from Lesotho?

Maleloko: I never used to go out because there was nothing that I would need outside, so I wouldn't know. They used to close all the gates and doors when they left; everything was inside the house.

Lineo: What if something happened, maybe a fire started, what would you do when all the doors were locked? Did you ever think about that?

Maleloko: Yes sometimes I would think about that, but I never told them or asked them ... She told me that I should not go outside and everything that I want is inside the house and I shouldn't go anywhere with her child.

As shown in Figures 6.1 and 6.2, suburban homes in South Africa typically feature sturdy security fences/walls and grills on the front and back doors, and on windows.³⁵ Acting as deterrents against potential burglars, these fences and gates are commonly locked not only upon occupants' departure for work but even while they are at home.



Figure 6.1 Suburban South African home with security fence and alarms. Front fences and walls often feature electrified or razor wires.

³⁴ Similar 'imprisonment' has been observed among migrant domestic workers in Lebanon, who stay in their employers' locked apartments without being given keys (see Jureidini 2002: 10-1).

³⁵ Such security features are more typically found on suburban homes in South African cities, than on rural or township residences. Although fieldwork in South Africa focused on suburban rather than township areas, interviewees in Lesotho worked in a range of locations; experiences of immobility were not restricted to those workers employed in suburbs rather than townships. Dilata (2008: 58) confirms that domestic workers employed in townships are 'in most cases confined to the house.'



Figure 6.2 Security grills on the front door and window of a suburban home.

Employers may also check on workers' movements by phoning them, or visiting the house during the day. For instance, when discussing her access to medical care, and in particular her ability to go to the hospital, Keletso commented: 'If I'm sick I cannot just leave her house without telling her what is happening. She keeps phoning the house to check if I'm still at home.' Malebaka, who said that her only time off was when she attended church, also found that 'when I'm in church they call me to ask when I'll be at home.' Such monitoring may therefore extend to workers' time off, as some employers can still reach their workers even when they are away from the workplace.

Not all employers restrict workers' movements. Although Mats'enolo's employer did not mind her leaving the home (as long as her movements were known), she was still 'always in the house'; she preferred to spend her spare time resting, as 'it gets to you to have always been on the go.' Puseletso also said she did not go to the shops because 'I don't earn much, and the transport is expensive.' Thus, although some employers do not limit their domestic workers' movements, such workers still often 'stay indoors', limiting their own movements. Aside from tiredness or expense, many women do so out of fear.

'Illegality', the outdoors and protective imprisonment

Basotho women's apprehension about leaving their employers' homes is connected to their fear of detection and deportation by state officials. As 'illegal' migrants, women are concerned to avoid potential encounters with police or other state officials in South

Africa.³⁶ When asked how she avoided such officials, Maleloko simply responded 'I never went anywhere.' Likhopiso shared this experience:

Nthonts'i: But was deportation a concern for you or not?

Likhopiso: Yes I am afraid of it! ... Hmm I was so afraid of it ... I didn't want to walk on the streets ...

Nthonts'i: How did you avoid the state or the police?

Likhopiso: I was not moving around the streets ... Yes it was easy, because there was nowhere I was going.

Upon seeing a police officer, Manthona would 'become frightened' at the threat of deportation; 'I only relax when they have passed me ... from there I would rather change my way.' Thus she explained the benefit of an ID as 'I will pass freely next to the police.'

Matumelo also tied such fears to her status as an 'illegal' migrant, and her lack of the correct documents. When asked if she had ever dreamt of having a South African ID, she responded:

Yes! Because if one is a citizen of Lesotho working in South Africa without either an ID or a work permit, one lives in fear all the time. However, if one has an ID one is always free like a bird!

This avian metaphor was also echoed in 'Mamolise's account of hiding in the servant's quarters she shared with 'Mamako, as if in a cage:

'Mamako: When we meet people we are scared to speak up because it might be the people from the government to deport us.

'Mamolise: Especially because we are illegal immigrants. We live in fear like birds. We don't have IDs, there is nothing we can do. If a policeman came here asking questions, we would lock ourselves in and pretend we are not around.

Freedom and ease of movement in the streets of South Africa – or more accurately, the lack thereof – is therefore a central aspect of migrants' experience of 'illegality', as women become spatially bounded within their employers' homes.

³⁶ The connection of such fear with migrant 'illegality', and the indicators available to authorities seeking to detect Basotho migrants, is discussed in Chapter Four.

For those Basotho women who are afraid of being detected (and potentially deported, or forced to pay bribes) by police or other authorities, a popular strategy for managing this risk is staying inside at their employers' homes. Similarly, for those interviewees who were *not* afraid or concerned about authorities, the most common reason was that they never went out. For example, Tankiso found that staying in her employer's home protected her from any concern about the government:

Nthonts'i: Is avoiding the state and deportation concern for you?

Tankiso: No, I don't even avoid them. We're always indoors ...

Nthonts'i: You don't have any past experiences with the South African government.

Tankiso: There isn't any, because I'm always indoors.

Anderson (2000: 40) has also noted this advantage for foreign domestic workers in Europe, where live-in work provides 'shelter from the police' for migrants terrified of deportation.

The protection of staying at an employer's house therefore represents a unique advantage of live-in as opposed to live-out domestic service. The opportunity for confinement is also a distinct advantage of domestic service over other industries popular with 'illegal' migrants: 'What I like about domestic work is that I stay in the yard' ('Nete). For instance many 'illegal' migrants in South Africa undertake street vending, where harassment and extortion by police is common and not easily avoided. However, authorities do not generally approach suburban home owners about 'illegally' employing migrant domestic workers; under the Immigration Act, officials require a warrant to enter homes in search of 'illegal' foreigners (s 34(9)(a)). As a Department of Home Affairs official confirmed to me, visiting private homes is 'more difficult'; the Department will only ever approach a private home in the case of an official complaint; and 'no migrant will do this'.

South African Labour Department officials do carry out inspections of suburban homes to investigate the employment circumstances of domestic workers. Several participants in this study had heard of such activities. However, because of their 'illegal' status and fear of government agents, they associated these officials with the threat of deportation, rather than the protection or enforcement of their rights as workers:

'Nete: The law is against [migrants working without an ID] ... sometimes they move around in the houses ...

Nthonts'i: So when you see the police do you avoid them or what do you do?

'Nete: If they don't come to the yard, I don't [need to] avoid them, and those ones from the UIF they have a tendency of moving around at the houses ... I cannot say I am working because I know I don't have rights in South Africa.

None of the migrant domestic workers interviewed recounted any personal experiences of such inspections. This may be because the Department of Labour's inspectorate is understaffed (by 20.6%, or 322 inspectors: see Department of Labour 2009: 250). Alternatively, as Ally (2009: 91-2) has discussed, labour inspections of suburban homes often consist merely of conversations between officials and employers. Thus, had labour officials inspected research participants' employers' premises, those women may not even have been aware. This could extend to police or other state agents. Certainly, it would be in any employer's interests to conceal from any officials the fact of the employment, or at very least the domestic worker's lack of a South African ID. Such concealment would protect both employer and employee from legal repercussions; thus employers may even resort to paying bribes to officials. An employer who restricts her migrant domestic worker's movements may also be motivated by the (common) desire to conceal the worker from state officials.

While staying indoors effectively shields Basotho women (and their employers) from various threats, it can still be a difficult experience – one that many domestics characterise as a form of 'imprisonment':

Mahlape: How do you avoid the state, and is this easy or difficult?

Mamoroesi: By staying indoors. It is very difficult to be a prisoner.

This difficulty reflects not only the everyday experience of imprisonment or staying indoors, but the various ways in which this imprisonment impacts on Basotho women's working lives while in South Africa.

First, although staying indoors shelters workers from unwelcome state surveillance, it reinforces the inaccessibility of those institutions that may offer them some assistance or protection, like the CCMA, SADSAWU, or the Department of Labour. This is especially

because most live-in domestics are indoors precisely during those hours and days when government offices are open (i.e. ordinary business hours on weekdays). This spatial aspect of accessibility is highlighted in Mathabelang's account:

Mathabelang: I think we can change our work conditions if workers can take the initiative of going to the offices responsible for domestic workers ...

Mahlape: Do you know anything about a union for domestic workers in South Africa?

Mathabelang: I haven't been there but I have been looking for one secretly when I was in town. But I was not familiar with the place; I did not find any.

Second, imprisonment reflects and reinforces employers' unbounded power over their domestic workers' living and working conditions. Spatial constraints on migrants' access to government offices and services, such as medical clinics, reinforce their dependence on employers. Workers' captivity also directly signals the power imbalance between employer and employee: whereas employers regularly leave the home for work, shopping or social visits, 'illegal' domestic workers tend to stay in, contained and concealed. Imprisonment effectively ensures that an 'illegal' domestic is constantly accessible to and on call for her employer, for the duration of her presence in South Africa. Thus a Mosotho domestic's bounding in spatial terms reinforces her bounding within the employment relationship and her subjectivity as the ever-available wage worker.

Third, imprisonment restricts Basotho women's opportunities to seek other jobs, both directly and indirectly. Directly, imprisonment undermines Basotho domestic workers' ability to physically approach other potential employers at their homes. For example, Matsepo spoke of 'those days before, when it was nice, before the times of IDs which create problems', in the 1970s when she would simply 'stand on the street and say, "Ek soek die werk"³⁷ ... it was easy'. When asked what having a 'legal' status would mean to her, Mamoroesi also replied: 'It would be easy to look for a job. You walk around free, without thinking about the police and border guards.' Indirectly, staying indoors limits job options by restricting migrants' opportunities to meet other domestics and thereby source alternative jobs through their social networks. This is discussed in greater detail in the following section.

³⁷ This is Afrikaans for 'I'm looking for a job.'

Social isolation: 'illegal' workers with no friends

As 'illegal' migrants, while working in South Africa, Basotho domestics are isolated socially as well as spatially. During interviews we asked women whether they had made any friends in South Africa; many simply replied, 'No.' While some domestic workers are able to meet people while working in South Africa, their connections are often limited to chance encounters. Hence they may characterise such associations as fleeting and shallow, and not 'real' friendships:

Nthonts'i: Were you not able to make friends?

Likhopiso: Not even a single one. I was always going alone. Never there is any man that I can say I once stayed with.

Nthonts'i: What about women?

Likhopiso: Like you can see in the morning, when the employers are gone, they come out and stand on the gates, I don't have that time. Even our neighbour, I did not know her. I just heard her radio but I have never seen her ... I don't have a friend, I talk to anybody. If you see me with this one and tomorrow I am with this one, don't say it's my friend.

Women's limited connections also became evident in the research process itself, frustrating any attempts to rely on chain/referral or snowball sampling methods.

Barriers to social networking

Although live-in domestic work carries certain benefits, while staying at the employer's house most Basotho domestics are not allowed visitors:

Meisie: Do you think your employer would let [your son] stay with you?

Likenkeng: I don't think so. She doesn't entertain visitors. Even my relatives cannot visit me. One time my sister-in-law came past the house and she was not happy about it ... I sleep in the house. I'm not allowed to have visitors ... She told me she is not comfortable with strangers in her house.

The absence of visitors at the employer's premises reflects and confirms the restriction (and dehumanisation) of a migrant domestic's identity while staying with her employer

to that of 'worker'. Most employers are shielded from any personal contact with workers' family or social networks. Ally (2009: 47) has also critiqued this aspect of live-in work in South Africa: 'The control of visitors by employers of live-in domestic workers became a crucial mechanism of entrenching servitude relations, as the worker's access to any life and identity beyond those of 'service' to the employing family were denied.'³⁸

Unable to receive visitors, a migrant domestic worker's social interaction therefore depends upon her spatial mobility beyond the employer's home. Hence many interviewees cast their isolation as a consequence of their habit of 'staying indoors': 'Where will I get friends if I'm always in the house?' (Puseletso). If they can go outside, domestic workers gain access to the suburban streetscape with its spaces of interaction, such as verges, parks, local shops, and so on (see Figures 6.3 and 6.4).



Figure 6.3 Live-in domestics visiting a suburban shopping centre on a Saturday afternoon.



Figure 6.4 Live-in domestic workers (and others) socialising on the pavement behind a suburban shopping centre on a Sunday afternoon.

³⁸ However, as noted below, Ally (2009) also observes that South African domestics are generally able to build networks which enable them to shift from live-in to live-out domestic work.

Domestic workers' access to these spaces was also essential for the research process in South Africa, as approaching women in these circumstances formed the primary sampling method, and such sites provided an accessible venue to carry out interviews. Of course, the accessibility of open spaces or shops depends upon their proximity, as domestic workers are usually restricted to walking (given the expense of other forms of transport). If there are no local shops or parks close to her employer's home, a Mosotho domestic is much less likely to meet other local workers. Although Mamoroesi could not leave her employer's house, she still tried to meet people by standing outside and stopping passers-by: 'I just chat to people who pass where I'm staying, every time I get a chance.' Thus throughout South African suburbs, domestic workers can be seen chatting to one another while sitting or standing alongside the fences of their employers' homes.³⁹

Aside from open suburban spaces, one important site of social interaction for domestic workers is church. For those women who said they had friends in South Africa and saw them regularly, church was a common venue. For instance, in Bloemfontein, where most of the South African interviews were held, only one church in the suburban area held services in the Sesotho language; this weekly service proved very popular with Basotho domestics working in the area.⁴⁰ It provided a valued opportunity for Basotho domestics to meet one another, if not in the church itself then before or afterwards in nearby open spaces, and while walking to and from their employers' homes. As Lund and Budlender (2009: 14) note: 'Daily observation of the suburbs of South African cities shows the importance of religious life to many domestic workers, with groups meeting in parks, and going to churches.' Several interviewees also commented that the only time off they experienced was while they were attending church on Sundays. Given the social acceptability of church as a reason for domestics to leave their employers' houses, Mantja and Matsie were able to use it as a ruse for going to meet each other: 'we say we're going to church and then just sit here.'

³⁹ As it reflects my own observations and fieldwork experiences in South Africa, this analysis reflects the research bias toward the spatial aspects of domestic service in South African suburbs, as opposed to townships and rural areas, due to the use of convenience sampling methods.

⁴⁰ This particular service was so dominated by Basotho who regularly visit their homes in Lesotho, that Mamorena observed, 'when it's month end there are no people to attend the service'. Notably, this church was located at the very edge of suburban Bloemfontein, very close to the Mangaung township. This location likely boosted its popularity with churchgoers from both areas.

This pattern of socialising in public suburban spaces echoes accounts of migrant domestic workers elsewhere. For instance Lan (2003a: 539) discusses the ways in which Filipina domestic workers in Taiwan

gather with their compatriots at church and attend mass. Afterwards they go shopping, have lunch, or get a haircut in the neighbourhood around the church. They are also found in nearby parks and tourist spots, having picnics and taking photos. A few disco clubs target Filipino migrants as major customers on Sunday afternoons ... And they hang out in fast food restaurants or Taipei's main train station until their curfew[.]

Compared with such migrants, Basotho women's engagement in public spaces in South Africa is very limited. This is related to their 'illegality' (in contrast to the Filipina workers Lan observes, who generally hold correct papers). As 'illegal' migrant workers, Basotho women are typically fearful of apprehension by police or immigration officials in public spaces, and most lack the financial means for recreational pursuits like shopping or fast food restaurants. Social isolation is not simply caused by 'illegality', but also reproduces it, by disciplining 'illegal' domestic workers as different from South African domestics. Thus, when asked to compare the circumstances of Basotho versus South African domestic workers, Khauhelo referred to Basotho domestics' spatial immobility and their resulting social isolation (alongside lower wages).

Many Basotho domestic workers are even unable to socialise at church while working in South Africa. This is not only due to the restrictions of immobility and proximity outlined above, but because some employers openly prohibit women from attending; others may attend church with their workers. For example, while working in South Africa, Limpho attended church with her employer, and was unable to socialise there: 'I have no friends at church.' Indeed, some Basotho workers only ever venture outside the house when accompanied by their employers: 'I was not allowed to visit anyone, so I never even made friends. I only went out for shopping with my employer; that was the only time to see other people' (Likae).

Workers' opportunities to socialise are also restricted by their long working hours (and hours spent on call) or the constant presence of their employers, preventing them from leaving the employer's house (as discussed above). This dynamic has also been observed amongst Filipina migrant domestic workers in Taiwan: 'the "no-day-off" policy aims to

obstruct workers from building local connections with ... other migrant workers' (Lan 2003a: 533). Thus women's spatial bounding and their boundedness within the employment relationship often intersect.

Beyond their inability to leave the house, employers' monitoring can even restrict workers from communicating with friends by telephone. For instance Malikotsi, as with almost all interviewees in South Africa, hid her participation in this research from her employer. Thus when we requested to stay in contact, she explained that her employer might be present if we called her mobile phone:

Meisie: That's the end of my questions but can we keep contact because ... I may need to ask you something else.

Malikotsi: Sometimes when I don't talk freely it is because she is there. [If I say] I can't hear you, call after five minutes, because I want to go out so that we can talk ... If I get a call she eavesdrops. I no longer receive calls from people. If they want to talk they send me a [message] ... We don't want them [employers] to know about these things because they don't have our best interests at heart.

As in Malikotsi's case, even when Basotho domestics own mobile phones, this does not entail unrestricted opportunities to reach and speak openly with others. Some domestics do not own such phones; others' use of mobiles is restricted by sharing with or borrowing from employers (or employers' children), or the difficulties of finding a private space in which to speak. The cost of phone calls or text messages is also a deterrent, given Basotho domestics' low wages and the pressure to remit such significant portions of their income to Lesotho. In addition, women's oscillating migration restricts their availability, as the coverage offered by mobile networks vary across the Lesotho-South Africa frontier.

Some Basotho workers observe that their employers do not simply seek to prevent them from leaving the house, but to restrict their opportunities for socialising per se: 'It is like we are children and they don't want us to mingle with other people' (Malikotsi). This experience is shared with migrant domestics elsewhere:

Employers of domestic workers in a variety of countries use remarkably similar techniques to control and confine their employees ... Employers

typically impose severe restrictions on domestic workers' ability to communicate with the outside world. Domestic workers are often prohibited from using the household phone and from sending or receiving letters, and they are discouraged ... from talking with neighbours, other domestic workers, or shop-keepers (Human Rights Watch 2006: 73).

As with other aspects of employers' control over migrant domestics, Basotho workers' opportunities to socialise are not necessarily restricted by employers; rather, they depend on an individual employer's discretion. Some employers allow their workers to go out and meet with friends, though often only on off days, or with a strict curfew: '[On Sunday] I wake up and help [with basic chores]; if I'm going to church I go. I can visit my friends afterwards, as long as I'm home by seven' (Mosele).

Basotho women's movements back and forth to Lesotho also restrict their church attendance and time spent socialising in South Africa. Many Basotho women's only time off is when they return to Lesotho to visit family members and carry remittances home each month-end. Hence they are regularly absent from church or other sites of socialising in South Africa, such as local parks or shops. Although the process of travelling to Lesotho places women amongst fellow passengers on buses or taxis, migrants' key concern during such journeys is to *conceal* the fact of their ongoing employment in South Africa, due to their 'illegality' as migrant workers. Basotho women are therefore usually unable to make friends during these trips.

Aside from their oscillations back and forth to Lesotho, some Basotho domestics actively restrict their own socialising in South Africa due to a distrust of strangers. This is tied to migrants' 'illegality' and fear of deportation: 'We are scared to talk to strangers, because we don't want to be deported' (Mantja). Such hesitation to converse with strangers was also demonstrated in the research process, by some women's initial reluctance to speak with Meisie and I when we approached them in the street, or to identify themselves as Basotho.

Women's distrust of strangers explains the superficiality of the social connections made by most Basotho domestics while in South Africa. A migrant's failure or refusal to share her phone details, or employment location, could protect her against the threat of being reported to authorities. This also accounts for Basotho women's preference to befriend only other Basotho:

Lineo: Do you have friends there [in South Africa]?

Limpho: Yes I do have friends ... Some I know from home and others I met there ... They are all from Lesotho.

Lijeng had also made friends while working in South Africa, and explained how Basotho women found and identified each other there: 'We met at church, or at the shops. When you hear the accent you can tell this one is from Lesotho, so we take it from there.'

While some Basotho women are concerned about xenophobia from South African citizens, others perceive that it is not a problem for them as Basotho, only for other Africans like 'those from Mozambique and Nigeria – real kwerekwere'⁴¹ (Maleloko). Rather than being persecuted due to cultural or national difference, Malebitso related her difficulty socialising with South African domestics to her unpopularity as an 'illegal' domestic worker occupying a different labour market position:

Meisie: When you talk to other women what do they say about the job?

Malebitso: Which ones?

Meisie: Ones from South Africa.

Malebitso: They wouldn't do that, because they say we snatch jobs right under their noses.

Meisie: ... Aren't they your friends?

Malebitso: They are from here [South Africa].

Meisie: I thought they consider you as their friend.

Malebitso: They would never do that because we take their jobs.

Meisie: That's what they say?

Malebitso: Yes.

Others found that they were able to make friends with South African domestic workers without any such tensions. However, those women who said they experienced no such problems often had very few South African friends.

⁴¹ 'Kwerekwere' (or 'makwerekwere') is a derogatory term used by South Africans to refer to black African foreigners. Regarding this term, and in particular migrant women's experiences of it, see Lefko-Everett (2007: 39-44). As discussed below, Basotho women tend not to be associated with this category, and are socially less 'visible' than migrants who typically are.

While various factors restrict Basotho women's opportunities to socialise in South Africa, each of these are related to women's subjectivity as 'illegal' migrant workers. This illustrates the intersections between different aspects of 'illegality' and of Basotho migrants' un-boundedness in South Africa, including: the employer's power over an 'illegal' domestic worker's employment and mobility while in South Africa; social divisions arising from this different employment experience; women's fears and distrust of others while in South Africa; and their constant movements to and from Lesotho.

Impacts and implications of social isolation

Basotho women's social isolation while working in South Africa is immensely significant for their experience of employment and labour migration. The significance of social networks for migrant domestic workers elsewhere has been explored in numerous studies (see Hondagneu-Sotelo 1994b, Mattingly 1999b; see also Cox 1999: 142-4; De la Luz Ibarra 2007; Romero 2002). With regard to overseas migrant domestics in the European Union, Anderson (1999: 126) has declared: 'The importance of networks to migrant domestic workers, both for employment and social life, cannot be overstated.' As this section reveals, networks are likewise crucial for Basotho migrant domestics, and their social isolation has far-reaching consequences. This section illustrates the impacts of this isolation, by discussing the importance of social networks for domestic workers, and for migrant domestics in particular. This leads to a discussion of the broader implications of isolation for social networks of Basotho migrants. Once again, these women's social boundedness not only reproduces their 'illegality' as migrants, but also reinforces the other aspects of their un-boundedness.

To begin, social isolation may impact upon a Mosotho woman's psychological wellbeing, especially considering the potential strains of exploitation, separation from children, and the constant threat of expulsion from South Africa: 'If you stay in that house, you end up stressed because you don't have anyone to talk to' (Malebitso). Women's need for friends with whom they can openly discuss their problems is also intensified by their inability to speak honestly with their employers.

Friends and contacts could also assist in times of difficulty or distress; thus, without such a safety net, a Mosotho woman is even more dependent upon her employer for support. Social safety nets are particularly important for 'illegal' migrant domestics, for whom official avenues of assistance are usually beyond reach:

Nthonts'i: Now tell me, like you said you did not know any laws, if you had any problem that needed law what would you do?

Matsepo: I would be in trouble ...

Nthonts'i: Was there any place you knew about where you would go and ask for help?

Matsepo: No, I would be taught by other people. Like when I had problems, I would ask people about what should be done.

Isolation therefore reinforces the precariousness of Basotho women's presence in South Africa, and that their presence remains contingent on continued employment.

Social contacts also typically provide an avenue for accessing documentation. For example, when asked whether she had ever tried to obtain a South African ID, Malebaka replied:

No, I haven't heard of someone who helps people with it ... There are a lot of people from Lesotho who have an ID, it is just that I don't know them. But when I hear about it, it's like if you know someone who deals with them you might get it.

Such avenues depend upon trustworthiness and the strength of social connections, as there are people who swindle migrants willing to pay for South African IDs. Social contacts can also help Basotho women to negotiate documentation at ports of entry, such as obtaining a cross-border permit, or validating a passport in the case of having overstayed a 30-day visitor's permit. Social isolation therefore perpetuates women's reliance on visitors' permits or cross-border permits (or use of no documentation at all), and their subjectivity as 'illegal' migrant workers.

Without South African IDs, Basotho women are unable to open bank and other accounts in South Africa. This makes social contacts in South Africa even more important as potential avenues for women's remittances home to family members in Lesotho, as in

Mamoselantja's case: 'Sometimes I send money through people who are going home.' Without such contacts – or without the possibility of meeting them while staying at the employer's house – some women have no choice but to deliver remittances personally, which can entail considerable costs in terms of both time and money (see Chapter Seven).

Besides the ways in which Basotho women *as migrants* rely on social networks, contacts are especially significant for *domestic workers*: when domestic workers are together, they have an opportunity to share information which can shape their individual employment experiences. Women often talk about their wage levels, working conditions, and of course their employment relationships: 'We chat about the challenges we face at work' (Mamoroesi). Mosele similarly explained, 'When we chat I gather that other people have problems with their employers.' Socialising therefore represents a valuable opportunity for workers not only to gain advice or relief through talking to other domestics, but also to learn about the domestic service labour market.

If such discussions include both Basotho and South African domestics, they may also help Basotho women to discern that they are treated 'differently' from South Africans:

When we meet on Sundays ... most people are crying that they are not well treated ... There is a place ... where we go shopping and talk about our treatment, and you find that Basotho are not handled well by their employers (Selloane).

A worker's sense of being 'cheated' often originates from such social interaction with other domestic workers; this reproduces Basotho women's consciousness of their different experiences as migrant workers, and their subjectivity as 'illegal' domestic workers in particular.

Basotho domestics' subjectivity as 'different' domestic workers is reflected not only in their individual employment relationships but also in terms of their relation to (i.e. their exclusion from) labour regulations. For instance, domestic workers commonly discuss their rights under labour law and regulations, such as minimum wages or legal limits on over time: 'I had a friend in there [South Africa] who once told me that it is not the law that you are paid such a small amount of money' (Malironts'o).

Similarly, social contacts may inform one another of the avenues of representation or assistance open to domestic workers in South Africa, such as the CCMA, SADSAWU, or the UIF. When asked if she knew of any union she could approach for help, Malehloa responded: 'Since I wasn't allowed to go out or to visit anybody, there was no one to tell me about such things. To me they never existed.'⁴² Romero (2002: 201) suggests that social networks may facilitate organisation (even unionisation) of migrant domestics in the United States: 'Although household workers are difficult to organize because they work in isolation from each other, informal networks among workers and collectives serving immigrant women can function as ports of entry to unionization.' In contrast, Basotho migrant domestics' social isolation in South Africa acts as a barrier to their involvement in the existing union (SADSAWU) or to organising themselves.

Some organisations representing domestic workers broadcast information over certain radio stations throughout South Africa, for workers to hear: 'We listen to the radio about what the conditions for domestic workers ought to be' (Litsoako). However, upon hearing such information, domestic workers often remain uncertain about engaging with labour law or institutions. Hence the recommendations or personal advice of another domestic worker are still essential:

When I was sitting in the afternoon watching TV or listening to the radio I would hear a little bit [about workers' rights] ... I would hear that there are certain rights that I do have as a worker ... [but] if I wanted to learn more about rights I couldn't because I knew nobody there, so it was a problem because I didn't know what to do (Maleloko).

While the opinions and encouragement of South African domestics are welcome, Basotho women may still be afraid due to their experience of 'illegality' and lack of correct documentation. For instance they may assume that their 'illegality' precludes any regulations or institutional assistance applying to them: 'The other co-workers advised me to make use of the labour department, but I am afraid because I'm using a passport [and not an ID]' (Khopotso). Thus Basotho workers find the advice of other Basotho women more relevant or reassuring.

⁴² Likewise, Chin (1998: 107) notes of migrant domestics in Malaysia: 'In practice, servants who are not given any rest days and who are prohibited from using the telephone, receiving visitors, or leaving employers' houses, are physically unable to report incidences of abuse.'

Social isolation therefore bounds Basotho women in a cocoon of ignorance about their rights and how they might be enforced, thereby reinforcing women's unique subjectivity as 'illegal' domestic workers. Isolated domestics may also be unable to assess their own employment circumstances as compared with those of women working in neighbouring houses, or even other locations in South Africa. This ignorance reinforces women's exploitability, for instance leaving them to compare a given wage with pay levels received in Lesotho, rather than the wages of South African domestics.⁴³ It also reinforces their reliance on employers as a source of information, while enhancing the employer's significance in Basotho workers' lives: 'There, I was the only one; my friends are the people I stay with [the employers], and their children if they have any. If they don't have any, they are my only friends' (Likhopiso).

For domestic workers, a friend's most important role is that of employment agent: the primary means of finding a domestic service job in South Africa is through friends or family currently employed there. Almost all Basotho women interviewed said that they had found jobs through friends or family members working in South Africa:⁴⁴ 'I asked people who were already working in South Africa to find me a job if possible. After some time, I found the job' (Mamoroesi). Likewise, when asked what they would do if they lost their current jobs, most interviewees identified social or family contacts as their first avenue for seeking alternative work. Social networks – in terms of contacts currently working in South Africa – therefore determine Basotho women's access to the domestic service job market:

It's easy [to find a job in South Africa] because if you know anyone who works in South Africa as a domestic worker, that person may find a job for you. They would call us and tell us that someone, a friend of their employer, a neighbour or anyone is looking for a domestic worker. It's hard if you don't have contacts, I mean people who could recommend you to those looking for domestic

⁴³ Hondagneu-Sotelo (2001: 65-6) has also observed this trend among Latina migrants in the United States: 'Newly arrived immigrant workers are initially willing to take low-paying jobs not only because of their urgent need to begin sending money home but also because they use their society of origin as their point of comparison.' However, unlike Basotho migrants, she also notes that such women typically progress to better-paid jobs (as discussed below).

⁴⁴ A small minority had found jobs in other ways, either through direct recruitment by employers in their home villages, or through individuals ostensibly acting as 'agents', again whom they had heard about through their social networks. Most women are also unable to rely on their previous employer(s) for referrals, given that termination of employment is typically synonymous with conflict between employer and domestic worker (see Chapter Five).

workers. For me it would be easy because I have many acquaintances in South Africa (Matumelo).

As Matumelo observed, the most useful contacts are those who are currently employed in South Africa; however, given Basotho women's reliance on live-in domestic service, such friends cannot offer any accommodation. Thus a dismissed worker must still return home to Lesotho, to await a job opportunity:

Lineo: Do you think that if you lost this job it would be easy to get another job?

Limpho: Yes ... It is easier when there are people who are already looking for people [a worker] but when there is nobody looking for people then yes it may be difficult. If I lose my job right now the only thing I can do is come home.

Once back home in Lesotho, a worker faces new difficulties maintaining these contacts and enquiring about jobs: thus when Mamorena spoke to her friend upon leaving her last job, 'she promised to keep her ear to the ground for me. I constantly asked my children to buy me air time [mobile phone credit] so that I could check with her. When she found something she told me.'

Even if they are able to make some friends, social networks among domestic workers are not so strong or extensive that workers are able to avoid harsh employers or prefer generous ones, though Mamoroesi hoped for this:

How can I change [my employment conditions]? ... If we could unite, so that if one person ill-treats workers she'd know that there won't be anyone to work for her. But they do it because they know that if she expels her worker today, somebody else starts tomorrow.

Hence employers' lack of accountability also reflects labour market dynamics, where would-be workers face difficulties seeking jobs, but employers can easily find domestics. Even for migrant domestic workers in Europe, where workers have more options, referrals and reputation continue to operate in employers' favour rather than workers': 'For workers, an employer's recommendation of a friend/relative is an opportunity for employment rather than a recommendation as a good employer' (Anderson 1999: 127).

Migrants' social boundedness therefore reinforces their bounding within the labour market, and within the employment relationship. Social isolation is an acute disadvantage for women seeking domestic work in South Africa, severely limiting their employment options: 'It would be very hard to find another one [job] because there are no other people that I know' (Likeleli). In such circumstances, most Basotho women accept whatever job is found for them, regardless of the location or the conditions of employment on offer; they are typically unable to choose more favourable job offers over less favourable ones and thereby strategically engage with the domestic service market. Limited job options also exacerbate 'illegal' domestics' exploitability, employers' unbounded discretion over their working and living conditions, and workers' reliance on strategic submissiveness to manage the employment relationship.

The empowering nature of social contacts may explain why some employers are concerned to limit their workers' opportunities to meet other domestics: 'They [employers] say that when domestic workers are together they gang up on their employers' (Keletso). Ignorance is seen as a unique characteristic of Basotho migrants, enhancing their exploitability and therefore their attractiveness to employers.: 'I have heard that they [employers] prefer people from Lesotho because we don't know how things are done here [in South Africa]' (Malebaka). Employers seeking to maintain this ignorance may therefore limit workers' opportunities for social interaction: 'Where I was staying they told us not to visit people. I think their reason is pretty simple, because they don't want us to know how much other people are paid' (Itabeleng).

Basotho women's social isolation and their 'illegality' prevents them from making the shift observed amongst other domestic workers from live-in, low-paid work to live-out, better-paid (and part-time) jobs. Ally (2009) has noted this shift amongst domestic workers in South Africa,⁴⁵ highlighting women's preference for live-out work as a reflection of their desire and concern to be present in raising their own children:

Workers with more experience, who invariably tended to be older, were able to negotiate both live-out and part-time work arrangements fairly successfully as their preferred form of work ... In a sector marked by highly informalized recruitment networks ... workers with more experience not only choose part-time work, but are able to successfully utilize their knowledge of the labour

⁴⁵ Ally's (2009: 82-5) study does not distinguish between foreign versus South African domestics; however, she does consider the significance of migrancy (focusing particularly on internal rural-urban migrants within South Africa) for women's reliance on live-in domestic service.

market's informal circuits to ensure that it is a viable work arrangement (Ally 2009: 61-2).

Hondagneu-Sotelo (2001: 65-6) portrays a similar progression for Latina migrant domestics in the United States, such that 'new' arrivals accept live-in, low-paid jobs, then within a year or two, try to locate a better job: 'At this point in their job trajectory as domestic workers in Los Angeles, most Latina women try to move up in their careers by finding a nanny/housekeeper job that offers higher pay, better treatment, and shorter workdays.' This is echoed by Anderson (1999: 125) regarding overseas migrant domestics in the European Union. In contrast to these accounts, Basotho domestics in South Africa, due to their subjectivity as 'illegal' migrants, and more particularly their social isolation, continue to cling to live-in work; many also struggle to locate *any* alternative jobs, let alone building a capacity to refuse undesirable job offers for more lucrative ones.⁴⁶

This employment pattern is connected to the precariousness of Basotho women's presence in South Africa, and particularly that their presence directly depends upon their continued employment. In this regard, this study departs from other scholarly accounts of 'illegal' labour migration. Two other scenarios are much more commonly depicted in the literature.

In the first scenario, migrants migrate only once they have secured a job, and must leave when they lose it. However, this labour migration occurs legally, typically facilitated by agencies and formalised in written contracts. That is, the legal regime regulating the labour migration ties each worker to a particular employer. The only way for such a migrant to stay in the country without the job is to become 'illegal', for instance by running away from her employer. Social networks may help her to do so, enabling her to abscond by providing accommodation and potentially new ('illegal') job opportunities. (This has been observed amongst migrant workers in Asia, the Middle East, and Canada: for instance, see Bakan and Stasiulis: 1997; Human Rights Watch 2006: 76-8; Raijman, Schammah-Gesser and Kemp 2003: 734-5.)

In the second scenario, migrants migrate 'illegally', and stay with family or friends. While these networks may represent the route for finding a job, they also facilitate the 'illegal'

⁴⁶ Notably, none of the studies cited in this paragraph discuss the significance of 'illegality' in terms of domestic workers' job options or their shift from live-in to live-out work.

migration separately from employment. The friends or family members may or may not have already found a job for the potential migrant – what typically triggers the migration is not the fact of having already found a job for her, but the potential to do so. When such an ‘illegal’ migrant loses her employment, her networks enable her to stay in the country until she finds another job. (This pattern has been observed amongst migrants in the United States and Western Europe: for instance, see Anderson 1999: 126; 2000: 42; Parreñas 2001).⁴⁷

Basotho women’s labour migration is distinct from both these categories. A Mosotho woman’s migration to South Africa directly depends upon her already having used her networks to locate a specific job there. If she loses the job, she cannot stay in South Africa, but must return to Lesotho and activate (or attempt to sustain) her networks to seek another job. Migrant women’s domestic service employment in South Africa is also ‘illegal’ from the outset, not only when they attempt to change jobs. Thus the particular ways in which Basotho women’s ‘illegality’, migration, networks, and employment intersect is unique. The bounding of Basotho women’s social networks within Lesotho constructs a division between South Africa as the site of ‘work’ versus Lesotho as the site of family and ‘life’. Social isolation therefore emphasises migrant women’s status as un-bounded labour while in South Africa.

Social isolation reinforces Basotho women’s subjectivity as un-bounded labour, and particularly their dehumanisation as mere workers while in South Africa, in two key ways. First, it does so directly, by denying them a social existence and social relations beyond that of the employment relationship: hence women’s social lives and identities are bounded within Lesotho. As Ally (2009: 176-80) has observed, social interaction and community membership is especially significant for live-in domestic workers in South Africa, as it allows them to ‘reconstruct their personhood’ in the face of dehumanising employment relations and conditions. Workers’ loss of autonomy, independence and identity is all the more acute when their very presence in South Africa is denounced via their social and legal construction as ‘illegal’ migrant workers. Hence Basotho migrants’ bounding within the employer’s home, within a spatial and social sense, entails the denial of opportunities to socialise and cultivate a community beyond the employer’s home; this directly reinforces migrants’ dehumanisation as mere workers while in South Africa.

⁴⁷ Gamburd (2000: Chapter Two) illustrates how a particular migrant flow may feature both these systems in parallel; that is, a regime of formal recruitment alongside job-seeking via social networks.

Second, it does so indirectly, by reinforcing women's unique subjectivity and labour market position as 'illegal' domestics, working beyond the operation of labour rights and uniquely exploitable.

Beyond the experience of an individual migrant worker, this social isolation can be considered from the perspective of these social networks more broadly, and their boundedness within Lesotho. This also illustrates social networks as a further site of the border as an apparatus, and its disciplining of Basotho migrant domestics. Migrant women's preference to befriend other Basotho workers, and their role as job-seekers for one another, correspond to migration theories which emphasise the role of networks in explaining international migration patterns.⁴⁸ Basotho women's reliance on each other for locating jobs in South Africa also suggests that these networks would be clustered geographically (for instance in particular suburbs within South Africa). Among those women who participated in this research, there were several instances of family or (pre-existing) friendship connections between women working next door or close by to one another in South Africa.

However, due to the constraints outlined above, most Basotho workers' social networks are unlikely to expand once they begin working in South Africa. In some cases, they can even contract, if a woman is unable to maintain contact with the friend who secured the job for her: 'She is staying in [a town 90 kilometres away], the person who referred me to this place. It's been a while since we last talked' (Mamoitheri). Networks take time to develop. While Basotho women's labour migration to South Africa has a long history, its incidence has apparently increased in recent years. As discussed in Chapters One and Seven, most interviewees had only been working in South Africa for a short time. It can take time for an individual migrant to meet other domestics, and particularly other Basotho, in the area where she stays: 'Since I arrived there, there was no where I went to, I was always sitting in the house. People from Lesotho, I [only] knew met lately, when I was about to leave, maybe a month before I left' (Likeleli).

Dodson (1998: 24) has also linked migrant women's limited networks in South Africa with the history of gendered migration patterns in Southern Africa:

⁴⁸ For a brief review of migration theory regarding migrant networks, including a discussion of such networks in the context of migration to South Africa, see Gelderblom and Adams (2006).

One revealing gender difference was in the reported incidence of friends resident in South Africa, with 59% of all the women surveyed but only 36% of the men replying that they had no friends living there. Given that the existence of social networks in the destination country lends powerful encouragement to migration, this is an additional deterrent facing potential female migrants. It is also indicative of the longer-established tradition of male migration, with men living more transnational lives.

Over time, as women working in South Africa stay there longer, and as more women migrate for domestic service jobs, these networks may grow in the future.

A marked contrast exists between Lesotho-based and South-African based networks and connections. Although most women interviewed had found jobs through friends or contacts, these were largely contacts based on networks from Lesotho – that is, family members or people from the same home village in Lesotho (in one case, even a co-worker from a textile factory in Lesotho). Far fewer were those women who found jobs through friends they had met in South Africa.

It is comparatively easier for Basotho domestics to maintain connections with family members or women from the same village in Lesotho, especially since most women return home on a regular basis (see Chapter Seven). In contrast, social networks in South Africa are difficult to build and to maintain over time, with workers' presence there precarious, and their residence in a given location dependent upon continued employment with a particular employer. The relative strength of Lesotho-based networks also acts against clustering, as family members could be working anywhere in South Africa; it is therefore unsurprising that most Basotho women change location when they change jobs.

Two examples illustrate the different strengths of Lesotho-based versus South African-based networks. First, during the research process for this thesis, there was a much greater reliance on referrals and networks for the interviews carried out in Lesotho. There, it was common for a participant to list four or five women from her village who she knew were working or had worked in South Africa, for us to contact and interview. In South Africa, referrals were rare, and it was often difficult to arrange times to meet single or paired participants, let alone organising group gatherings.

Second, women's 'societies' – informal savings cooperatives – also illustrate the contrast between Lesotho-based versus South Africa-based networks.⁴⁹ These can take different forms, with different purposes. Members typically contribute a set monthly amount (anything from R20 to R500), which is then re-distributed during December, or spent at regular intervals on agreed items such as groceries, blankets or cookware (particularly those items for which a discount is available when bought in bulk). Funeral societies are also very common, allowing for a payout to a member in the case of a death in the family and a funeral being held at her home.⁵⁰ A society's funds are often loaned out in order to earn interest and increase the return to each member. Such societies therefore offer a kind of security or safety net to wage-earning women, while connecting them to a network of other women and even allowing them to grow their savings: 'you can buy things which you could not afford to buy alone' (Mosele). As Nerea summarised: 'Society is every woman's weapon.'

Many of the Basotho women interviewed had formed or joined societies in Lesotho; even if the other members were working in different locations within South Africa, they were from the same village and made regular contributions via remittances to Lesotho.⁵¹ However, societies amongst Basotho domestics who had met in South Africa were much rarer. The relative weakness of friendships made in South Africa, and the precariousness of migrants' presence there, frustrate women's attempts to unite and form societies:⁵²

Meisie: Why don't you form a society? You could contribute R100 a month ...

Puseletso: ... How can we let one person take care of our money when these people [employers] dismiss us like they change underwear? We don't know each other that well, we just know that we're from Lesotho. We just know that a person is from Thaba Tseka [district of Lesotho] but we don't know the village.

⁴⁹ Such a society or cooperative must not be confused with the more organised and rigid 'manyano' (South Africa) or 'kopano' (Lesotho). Regarding the significance of manyanos for domestic workers in South Africa, see Ally (2009: Chapter 7). Regarding the history and significance of kopanos in Lesotho, see Epprecht (1993). It is demonstrative of Basotho women's social isolation in South Africa that although manyano membership is high amongst domestic workers in South Africa generally (see Ally 2009: 165), none of the interviewees in this study said they were members of such groups.

⁵⁰ These are known in Sesotho as *mpate sheleng*, literally 'bury me 10 cents'.

⁵¹ Such remittances, while potentially strengthening home-village networks and resources, are still far more individualised and less organised than the patterns of collective remittances witnessed elsewhere, such as Mexican migrants' 'hometown associations' (see Guarnizo 2003: 677-80).

⁵² As Basotho migrant domestics struggle even to form small and informal cooperatives in South Africa, they are certainly unable to unite to establish more stable and formal kinds of organisations, as have for instance been observed among migrant domestics in London (see Anderson 2010).

Women's ability to join societies obviously also depends upon their disposable income, which is low for most 'illegal' domestics. Basotho domestics' opportunities to offer each other support and security are therefore restricted by migrant 'illegality' and its effects on women's employment and presence in South Africa.

Confirming Dodson's observation of the gendered nature of migrant networks (as above), Ulicki and Crush (2002: 67) have asserted, in regards to Basotho migrants in South Africa: 'Men can clearly rely on existing social networks to find employment. Women cannot, probably because their migration for work is more recent, clandestine, and individualized.'⁵³ Interestingly, Gay's (1980: 24-5) study suggests that Basotho migrant women were more able to build social networks in South Africa in earlier decades:

Wherever women went they formed friendships with other migrant women: co-workers, neighbours, or simply older women speaking the same language who recognised a younger country-woman alone in the big city and offered help with housing, food, advice and job-hunting. Working women formed many kinds of associations, re-creating in new ways in the urban environment the types of female cooperative work, exchange and support relations which were important in village life. There were church groups, burial associations, knitting cooperatives, rotating credit and savings associations for pooling salaries, and brewing groups[.]

The contrast with Basotho domestics' current experiences of isolation suggests the significance of contemporary constructions of migrant 'illegality' and the concomitant restrictions on 'illegal' migrant women's opportunities for social networking.⁵⁴

This section has illustrated the various impacts and implications of Basotho women's experience of social isolation while working in South Africa. In addition to the psychological effects on migrants, social isolation reinforces women's 'illegality' by constraining their avenues of negotiating documentation, while reinforcing their constant movements to and from Lesotho by requiring women to personally carry

⁵³ On the gendered nature of migrant networks (and their intersection with employment) more generally, see Mahler and Pessar (2006).

⁵⁴ While Basotho women's movements were, at various times and in various ways, legally restricted throughout the twentieth century, the legal, social and discursive construction of the figure of the 'illegal' migrant in South Africa is a relatively recent phenomenon.

remittances home and to return to Lesotho if they are dismissed. As domestic workers, Basotho women's isolation has profound effects on their employment experience. Social isolation produces women as un-bounded labour and bounds them as 'illegal' domestics within the labour market: it blocks their access to information about labour rights and institutional mechanisms for enforcing them; it keeps workers ignorant of other domestics' working conditions; it restricts their strategies for engaging with employers; and perhaps most importantly, it limits their ability to find jobs.

Such effects shape the unique experience of the 'illegal' Basotho domestic in South African domestic service. Viewed from the perspective of migrant networks, workers' isolation also retards the growth of networks and reinforces the division migrants experience between Lesotho and South Africa, whereby workers' social and familial identities are bounded within Lesotho. Thus the social networks among domestic workers in South Africa forms a significant site of the border and its continual reproduction of migrant 'illegality' and of un-bounded labour. The bounding of women's social networks in Lesotho, together with women's tendency to befriend only other Basotho, also serves to conceal the presence of Basotho migrant domestics in South Africa. Such concealment is the focus of the next section of this chapter.

Invisibility: concealment at individual and institutional levels

Concealment is a key strategy for negotiating migrant 'illegality'; it thus comprises a significant component of a Mosotho domestic's experience of working and staying in South Africa. The border as a disciplinary apparatus also conceals Basotho migrant domestics in less obvious ways, with the result that these women and their movements become invisible to different audiences and in a range of contexts. This concealment, and migrants' resulting invisibility, occurs along several axes: spatial, social, formal, and discursive. In spatial terms, as explored earlier in this chapter, Basotho domestics generally stay indoors at their employers' homes in South Africa. From the suburban streetscape then, many of these workers are simply out of sight. Such workers are also more difficult for organisations like the union or the Department of Labour to identify:

Nthonts'i: Do you think domestic service is under-regulated or over-regulated in South Africa?

'Nete: Ach, I see them [South African domestic workers] being taken care of, it is just that we are from outside and we are hidden.

During an interview at her home in Lesotho, Likhopiso similarly commented: 'when I am in there [South Africa] you would never see me.'

Social invisibility operates alongside this spatial dynamic. As outlined above, spatial immobility – and consequent invisibility in the streets – leads to social isolation; thus Basotho women are often absent from (or invisible to) the gatherings and networks of domestic workers in South Africa. Even when migrant domestics do emerge from their employers' homes and interact with others, they may attempt to conceal their identity as Basotho: 'When I get to Jo'burg [Johannesburg] I don't speak Sesotho, I speak Zulu; you won't even know I'm from Lesotho at all' (Mamputu). This strategy is connected to women's subjectivity as 'illegal' migrant workers, and their fears of detection and deportation. This same fear is voiced in the prayers of 'illegal' Latina migrant domestics in Israel: '*Diosito, haznos invisibles a los ojos de la policía*' (God, make us invisible to the eyes of the police) (Raijman, Schammah-Gesser and Kemp 2003: 740). By staying indoors, Basotho migrant women are usually able to achieve this invisibility themselves.⁵⁵

⁵⁵ An important exception is migrant women's routine encounters with officials at the ports of entry when they return to Lesotho, which therefore become significant disciplinary interactions (see Chapter Four).

A worker's identity may even be concealed from her employer, for instance when she uses an alternative (often anglicised) name – such as 'Mary' or 'Susan' – at work, and her employer never discovers her full Sesotho name. As mentioned above, employers often know little about their domestics' homes and families. An employer may also endeavour to hide her Mosotho domestic's presence or identity from others, seeking to avoid legal repercussions.

Basotho women's formal concealment refers to the lack of any official records regarding their residence or employment in South Africa. Without South African IDs, most women are unable to open accounts or establish records in their own name with medical clinics, insurance companies, financial institutions, and so on. As Likenkeng commented, this lack of any records makes women effectively unidentifiable in South Africa: 'if you're in an accident [and die] you'll go with the unknowns.'

As 'illegal' migrants, there is also no record of Basotho women's employment as domestic workers. They typically hold no written employment contract, and as non-citizens Basotho women cannot register their employment with the UIF.⁵⁶ 'They [employers] are supposed to register us; they don't because we don't have IDs' (Khopotso). The invisibility of women's employment protects them in terms of not being detected by state officials, and thereby helps to prevent deportation. However, it also precludes migrant women from having any evidence at all to present if they approach the CCMA or SADSAWU when unfairly dismissed or not paid their wages. (It is therefore also in employers' interests not to create any official or written record of the 'illegal' employment.) Hence Mamoroesi summarised: 'You have nothing to show that you once worked in South Africa.'

Although reports and statistics regarding domestic service are regularly produced in South Africa,⁵⁷ none of these include foreign domestics working without South African

⁵⁶ For discussion of this Fund, and its inaccessibility for Basotho domestics, see Chapter Five.

⁵⁷ For instance, the Quarterly Labour Force Survey (Statistics South Africa 2010) counts 'private households' as a separate industry of employment, and domestic worker as a distinct occupation. At last count, this occupation included 903,000 domestic workers (representing 7.09% of the total population employed), with 96.01% being female (Statistics South Africa 2010: x, 19). Given the significant incidence of foreigners in domestic service in South Africa (see Chapter One), this estimate of the domestic service labour force is likely to be an under-estimation. Domestic service is also recognised as accounting for a sizeable portion of total informal employment in South Africa (see

IDs. Foreign domestic workers, due to their ‘illegality’, are simply not counted, and thereby rendered formally invisible. As Lund and Budlender (2009: 4-5) have acknowledged:

While domestic workers are enumerated in the labour force surveys, the surveys ... will [not] usually capture domestic workers from neighbouring countries who are in the country illegally as it is in the interests both of their employers and themselves not to be ‘counted’.

This failure to be counted extends to those institutions aiming to organise or represent domestic workers in South Africa – such as SADSAWU, the UIF or the CCMA. Officials from both SADSAWU and the CCMA explained to me that they did not keep records of clients’ ID numbers or nationality. They were therefore unable to provide any detailed information as to whether (or how many) Basotho domestics had approached them for assistance. This silence reinforces migrant women’s invisibility in the domestic service industry in South Africa:

Mahlape: Do you think domestic service is under-regulated or over-regulated in South Africa?

Lijeng: I think it is under-regulated because we continue to work in South Africa but nothing happens to us or our employers.

As migrant domestics, Basotho women are also not counted in census and other surveys of South African households. First, as ‘live-in’ domestic workers, they ‘are not considered as part of the household for whom they work[;] they are enumerated as belonging to a separate household’ (Lund and Budlender 2009: 12). Second, their ‘other household’ – that is, their family home – is in Lesotho and is therefore not captured by South African surveys. Referring to internal migration within South Africa, Posel (2003) has revealed the ways in which household survey data ‘render labour migration invisible’, as South African internal migrants are not recognised as a particular category and are prone to double-counting or under-counting in national household surveys. This dynamic is heightened in the case of cross-border migrant domestic workers in particular, who are more likely to be missed altogether.

Statistics South Africa 2008: 7-8). (For a progression of the number of domestic workers over 2000-2007, aggregated by sex, see Statistics South Africa 2009: 15.)

In Lesotho, absentees are represented by the difference between ‘de jure’ and ‘de facto’ population levels as counted by the census: ‘The de facto population has always been significantly lower than the de jure population because of migrant Basotho workers in South Africa’ (Kingdom of Lesotho 2010: 13). The most recent census (2006) count of female absentees is 40,808 (compared to a male absentee rate of 94,419) (Kingdom of Lesotho 2010: 9). However, there is no statistical account of the reasons for such absenteeism, save for the statistical focus on men’s labour migration to South African mines, with such migrants counted separately (see Kingdom of Lesotho 2010: 63-6). Hence Basotho women’s absence as labour migrants, and as migrant domestic workers in particular, remains unseen by Lesotho authorities.⁵⁸ Similarly, migrant women’s earnings – unlike those of migrant mineworkers, which have long been a key concern for the Lesotho government – remain uncounted and unacknowledged, as they are earned ‘illegally’ and typically remitted to Lesotho in the form of cash hidden from immigration and/or customs officials at the ports of entry.

Such formal invisibility is common amongst ‘illegal’ migrant domestics:

one of the principal obstacles to detailed analysis and more effective protection of the rights of migrant domestic workers is the difficulty of quantifying the phenomenon. The under-registration of such workers is due to various factors. The first and most obvious is the illegal immigrant status of many migrant domestic workers (Pizarro 2004: 6).

Indeed, many scholars of migrant domestic workers make passing mention to their ‘invisibility’, typically by labelling such workers as ‘invisible workers’ or ‘invisible women’ (e.g. Anderson 1999; 2000; Chang 2000: 32). However, this invisibility is usually simply declared; its social and legal construction is rarely the subject of any concerted analysis. One notable exception is the analysis provided by Chin (2003), who examines the contrasted visibility of migrant domestics’ bodies in Malaysia, and the invisibility of their work. Similarly, Basotho domestics’ work is not only invisible to institutions and official records (as discussed in this section), but was also largely ‘invisible’ to myself as a researcher: note the relative absence of photographs in Chapter Five (i.e. the lack of any

⁵⁸ These women may be counted in the ‘de jure’ population as temporarily absent members of the household in Lesotho’s population and housing census (see Bureau of Statistics 2006), and as ‘economically active’ (see Bureau of Statistics 2009); however, this does not represent any recognition of their current work location as outside Lesotho, or their employment as domestic workers.

photographs depicting the workplace, and women's everyday employment activities), compared with the other empirical chapters in this thesis.

In other contexts, changes in law and policy have served to render 'illegal' or undocumented migrants – or at least their numbers – visible. For instance Benson (2002: 498) notes of undocumented migrants in the United States: 'we get glimpses of our invisible neighbours when our laws create opportunities for them to come out of the shadows.' Though the South African government has in the past offered amnesties (that is, eligibility for a South African ID) to various categories of migrants, such amnesties have not reached Basotho migrant domestic workers, and are unlikely to be repeated in the future (see Chapter Seven).

The border also conceals, or renders invisible, these women's labour migration in official records more generally. As explained in Chapter Four, most Basotho women migrate to and from South Africa through ports of entry, and hold documents to enable (and evidence) this – including cross-border permits or 30-day visitors' permits. For holders of cross-border permits, individual cross-border movements are not recorded by officials. In the case of visitors' permits, each entry into South Africa is recorded, but as a 'visit' – for instance for the purpose of shopping or visiting family members. When crossing back and forward through ports of entry, Basotho women are typically concerned to conceal the fact of their employment in South Africa, for instance by lying to officials or not carrying heavy luggage. As a result, women's labour migration for domestic service is rendered invisible in official immigration records of the South African Department of Home Affairs. Even the documents, stickers and stamps that are used may be fraudulent or fraudulently obtained, further complicating the question of government records and their reliability or accuracy.

These official figures provide a key source for government and academic commentary on labour migration into South Africa. Using government figures or survey responses, several migration researchers in Southern Africa have commented on the gendered nature of migrants' trips to South Africa: 'Women are far less likely than men to have gone to South Africa to work or even to look for work ... Females are also more likely than males to travel for family affairs' (Sechaba Consultants and Associates 2002: 20-1). Similarly:

[It] is hard to separate 'labour migration' as a distinct category for female migrants, the patterns and strategies of their mobility reflecting the complex

combination of productive and reproductive, paid and unpaid tasks that women typically perform (Dodson and Crush 2004: 101).

Dodson (1998) uses survey data to reproduce the impression of cross-border migrant women in South Africa as migrating primarily for the purposes of shopping or visiting friends. However, as seen in Chapter Four, these represent the commonest excuses or lies offered by Basotho migrant domestic workers when they negotiate the ports of entry. Such accounts deny the existence of migrant women whose movements represent labour migration per se – including most of the Basotho migrant domestics of this study.⁵⁹

Researchers who equate ‘illegal’ with ‘undocumented’ may ironically further conceal women’s ‘illegal’ labour migration by only considering the use of documentation for crossing borders. For instance Dodson’s (1998: 20-1) survey data indicated that 95% of (potential or actual) female cross-border migrants into South Africa are able to obtain a passport before departure from their home country (compared to 86% of males). She therefore inferred that ‘women appear to have a higher incidence of legal migration than male migrants. ... This ... shows that women come to South Africa not as undocumented, would-be immigrants but as legal migrants.’ However, documentation is not synonymous with legality for migrant domestic workers; assuming so only *further* conceals women’s labour migration flows. This thesis suggests that the data underlying such observations do not accurately reflect women’s hidden labour migration. This relates to the final form of Basotho women’s concealment – discursive invisibility.

There are no media reports – in either South Africa or Lesotho – focusing on Basotho women’s employment in domestic service in South Africa. Reports may mention migrant domestics in passing (e.g. see Makanga 2010), but nowhere are these migrants’ unique circumstances or experiences considered. While official reports in Lesotho mention the decline in Basotho men’s employment on South African mines, there is no governmental acknowledgement of a corresponding shift to women’s labour migration to South Africa. As mentioned in the literature review in Chapter One, the only official avenue for women’s ‘unskilled’ labour migration – as reflected in the only scholarly studies of Basotho women’s labour migration to South Africa (e.g. Johnston 2007; Ulicki and Crush 2002) – is that of seasonal farm work along the Lesotho-Free State border.

⁵⁹ The literature review in Chapter One demonstrates in greater detail how Basotho migrant domestics have been historically rendered invisible in scholarly literature.

In South Africa, Basotho women's persistent doubts or pessimism regarding their rights as workers, even after hearing radio broadcasts, suggests a silence in these broadcasts as to the applicability of labour protections to non-citizen domestic workers. Migrant domestics are not discussed or addressed publicly by any governmental or other institution in South Africa; regular television and radio programs regarding domestic service in South Africa simply present the industry as if migrant domestics do not exist. Similarly, although a wide range of institutions – governmental, non-governmental and church-based – represent and assist migrants in South Africa (see CORMSA 2009), none of these exclusively or even primarily represent cross-border migrant domestics. Almost none of the interviewees in this study reported approaching (or being approached by) such organisations.

This is not to suggest that nobody apart from migrants, their families and their employers are aware of this pattern of labour migration. In Lesotho, many individuals I spoke with – including interviewees, other villagers, and government employees alike – openly acknowledged the trend that more Basotho women are migrating to South Africa for waged work than in previous decades. In South Africa, it is also not uncommon for general members of the public to know (or know of) either a Mosotho domestic or someone who employs one. In my research through both South Africa and Lesotho, no academic, domestic worker or other individual ever expressed surprise at the notion that Basotho women were migrating to work as domestics in South Africa.⁶⁰ Officials from the Department of Home Affairs, who 'manage' and record movements at ports of entry, openly acknowledge that women come to South Africa to work as domestics.

A high-level official in the South African Human Rights Commission even admitted to me that his domestic worker was a Mosotho who did not have an ID and therefore had to return to Lesotho every month to renew her documents. He explained that even though she lived-in with the family, they still paid her the minimum wage, as it would be too risky for him personally to pay her less, in case somebody found out. This official recounted to me a conversation between himself and a magistrate friend (who had visited his home) regarding the worker's nationality and wage: when he had told the friend that she was a Mosotho and her wage level, the friend had been shocked and declared: 'You're

⁶⁰ Many did shift, however, to speaking about Basotho men working on South African mines, thereby confirming the relative visibility of Basotho men's labour migration compared to Basotho women's.

paying her far too much.’ Figure 6.5 similarly illustrates that the exploitation of foreign domestic workers is well known amongst the South African general public:

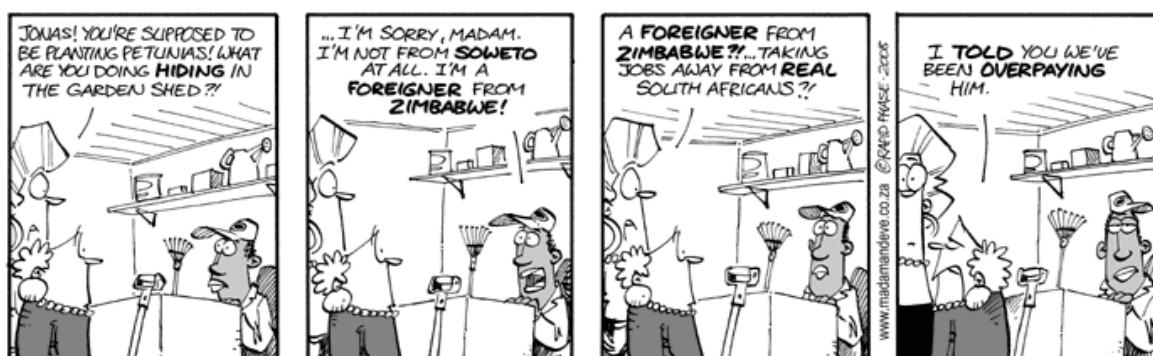


Figure 6.5 Madam and Eve comic during the May 2008 xenophobic riots and violence.⁶¹

Hence migrant domestics' employment is commonly known, but continues unrecorded..

The above comic strip also hints at two further aspects of Basotho domestics' discursive invisibility. First, where media and scholars focus on the presence of 'illegal' migrants (including migrant workers) in South Africa, they invariably refer to more 'visible' migrants such as Nigerians or Zimbabweans. Basotho migrants, who share a common language and appearance with South African Sotho,⁶² are seemingly excluded from these discussions.⁶³ Migrant domestic workers also commonly escape the attention of those commenting on, or even researching, migrant workers in South Africa.⁶⁴ In my scans of media and popular discourse in South Africa during the fieldwork period,⁶⁵ while I encountered many discussions of migration regarding more 'visible' migrants in South Africa, never were Basotho migrants – let alone Basotho domestics – discussed.

⁶¹ Madam and Eve is a popular comic strip in South Africa (<http://www.madamandeve.co.za>). Centring on a white suburban household where a black domestic worker is employed, it provides political satire and insight into the nature and context of domestic service employment relationships in South Africa. This particular comic, from 23rd May 2008, is accessible at <http://www.madamandeve.co.za/cartoons/me003987.gif>

⁶² For a visual representation of the commonality of the Sesotho language across Lesotho and South Africa, see <http://www.statssa.gov.za/census2001/digiAtlas/index.html> (map type: Home Language (Dominant); Map Series: National).

⁶³ Regarding cross-border migration in the South African press more generally, including the focus on 'visible' African migrants, see McDonald & Jacobs (2005).

⁶⁴ For instance, even in Lefko-Everett's (2007: 12) qualitative study of migrant women in South Africa, 'it was difficult for the fieldworkers to identify less 'visible' female labour migrants in Johannesburg and, as a result, many of ... [the] migrants [involved in the study] are market vendors and traders.'

⁶⁵ These scans included major television, radio and print media on both national and provincial (Free State) levels.

Second, Basotho domestics and their employment relationships escape much popular discourse and research on domestic service in South Africa. This invisibility relates to the racial context of domestic service in South Africa. According to the racialisation of domestic service in South Africa (in both public and academic discourses), black employers of domestics are largely ignored. That is, domestic employment relationships are assumed to correspond to the popular image of a white employer and a black maid. The two notable exceptions – King (2007: Chapter Six) and Dilata (2008) – expressly focus on black employers of black domestics, with the explicit aim of comparing them with white employers. Dilata (2008: 19) mentions black employers' preference for migrants from rural areas or neighbouring countries, but only in the context of an assertion that black employers are similar to white ones and repeat the same stereotypes. As noted in Chapter One, most of the Basotho women involved in this study had black employers, and struggled to access white ones; this suggests a pattern of employment which has thus far remained invisible in public and academic discourse, and has contributed to the ongoing concealment of Basotho domestics.

The border as a complex apparatus actively conceals Basotho women as 'invisible' migrant workers. As an effect of the border, this concealment does not simply result from the efforts of one particular group; rather, the actions of migrants, employers, media, scholars and government officials together construct this invisibility. In addition, as an effect of the border this concealment is connected to the construction of a particular subjectivity for Basotho domestics, which is produced through, and actively reinforces, their 'illegality'. This section also explained four axes of migrant invisibility: spatial, social, formal and discursive. Women's invisibility is shown to be intimately connected to their subjectivity as 'illegal' migrants, and the other aspects of 'illegality' discussed in this chapter (namely imprisonment and social isolation). While these Basotho migrants' lives and movements are unbounded, in terms of not being recorded or captured by written records and/or databases, women themselves experience being bounded within an ongoing silence and concealment. Their invisibility also reflects their dehumanisation as mere workers in South Africa: Basotho domestics quite literally do not count as people in South African society, or even as workers in domestic service; they are present only as dehumanised embodiments of labour-power, toiling in South African homes.

Conclusion

This chapter has extended the analysis of migrant ‘illegality’ and un-bounded labour, by focusing on migrants’ experiences of imprisonment, social isolation and invisibility. Basotho women’s ‘illegality’ hinders their opportunities for free movement, social networking, and acknowledgement or recognition by institutions and South African or Lesotho society in general. These experiences are not simply effects of migrant ‘illegality’, but sites and means by which that ‘illegality’ continues to be socially, legally and discursively reproduced.

Imprisonment, isolation and invisibility demonstrate key ways in which Basotho women and their labour migration are both bounded and unbounded. Most obviously, an ‘illegal’ domestics’ habit of staying indoors represents a spatial boundedness. The walls and gates of her employer’s home also often signify the bounds of a Mosotho domestic’s social relations in South Africa: even though she may find opportunities to meet with others, suspicion and mistrust arising from her ‘illegality’ and deportability tend to frustrate any attempts to build meaningful social connections in South Africa. Social isolation is also due to the precariousness and instability of her employment in South Africa; what is more, it reinforces this instability by denying her a safety net or access to alternative job opportunities in the area where she works.

Migrants’ invisibility reinforces the other aspects of un-boundedness and ‘illegality’ as produced by the border. As workers, these migrants’ invisibility places them beyond the reach or even concern of institutions regulating domestic service in South Africa, facilitating the ostensible failure of labour law to regulate their employment, the ‘illegal’ domestic worker’s unique exploitability and dependence upon her employer, and her bounding within the employment relationship. Social isolation and invisibility also reflect the boundedness of Basotho women’s familial lives and identities within Lesotho, and reinforce the dehumanising subjectivity of the ‘illegal’ migrant worker. Effectively concealed from government officials, Basotho migrant women are shielded against any concerted efforts to expose them and exclude them from South African domestic service. The ease of concealment further enhances domestic service’s attractiveness to ‘illegal’ Basotho migrants. Thus invisibility serves to perpetuate Basotho women’s boundedness in terms of their continued employment and their oscillations between South Africa and Lesotho. These experiences provide the central focus of the next chapter.

Chapter Seven

Maintaining Mobility:

Un-bounded lives and Basotho women's perpetual circulations

It's difficult to survive when one is a breadwinner. Life is much more difficult than before.

(Likae)

I just go to South Africa for work and then want to come back to Lesotho to my children. [But] I still want legal status in South Africa because there is no life without money.

(Malironts'o)

When we go back home they envy us, not knowing that we are struggling here.

(Maponts'o)

Basotho women's experiences as un-bounded labour involve repeated and perpetual circulations between South Africa and Lesotho. This chapter explores and explains these circulations, while developing the concepts of borderwork, migrant 'illegality' and un-bounded labour. The first section depicts the modes and causes of migrant women's un-bounding in terms of their initial decisions to engage in labour migration to South Africa. While labour migration appears as women's unbounding from gender and familial roles, this strategy is shown to reinforce and bound women within those roles and responsibilities. Women's 'illegality' as migrants also bounds their families, as well as their communal identities and practices, within Lesotho. Meanwhile, migrant domestics are disciplined as 'illegal' workers in South Africa, to the denial of their social lives and their humanity. As a result, Basotho women experience a division between Lesotho as the site of 'life' versus South Africa as the site of 'work'; their lives and personhood are split between these two worlds.

In order to maintain both 'life' and 'work', Basotho domestics continually orchestrate a range of cross-border circulations; these include their own movements, as well as movements of their documents or their wages (or items purchased therewith). While such circulations appear unbounded or unrestricted, they bound women's movements to and within South Africa. Continual circulations also encourage more women (and their

children) to engage in labour migration to South Africa. An analysis of Basotho domestics' accounts of progress, decline or stagnation as a result of labour migration similarly reveal women's boundedness in terms of their dependence on cash and on wage labour in order to obtain it. Ultimately Basotho domestics and their children remain trapped within this larger, inter-generational cycle.

This chapter develops this argument while continuing to draw on women's interview accounts of their life trajectories and everyday experiences. The aspects of migrant 'illegality' explained here are also shown to reinforce (and be reinforced by) those covered in the previous three chapters. For instance Basotho domestics' constant mobility between South Africa and Lesotho compound their exploitability and social isolation, while their limited networks and difficulties accessing documentation shape the means and motivations of their circulations. This chapter also demonstrates how the border as a disciplinary apparatus bounds Basotho women within a cycle of poverty, labour, migration and 'illegality'. This leads to an engagement with notions of migration-development linkages, and offers a broader perspective for drawing together the analysis elaborated throughout this thesis.

Un-bounded mothers: Basotho families ‘differently divided’¹

This section explains Basotho women’s un-boundedness in regards to their familial roles and their entry into labour migration. For a number of reasons outlined below, more Basotho women are engaging in labour migration to South Africa than in the past. Although their movements and employment appear unbounded, women’s own accounts demonstrate that this survival or livelihood strategy in fact represents their boundedness within persistent gender roles and familial responsibilities.

Basotho families have long been divided through the departure and regular return of husbands and fathers for work in the mines of South Africa. As noted in Chapter One, these ‘labour reserve’ dynamics were well-documented in the 1970s and 1980s, and shown to produce a range of economic and social impacts within ‘sending’ families and communities of Lesotho. In particular, these studies demonstrated a situation of ongoing dependence, both in a national sense (in terms of Lesotho’s chronic economic dependence on South Africa), and in terms of the dependence experienced by Basotho women, children, and other community members, on the wages earned by Basotho men in South Africa. Basotho families – most typically women – supplemented this income by tending family plots in Lesotho. In more recent years, a number of factors have led to this scenario changing in several ways.²

To begin, mining retrenchments in South Africa, and in particular the preferential retrenchment of foreigners over South African citizens, has dramatically reduced Basotho men’s opportunities for waged employment.³ Figure 7.1 shows the declining number of Basotho men employed in these mines over recent years:

¹ This is a reference to Murray’s seminal work ‘Families Divided’, which examined the system of oscillating labour migration of Basotho men to the South African mines, while their wives and children stayed in rural Lesotho (Murray 1981).

² This background is discussed here not to condone or naturalise the Basotho male labour migration dynamic during the 20th century, but rather to illustrate how the dependencies created under that system have led to alternative survival or livelihood strategies in the face of major changes.

³ For discussions of this decline and its impact on Basotho families and livelihoods, see Coplan (2001b: 96-101); Sweetman (1995). Some literature has, in passing, linked mining retrenchments to Basotho women’s labour migration as an alternative livelihood strategy: see Coplan (2001b: 102); Coplan and Tholane (1995); Dodson et al. (2008); Matobo (2002); Seidman (2009); Ulicki and Crush (2000: 73). However, as observed in Chapter One, none of these has examined Basotho women’s employment in South African domestic service in particular.

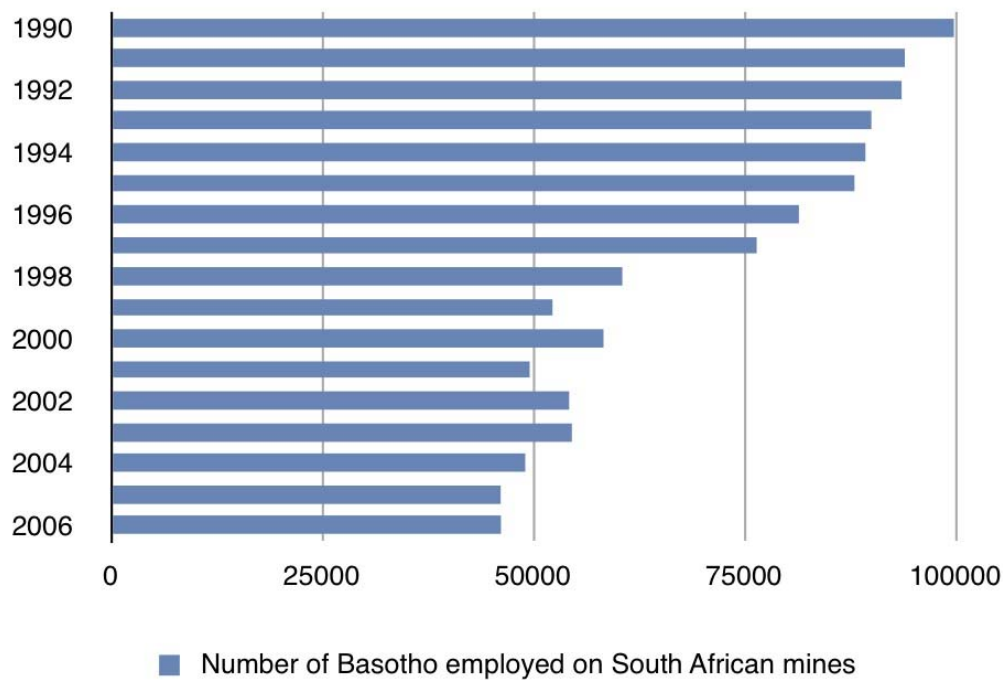


Figure 7.1 Declining Basotho employment on the South African mines.⁴ Source: adapted from Department of Labour, South Africa (2007: 11). Similar sets of declining figures can also be found in Coplan (2001b); Department of Labour, Kingdom of Lesotho (2005); Gordon (1994).

The HIV/AIDS epidemic has also proved devastating for Lesotho, a country with one of the highest infection rates in the world. As well as the disease's direct effects in terms of illness and loss of economically active population, HIV/AIDS has impacted on family structures and 'traditional' family responsibilities.⁵ Although abandonment or desertion by Basotho men has occurred for decades, its incidence has apparently increased. Maponts'o contextualised her husband's lack of financial support for their child by explaining: 'In Lesotho we are used to men who desert their families. You adapt to the situation.' Thus even a man who is employed is not necessarily expected to support his wife and children financially, as Mathato noted about her own husband:

I don't care what he does because I'm not used to him giving me any money. It's not like he just started this now. He did not give me money while he was still working in the mines ... You don't care what he does with it if you're never used to it.

⁴ The 1995 amnesty, whereby eligible mineworkers were offered South African citizenship, may warp these figures (in that those who took up this amnesty were no longer counted as Basotho). Regarding this amnesty and Basotho mineworkers, Coplan (2001b: 99) observes: 'Ultimately nearly 35,000 permits were applied for (out of about 60,000 eligible Basotho) and at length granted by the Department of Home Affairs.'

⁵ Curiously, there is hardly any literature focusing on the impacts of HIV/AIDS on Basotho families or marriage practices, the only exception being Harrison et al. (2009).

In these circumstances, Basotho women have come to bear the primary responsibility for fulfilling the basic needs of children and other dependants. As Coplan (2001b: 102) has confirmed, 'ultimately, Basotho women are responsible for the welfare of their children'.

In addition, drought and widespread erosion have made subsistence agriculture in Lesotho less fruitful, and therefore a less reliable source of food or income for rural Basotho families. During an interview in South Africa, Likenkeng described the state of agriculture in Lesotho: 'If there is no rain, there is no food. We don't get much rain – you can even go and see for yourselves.' Mamoitheri noted the declining yields on her family's land, and the result that the food so provided runs out earlier in the year:

We plough our fields. Though we no longer get the produce we used to get. ... I don't know [why], it is the bad weather. I used to get a lot of produce ... [Now] we don't get anything ... We still had some before winter but now it's finished.

Combined, these factors have destabilised Basotho family structures and means of livelihood, as perpetuated under the regime of male labour migration. Put simply: there are less Basotho men alive and healthy enough to work; those Basotho men capable of working are less able to secure waged employment; and whether employed or not, Basotho men are less likely to carry the responsibility of supporting wives and children in Lesotho (and are therefore less likely to share/remit any wages they might earn). As the new breadwinners, Basotho women shoulder the burden of these changed conditions: they are responsible for meeting the basic needs of themselves and their children, and they are now less able to rely either on a man's wages, or local agriculture, to do so.

As in other societies ravaged by HIV/AIDS, orphans in Lesotho often become the responsibility of aunts and grandmothers. Similarly, a child born out of wedlock, to a young mother, often becomes the responsibility of the mother's parents, and the grandmother in particular (see Harrison et al. 2009). Such practices leave many (middle-aged or older) Basotho women responsible for feeding, housing, clothing, and educating their grandchildren. Alternatively, a young mother may be expected to financially help her own mother, who has assumed custody of her child/ren (Harrison et al. 2009). Combined with the lack of employment opportunities (for both men and women), these factors mean that Basotho women may carry the burden of supporting several family

members. For instance, earning a mere R600 in South Africa, Puseletso explained her family's circumstances:

I'm married but my husband passed away. I have five children [ranging from six to 18 years old] ... I'm staying with seven people because I'm helping my brother-in-law, he is a cripple and he never got married. I'm the only one who is looking after our family. My in-laws are dead, all of them. I'm also looking after my sister-in-law's child because she also passed away. He is also dependent on me.

Thus almost all of the women interviewed said they had entered employment in South Africa in order to meet the basic needs of their children or other dependants. As well as being a survival or livelihood strategy, working in South Africa was typically explained as an unforeseen or emergency tactic. Most women therefore stated that migrating for work in South Africa had never been in their long-term plans. Rather, such a move was generally adopted as a last-resort means of survival; to meet children's immediate needs, such as food, clothing, and school fees. Khopotso's account was typical:

Mahlape: When you were a child, did you think you would migrate for work as an adult?

Khopotso: No, I never thought I would do that, but because of hitches that life throws at you I ended going there. Having lost my husband through death I was obliged to go and work for my children.

Some women admitted that as children, they had considered wage labour, and even working in South Africa. However, even in these cases, the decision to start working was always explained as a response to hardship.

It is therefore typically some crisis, a time of great difficulty providing for family, that compels Basotho women to start waged work. During interviews, women often described the troubles which had driven them to migrate in terms of children's hunger, or children 'going to bed without eating anything' (Limpho).⁶ For instance Malebaka explained the progress she had experienced since working:

⁶ These statements confirm Dodson et al.'s (2008: 41) observation that female migrant-sending households from Lesotho are more 'deprived' (more likely to report having gone without food in the previous year) than male migrant-sending households.

Maybe if I buy 5kg of maize meal, I would find myself not eating it. I would just drink water so that there is more for the children, so that when they go to school there is something for them to eat. That was my life when I was still in Lesotho, but now at least I am able to get a bigger bag of maize meal that even lasts a month or so.

Similarly, women would describe their difficulties in Lesotho as ‘family problems’, suggesting that it was not simply providing for themselves that was a concern, but providing for family dependants, in particular children and parents.

The above explanation of women’s labour migration as a more recent (or increasingly popular) strategy for Basotho households is supported by interviewee’s accounts of their length of time employed as well as anecdotal accounts from within Lesotho. This was often expressed in terms of a shift from men’s to women’s migration. For example, during an interview in South Africa, Mamoitheri explained that she was supporting her brother: ‘Yes, they have their own problems. It is tough there. Men are going home while women are going out to work.’

However, this trend does not represent a simple reversal of prior gender roles within Basotho families. Women’s apparent unbounding from sedentary and agriculture-based roles is in fact countered by their experiences of still being bounded by familial and gendered obligations. While more Basotho mothers engage in labour migration (a typically masculine role for Basotho), fathers are not filling the (feminine) role of carer. Out of all of the women interviewed who were responsible for children in Lesotho, almost none had left any children in the sole care of a male relative. For Mamoroesi, who had, doing so was a serious concern:

It was not easy [deciding to come to South Africa] because I was used to staying with my children. I was the one who was reprimanding them if they don’t behave. Now I was going to leave them with their father. While I was gone I was always wondering how is my girl doing, because fathers are not good at taking care of families, let alone children.

Finding a person to care for children was generally seen as an entirely unrelated matter to husbands or men in general. The everyday care of homes and children in Lesotho

therefore remains the primary responsibility of Basotho women.⁷ A would-be migrant woman must liaise and negotiate with other female family members – usually the children’s aunt or grandmother – for the care of children she will leave behind. This other family member therefore becomes an important figure in the decision to migrate.

If such an alternative carer is not present, women must resort to more distant relatives, making the decision to leave all the more difficult, as Likae found in leaving her three sons and one daughter:

Likae: It was very difficult! Uh! I was forced to leave my children. There was nobody to look after them while I was away because both my parents have since passed. If I still had parents they could have helped a lot.

Lineo: What about other relatives, the in-laws, brothers, sisters, couldn’t they help?

Likae: No, nobody could help me because all my siblings are dead. However, sometimes my [cousins] help. So they took care of them when I left, though it was very hard.

Occasionally, no suitable relatives can be found at all, and women simply leave children ‘all by themselves’. In such cases, the eldest child must carry out the role of carer.⁸ For instance, because her mother has suffered a stroke and ‘can’t do anything’, Malebaka had to leave her children ‘on their own’ in Lesotho. She rented a room in town for her 15-year-old daughter to live in with her 3-year-old. Her 11-year-old son was sent to stay with his uncles, who rely on the vegetables they harvest on their family plot of land. She wished that she could hire someone to look after the children, but did not have enough money;⁹

⁷ In emphasising these relations I do not seek to privilege ‘Western’ family structures or relations over Basotho ones; rather, my concern is to denaturalise (by drawing attention to) the gendered nature of Basotho women’s roles and responsibilities.

⁸ In these circumstances, it is again a female (girl) who typically bears this responsibility, and she may need to decrease or eliminate school attendance in order to fulfil it. In rural Lesotho, boys often become cattle-herders, absent (like their fathers) from the family home for long periods of time. For a brief general review of literature examining gender in such second generations, see Mahler and Pessar (2006: 35-7).

⁹ Out of all the interviews for this study, only two involved any discussion of such hiring. Aside from Malebaka’s account above, one other woman interviewed did in fact hire someone to care for her children in Lesotho, who lived in her late mother’s house. (She paid a fifth of her monthly salary of R1000.) The rarity of such arrangements, even in the face of severe difficulties finding suitable care arrangements, demonstrates the social expectation in Lesotho for children ‘left behind’ to remain in the custody of family members instead of paid carers.

she could feed her children but barely managed to pay their school fees. When children are left 'alone', neighbours may help to watch over them: 'Our problem is our job, because we just leave our children by themselves. If something happens we are far from them, but neighbours take care of them' (Khopotso).

Women's physical absence from Lesotho does not diminish their responsibilities and concerns for children left behind. Thus the pain and trauma they experience upon departing for South Africa commonly continues: 'I felt very bad when I had to leave, looking at my young child that I was leaving. I was so emotional I was even crying. I stayed crying, every time when I think of my children' (Khajane). For those respondents who commented that the decision to go to South Africa had been a difficult one, the most common reason given was 'I was leaving my children' (Mampoi).¹⁰ Similarly, women commonly described missing their children and continuing to worry about their welfare as the worst aspect of working in South Africa.¹¹

Women's worry was particularly acute if those children were left 'alone' at home or were very young, but continued even in other cases, such as when children were left in the reliable care of close relatives. This concern reflects a migrant Mosotho woman's ongoing responsibility for her children, and the ongoing absence of a mother figure in their lives. As mentioned above, the children's father is also most often absent, whether physically or in terms of children's everyday care. Basotho women's migration therefore causes the ongoing absence of both a mother and a father: as summarised by Mathabelang, 'our children become orphans'. This occurs when Basotho women, by migrating for waged work, take on the 'traditional' role of fathers (as breadwinner labour migrants). However, in doing so, they do not relinquish but in fact reinforce their own responsibilities as Basotho mothers – a role that remains unfulfilled by anyone else. Thus Likenkeng explained that 'I'm a mother and a father at the same time, so that my children can go to school.'

¹⁰ Lefko-Everett (2007) presents similar statements from her sample of migrant women in Southern Africa: 'leaving children and other family members behind in countries of origin was exceedingly difficult for many of the women interviewed'.

¹¹ The emotional, psychological, and broader social consequences of this trend for Basotho children and communities remain unstudied. Such questions fall beyond the scope of this study, except in the ways that they shape the experiences and strategies of Basotho migrant women themselves (as the focus of this thesis). However, this certainly represents an important subject for future research.

Leaving children behind in Lesotho can certainly be seen as a continuation of the labour migration pattern established by Basotho men. As Coplan (2001b: 102) notes of Basotho women, 'as in the case of their migrant men, the choice may often be between supporting children and bringing them up.' However, the parallel Coplan draws is misleading. Unlike migrant women, Basotho mineworkers left their families behind in Lesotho with children in the stable care of mothers or other kin. Basotho women have less of a social and familial safety-net within which to leave their children (because they themselves form this net).

The splitting of Basotho families by women's labour migration must therefore not be understood as merely continuing the entrenched system of labour migration between Lesotho and South Africa. Rather, women's inability to 'bring the children' (or other dependants) with them reflects these migrants' 'illegality'. When asked what 'illegality' or having a South African ID would or did mean to them, several interviewees spoke of their separation from children: 'If I can get an ID I'll have fulfilled my dream, because I want to bring my children along' (Malikotsi).

There are several ways in which women's 'illegality' is connected with their need to leave children behind in Lesotho. Without an ID, a woman's children cannot easily access schooling in South Africa. Housing also presents a problem: 'If it was possible [to become a citizen] I would like to go [to South Africa]. Provided there is a place to stay then I would take my children, and then go to stay' (Malironts'o). As 'illegal' migrants, women's access to housing is limited; this also reinforces their bounding within the domestic service industry, and within live-in employment in particular. Employers typically do not allow visitors, let alone co-residents such as children, on their properties. Thus interviewees commonly explained their separation from children as the result of their employment as domestic workers: 'domestic service jobs separate us from our families' (Mathabelang).

Thus, without an ID, and as 'illegal' migrants, Basotho women have little choice but to leave children and other dependants behind in Lesotho. However, this does not entail her unbounding from her significant familial and social responsibilities there: 'The painful thing about Lesotho is everything is upon you – clothing, shelter and food' (Machopo). Rather, women remain bounded within their motherhood, faced with the various challenges undermining more 'traditional' means of fulfilling these responsibilities.

Meanwhile, her 'illegality' as an unwelcome migrant worker in South Africa bounds her family members within Lesotho. As the next section explains, this creates particular divisions and connections between Lesotho and South Africa in women's lives.

Money, work and life

This section interrogates Basotho women's entry into wage labour as a strategy for providing for themselves and their families, and particularly their choice of domestic work in South Africa. Women's 'illegality', with their strategic and precarious presence in South Africa, gives rise to a division between the two countries as sites of 'work' versus 'life'. However, ultimately these worlds are inextricably connected, through the medium of money – that which enables life but is obtained through wage labour. This analysis sets the context for an account of the ways in which Basotho domestics negotiate the divisions and connections between Lesotho and South Africa.

As with the splitting of their families, the means by which Basotho women are able to meet the everyday needs of their children – that is, through engagement in wage labour – must not simply be accepted as natural or inevitable. Rather, this can be understood within Lesotho's particular historical context. Lesotho's incorporation during the twentieth century as a 'labour reserve' for South Africa has been well-documented (e.g. Murray 1981). By late 1970s, it was 'estimated that some 70 percent of average rural household income [in Lesotho] is derived from wage labour in South Africa, while only 6 percent is derived from domestic crop production' (Van der Wiel 1977, as cited in Ferguson 1990: 112). The mass employment of Basotho men in South African mines, and consequent flows of money into Lesotho, helped create a situation whereby cash income became the dominant means of survival for Basotho families. Farms and livestock therefore became mere secondary or supplementary avenues for survival or livelihood.

The retrenchment of Basotho men has not reversed this situation: the need for cash persists. Since its colonial transformation 'from granary to labour reserve' in the 19th and 20th centuries (see Murray 1981: Chapter 1), Lesotho is unable simply to revert to agriculture or other means for survival or economic growth. Some basic needs, such as food, may be met (at least temporarily) through social or kinship networks, or through agriculture or gardening. However, even for rural Basotho households holding cultivable family plots of land, cash has become essential.¹²

If I were to sit at home [in Lesotho] doing nothing life will be even more difficult ... Where will we get the money to buy soap? Because we always

¹² For a historical perspective of Basotho women's experiences of the spread of cash throughout the country during the colonial regime, see Epprecht (2000: 48-50).

have mealies [maize]. We are able to eat. We have beans and vegetables. The question is where will you get the money to buy clothes and cosmetics? (Mamoitheri).

Children's education also drives the need for work: the payment of school fees is one basic responsibility which simply cannot be met without some form of engagement with the cash economy. Thus engagement in wage labour serves as the leading strategy to ensure long-term security or survival for Basotho women and their families.

The textile factories clustered along Lesotho's border towns represent the main 'unskilled' employment opportunity for women within Lesotho. These factories, usually owned by Chinese or other foreign investors, employ thousands of Basotho – mostly women – in jobs such as sewing or cutting.¹³ However, these jobs can be difficult to secure; for example, a woman may need to bribe the supervisor. If a job is secured, working in the factories often makes women ill and they are unable to continue. Hence Ntsoaki's perception that only young Basotho could withstand the difficult conditions of factory work: 'I kept looking for a job, I ended up in the factories but I realized that there was too much work involved for my age, so I decided to come and work as a domestic worker.'

Many of the younger Basotho women interviewed had been employed or had attempted to access employment in the factories and had since turned to domestic service. They generally quit because they had become ill, or because with the low wage levels they had still struggled to meet their families' needs, as in Mamorapeli's case:

I was working in the factories but the salary was not paying the bills. Comparatively, I saw that people who were working in South Africa were much better than us. In the factories you get 600, using it for groceries, transport and all other things. While you're a domestic worker you get 900 – that makes a huge difference since you don't pay the rent [or] transport[.]

Alternatively, some women had stopped factory work because their contracts had been terminated when the factory closed down, as routinely happens.

¹³ On Lesotho's textile factories, see Baylies and Wright (1993); Bennet (2006); Seidman (2009).

Farms along the South African side of the Lesotho-Free State border present another opportunity for Basotho women to find waged employment, albeit on a seasonal basis (see Johnston 2007; Ulicki and Crush 2000¹⁴). Several of the women interviewed had worked on asparagus farms before starting work in South Africa. A handful had also tried making money through small businesses like hawking vegetables or sewing clothing, but had failed to generate much money.¹⁵ Likenkeng saw economic circumstances in Lesotho as obstructing any business success: 'Even if you can make a business there are no people who buy your things because many miners have been retrenched.'

Domestic service within Lesotho is another possibility for Basotho women entering the labour market. However, it carries a crucial weakness: the wages are too low. Several Basotho women involved in this study had been employed as domestic workers in Lesotho (primarily in urban areas) but had left their jobs because the cash they earned was insufficient to support themselves and their dependants, and they continued to 'struggle to make ends meet' (Mathabelang). Even Malehloa, who received a shockingly low wage in South Africa, saw the difference in wage levels as stark:

Lineo: Why did you choose to work in Clocolan [in South Africa]?

Malehloa: Because of the huge gap, the wage difference between Lesotho and South African domestic service. At that time in Lesotho I was paid M250 per month whereas in South Africa I earned R450.¹⁶ Lesotho's domestic workers are underpaid and overworked!

These observations correspond to neo-classical migration theories, which explain migration flows (whether internal or international) as the movement of individual migrants in response to push and pull factors, the most important of which is wage differentials (see Massey 1999: 304-5; Wright 1995). However, as mentioned above, the historical context of Lesotho's economic (under-)development provides a particularly compelling account of Basotho labour migration. It also helps to explain how money, and

¹⁴ Both these studies confirm that Basotho women farm workers also faced similarly difficult circumstances in Lesotho, for instance women were breadwinners for households where there was an absence of men (or men's income) and/or large numbers of children to support.

¹⁵ Bloomer (2009) also examines the rise of cannabis cultivation as an extra-legal income-generation strategy in Lesotho (particularly in the context of mining retrenchments) but, predictably, none of the women involved in this study made any mention of this particular activity.

¹⁶ These currencies (the Lesotho Maloti and the South African Rand) are equivalent.

wages in particular, come to play an important role in migrants' decisions. As such this history provides a lens by which wage level differences and individual migrants' decisions can be viewed within a broader socio-economic narrative: namely, Basotho women's recent movements can be seen as a continuation and extension of Lesotho's position vis-à-vis South African capitalist economic development.¹⁷

Although domestic work in Lesotho involves being 'paid peanuts' (Mampolai), it allows women to remain close to their families. Thus Maleloko saw the contrast between domestic service in Lesotho and in South Africa as the choice between staying with her children, or paying the bills:

Lineo: Do you think that it is better to be a domestic worker in South Africa or Lesotho, or what is the difference between the two?

Maleloko: There is a difference. For example when you work here in Lesotho the money is less than when you work in South Africa. It is painful because you leave your children back at home, but think about working here at home and earning 200 a month. What are you going to do with such little money, because now you have to pay for the school fees and there is no food in the house and you still have to buy gas so that you can cook with it. It is still very hard to leave your children but you do not have a choice.

To Basotho domestic workers, South Africa is not only a land of higher wages, but can even represent the land of money itself. A Mosotho woman can access higher wages in South Africa than in Lesotho, even as an 'illegal' migrant earning less than South African domestics and less than the South African minimum wage. Non-cash based avenues of survival or livelihood are also perceived as absent in South Africa. Whereas in Lesotho, women can rely on other means to support themselves or to feed their families, this is not possible in South Africa:

Meisie: When you compare your life when you're in Lesotho and now, which one do you prefer?

Malerotholi: It was better at home [in Lesotho] ... It is better at home because people still care for one another, but here if you're not working you'll have nothing to eat.

¹⁷ Social networks also provide an alternative explanation for migrants' decisions and movements. These networks, and their role in Basotho domestics' labour migration, are discussed in Chapter Six.

Meisie: You have a vegetable garden and [crops].

Malerotholi: You don't even have a plot to plough here. If you're not working you don't eat.

According to Basotho women, survival in South Africa depends upon money, and access to money depends upon waged employment. Thus, anyone who is unable to work has no way to survive there: '[in] South Africa ... if you're old you'll have nothing to eat ... if you're no longer able-bodied you'll struggle' (Malikabiso).

While life in Lesotho also requires work, the work is not waged employment: rather, it involves working one's own land, or doing 'piece jobs' for cash when required:

In there [South Africa] it's very hard. It's hard because I cannot go to somebody and ask her to give me mealie-meal [maize]. Here [in Lesotho], if I don't have [maize] sister Maphoka will give it to me [to] eat with the children. In there if you don't have anything you won't live; it's hard. Like now here in Lesotho, it's weeding time and you can go and get a piece job and work for 20 litres of maize, and then the next day you can work for the money to take that maize to the grinder. Who can help you to do all those in South Africa? No one (Likhopiso).

In Lesotho, therefore, women are able to rely on alternative means of subsistence and of obtaining cash, often involving social and kinship networks. In contrast, migrants perceive that in South Africa, money is required for every aspect of life, and waged labour is the only way to obtain that money. This endows the country with a kind of harshness or peril: 'It is very hard over there; I am used to life in here' (Likhopiso). Such views are unsurprising given women's experiences as 'illegal' migrant workers in South Africa. As 'illegal' migrants their engagement with the South African labour market is under particularly unstable and exploitative conditions, and they experience acute social isolation while there. Given the huge significance of the employment relationship for migrant domestics' experiences of migration, market (and particularly labour) relations dominate their experiences in – and hence their impressions of – South Africa.

As an 'illegal' migrant worker, the Mosotho domestic is unable to take her children with her, is unable to participate fully in South African society, and cannot easily access basic

services like government housing, formal employment, health care or schooling. Thus her experience of life in South Africa is always marginal, and her presence there always strategic. 'Illegal' Basotho women go to South Africa not to 'live', but to 'work'. To these women, then, South Africa symbolises 'greener pastures' (Mathabelang) only in terms of the cash they are able to attain through 'illegal' engagement in waged labour: 'I think [life is better in] South Africa, because there is a lot of money' (Masekoala). By contrast, Lesotho represents a site of rest and leisure:

There is nothing nice I can say about staying in South Africa. It's just nice when I am working because I know when I am working hard like this and with sweat running, I am going to get money at the end of the month. And when I am at home, I will then drink beer once in a month (Likhopiso).

As well as engaging in wage labour, to obtain money in South Africa a Mosotho woman must become 'illegal' and therefore surrender her freedom:

South Africa is much better [than Lesotho] but the cost of living is too high. Not only that but also because we are detained, since we don't have IDs. It is true that in Lesotho things are hard but we are free, it's our country. In South Africa if you have a casual job you make lots of money (Malikabiso).

Malikabiso's account stresses the unique circumstances under which Basotho migrant domestics engage with labour relations in order to obtain money, as compared to Basotho women who enter the labour market via factories or domestic service within Lesotho, or the situation of Basotho men who labour(ed) under contracts in the South African mines. Migrant 'illegality' effectively bounds within Lesotho not only women's families, but also their social relations, their non-labour means of survival, and their status as community members. Whereas in Lesotho a woman can be a mother, a farmer, an aunt, a neighbour, a citizen, in South Africa she can be only an 'illegal' worker, invisible and dehumanised.

Basotho domestics therefore negotiate two worlds: South Africa as the site of work, labour or money, and Lesotho as the site of family, land, community and life. Women's continual engagement in both worlds is based on the necessity of money for life:

Nthonts'i: So how do you think the South African government feels about you?

Selloane: That government doesn't feel good at all, but then there is nothing we can do because we want life.

The divisions and connections between these worlds also arise from women's experiences as un-bounded workers; their boundedness within the roles and responsibilities of Basotho mothers; the boundedness of their families within Lesotho; women's boundedness within the domestic service labour market; and their spatial and social boundedness and isolation while in South Africa. Migrant women's specific strategies for maintaining their presence in both sites, and thereby fulfilling their responsibilities and livelihoods, provide the focus of the next section.

Managing flows: the perpetual orchestration of cross-border circulations

To maintain both 'life' and 'work', and their presence in both Lesotho and South Africa, Basotho domestic workers must sustain repeated circulations of women, documents, money and goods.¹⁸ These flows are shaped by each migrant's particular needs (such as the need to feed themselves and their family members) and the means by which flows can be facilitated (such as remittance channels). Inevitably, they are also shaped by the various constraints women face, for instance employers' power over Basotho domestics' opportunities to visit home. As these needs, means and constraints shift and change throughout women's lives, so do the character and frequency of flows. This section outlines these flows and the ways in which they sustain both 'life' and 'work', as well as their connections to women's subjectivity as 'illegal' and un-bounded migrants. 'Illegality' is seen to restrict or bound women's avenues for remittances and their choices over the frequency and length of visits home. This also reinforces the precariousness of migrants' presence in South Africa and their disciplining as dehumanised, un-bounded workers.

Documentation

In their attempts to manage their 'illegality' and deportability while in South Africa, most Basotho women are concerned to keep their documents validated. These documents may comprise passports, cross-border permits, and 30-day visitors' permits, along with their accompanying stamps. The issuing and validation of documents is connected to migrants' movements back and forth, in two ways. First, although her possession of documents does not determine a Mosotho woman's access to South African territory, the Lesotho-South Africa ports of entry are still the most accessible sites for obtaining or validating either six month passes or visitors' permits (see Chapter Four).

Second, as all Basotho migrants intend to return home to Lesotho eventually – even if only for a short visit – possessing valid documents smoothes their departure from South Africa through a port of entry. It is therefore worth investing her time and money to maintain valid documents by, for instance, obtaining a new visitor's permit each month. Many of the Basotho women interviewed held visitors' permits and therefore returned

¹⁸ For a review of remittances and oscillating migration in Southern Africa more generally, see Pendleton et al. (2006). This review suggests that Basotho migrants are among the most frequently returning, and most frequently remitting, migrants in the region.

home to Lesotho each month to renew them: 'I go home every month because I need to get more days, since thirty days has elapsed. I went home last week' (Malikotsi).

As discussed in Chapter Four, some women are able to rely on agents, such as taxi drivers, to take their documents to be validated at a port of entry while they remain in South Africa. It is therefore only if she is unable to access such agents that a woman is likely to rely on the strategy of personally returning to the port of entry every 30 days. Even in these cases, returning to a port of entry is not synonymous with returning to her home in Lesotho. Where a woman's home is far from the Lesotho-Free State frontier, she may not be able to afford the extra expense to travel all the way to her home each month-end. For example, Matseleng explained that she could not afford to visit her children in her home village each month – instead, she would 'go through Maseru border, because I always left late so I'll sleep over at my aunt's place in Maseru.'

The different timing of these movements (whether of women or their documents) further reveals the function of documentation in women's lives and their experiences of 'illegality'. Some women ensure that their documents return every 30 days, such that their passports never expose the fact that they have 'overstayed'. Others simply carry their passports with them when they happen to return to Lesotho, and pay taxi drivers to complete the transaction at the time. Still others send their passport with a taxi driver only in anticipation of an intended return home. That is, a woman will pay a taxi driver to take her passport to the port of entry to be discharged and to return it to her, before she then sets off herself to visit home in Lesotho: 'I always make sure that if I am going to go home next week, I would rush my passport this week' (Malironts'o).

These different strategies also demonstrate the multi-sited nature of the border and its disciplining of women as 'illegal' migrants. Those women who fear that possible confrontation with officials may occur at any time during their stay in South Africa are likely to try to maintain valid documentation at all times; a valid visitor's permit potentially arms them against extortion or deportation in case of such random encounters. In contrast, those who anticipate that encounters with officials will occur *only* at the ports of entry have no reason to be concerned with expired documentation – except when it comes time to visit Lesotho, and present their papers to officials at the port of entry. Generally, it is only those who can confidently manage the ensuing confrontation through routine bribery (transacted themselves or through an agent) who

adopt this otherwise risky strategy. Finally, the rarer tactic of having documents discharged *ahead* of the journey home exposes women's fear of facing roadblocks on the way: as Malikhopiso summarised, 'our big problem that we have is at the border gate; from the road blocks to the border gate'.

Ports of entry and roadblocks are particularly significant for migrant domestic workers as the primary sites of their encounters with South African government officials. The popularity of cross-border permits attests to this pattern: due to their temporal and geographical limitations, these permits are practically useless if a woman encounters South African state officials in the evening or beyond the towns lying alongside the Lesotho frontier. Their sole function is to ease movements back and forth through the ports of entry: these permits therefore enable Basotho migrants to avoid the risky and expensive encounters with Home Affairs officials which typically accompany the use of 30-day visitors' permits. Thus Ntsoaki used a cross-border permit (or 'six months pass') but still returned home each month:

Ntsoaki: When you go after your days have expired they fine you ...

Meisie: Since you got the six months you no longer have problems?

Ntsoaki: It is no longer a problem.

Meisie: How often do you go home in those six months?

Ntsoaki: I go every month.

A cross-border permit may remove the *need* for a woman's passport (with or without her) to return to the port of entry every 30 days, if she is only concerned about confronting officials at the port of entry. Hence, by easing passage through the ports of entry, these permits – intended for and eligible only to frequent border-crossers – may ironically make it possible for a woman to make this journey *less*, rather than more, frequently.

Those women who are concerned about encounters with police or other officials beyond the port of entry, are less likely to rely on a cross-border permit. They may hold it for the purposes of smooth passage across the port of entry, but continue to be concerned about violating the pass by staying overnight in South Africa or going beyond the permitted border towns. As a result, some women continue to obtain and revalidate visitors' permits, even after they have acquired a cross-border permit: they 'ask for days and use

the six months as well' (Maleloko). In such cases, women must continue to renew their visitors' permits each month:

Tselane: [I go home] every month ... I go because I need to renew the stamp.

Meisie: You don't have six months.

Tselane: I do, but I can only go as far as Ladybrand with it ... [and] you can not sleep over.

Hence even women who possess both forms of documentation are bounded in their circulations between South Africa and Lesotho, and endure a continuing 'illegality'.

Conscious that many Basotho rely on cross-border permits when staying and working in South Africa, government officials at the ports of entry have imposed a further restriction. According to Malebaka, 'they don't allow people who use public transport to cross if it has already passed four in the afternoon'. Maponts'o confirmed this account:

Meisie: You go home only during the holidays?

Maponts'o: No, every month from Friday to Sunday ... Because of the permit; we have [a] 30 days permit. They say for six months permit you don't sleep in South Africa, after 10pm you are supposed to be in Lesotho.

Meisie: What is the use of it then?

Maponts'o: It is for you not to queue up at the border gate for a stamp. It was not like that before. Even around 16h00 or 17h00 when you want to come into South Africa using public transport, the police don't allow you to come through, but if you are using a private car they let you go through.

As most women rely on buses or taxis to reach the border, and are usually unable to leave work early on a Friday, this is a serious restriction.¹⁹

The connections between documentation and women's movements back and forth are therefore complex. Documents reinforce Basotho women's 'illegality' by shaping their movements and constraining – or bounding – their presence in South Africa both temporally and geographically:

¹⁹ A woman's inability to reach the port of entry before evening may also act as a barrier to obtaining a cross-border permit in the first place (see Chapter Five).

I would love very much to have a South African ID. I think it would help me very much because then you're free to stay in South Africa for two or three months saving money to send home. If you don't have an ID you're scared that you're going to [have to] bribe the police (Mathabelang).

Maintaining Basotho women's constant mobility to and from the ports of entry therefore represents another way in which documents discipline Basotho women, and produce their subjectivity as 'illegal' migrants.

Supporting family: remittances

Documentation does not present a Mosotho migrant's only motivation for returning to Lesotho. Eclipsing this concern is the central importance of family members, especially children and their wellbeing. Mamorena admitted plainly, 'if I had a choice I wouldn't go back to Lesotho but I have a responsibility towards my children.' Responsibility and concern for their children is connected to women's movements, their 'illegality' and their un-boundedness in several ways.

Most obviously, there is the need for women to visit their children and other family members – to sustain relationships and identities within their families and 'home' communities in Lesotho. When asked why they go home to Lesotho, most women answered 'to check on my children' (Khajane).²⁰ Without regular returns home, women's bonds with their children suffer (alongside, undoubtedly, the children's social and psychological development). As Mathabelang lamented about her loss of connection and authority with her children, 'If you leave them for a long time they become unruly.' Malikotsi similarly described: 'Just imagine my three year old ... She looks me in the eye and she is stunned, who the hell is this stranger calling me babe!' Hence many women try to plan their visits home around children's school holidays.

²⁰ Scholars considering domestic worker migration flows elsewhere have examined practices of 'transnational motherhood' – for instance see Hondagneu-Sotelo and Avila (2007); Parrenas (2001). As noted in Chapter One, Basotho migrant women's experiences of mothering have escaped scholarly inquiry to date. Women's ideas and practices regarding mothering fell largely beyond the scope of this thesis, but are covered here in the context in which they arose during interviews – that is, in relation to women's experiences of migration and employment in South Africa.

However, children and other family members depend not merely upon a woman's presence in Lesotho, but on the wages she has earned in South Africa. Thus remittances constitute a pressing concern for all Basotho migrant workers: after deducting the costs of transportation and everyday survival in South Africa, these women typically remit *all* of their remaining monthly pay. Even then, regular remittances may fail to meet the essential needs of those 'back home' in Lesotho. Khauhelo went to South Africa to work but found that because her employer did not provide her with food, she was unable to remit anything to her family in Lesotho:

Sometimes I would sleep on an empty stomach, especially if they [the employers] happened to eat out! ... I used to starve a lot, as a result I would go out and spend my salary on groceries that would last for a month. Sometimes my family would send me money to buy myself some food. Because of that, I was forced to leave. I could no longer see the purpose of working while I couldn't even help my family with the money.

Cash remittances are used to meet the basic needs of the family in Lesotho: food, school fees, and occasionally clothing or shoes. More optimistic goals – often intended but not realised – involve purchasing larger items like pots or blankets,²¹ and construction or improvement of the family home, for instance by installing water or electricity connections. Some migrant women (or their families) also make payments to savings societies each month. Similarly, women may use their earnings to pay off debts in Lesotho:

Nthonts'i: Has this migration helped you to achieve your goals?

Mamokotla: Yes it has helped me a lot, even though a person's problems cannot be all fulfilled, but it has helped me a lot. It helps me so much because I was so afraid to meet my other fellows in the society, but now I have no problem, truly. I have paid all my credits, even my daughters whom I owed those blankets for the in-laws, truly I have closed all those debts.

As remittances are often received and distributed in women's absence, they may make arrangements with family members or others, as to who will spend the money and in what ways. Reflecting the role of female relatives in childcare, it is most often women

²¹ Blankets are culturally and socially important in Lesotho; they are exchanged upon significant events like marriage or childbirth.

who handle remittances: 'When I send the money I use the post and I address it to my aunt. She will take her share and give the rest to my sister' (Mosele). Similarly, Mamorapeli stated about her wages, 'they were shared ... because my mother-in-law was the one who was taking care of my children. I also gave to my mother, just like a daughter should provide for her mother.' The social pressure to support family members through remittances is therefore strongly gendered.²²

Some women also receive gifts from their employers to pass along to family members, and children in particular. As voluntary gifts, usually given at Christmas time, these are ultimately unreliable as a source of remittances. As an 'illegal' migrant worker, a Mosotho woman's wage level also often lies largely beyond her control. Thus, in order to maximise her remittances she focuses on reducing other expenses. Live-in domestic work helps reduce accommodation and internal transport costs, and even daily food costs.

The other major expense for Basotho migrant women is transport to and from Lesotho. The principal means of transport are bus and taxi. At the time of fieldwork, travelling by taxi from Johannesburg to Maseru Bridge generally took around five to six hours and cost R140, whereas a taxi from Bloemfontein to Maseru Bridge took roughly two hours and cost R60. Thus cities or provinces further away from Lesotho were associated with high transport costs: 'Mpumalanga is far and the transport is expensive' (Manthona). The extra costs and time taken to travel from the port of entry to a woman's actual home in Lesotho can also be significant. Malikotsi summarised the various travelling expenses for visiting home, taken from her monthly wage of R850:

There is no bus that takes me to Mafeteng. I have to take a taxi. I board a taxi at Fauna [a suburb of Bloemfontein], here at [the supermarket]. It is R6 then I go into [Bloemfontein central] taxi rank and it is R60 to the border. From the border I pay R7 to town. It does not end there. I pay R9 to my village.

Travelling by bus is slightly cheaper than by taxi but it is slower, and is restricted to certain scheduled times (such as 6am and 2pm only) and destinations (e.g. heading to Maseru Bridge but not smaller ports of entry). Taxi drivers may also act as agents, to get

²² This observation has been made in many other studies of labour migration, and women migrants in particular. For a brief general review, see Mahler and Pessar (2006: 44-6). In the context of Southern Africa, Lefko-Everett (2007: 68) discusses migrant women's attitudes that women are more able to 'remember' family members left behind than are male migrants. Dodson et al. (2008) also discuss the connections between gender and remittances in Southern Africa generally.

women's documents validated at a port of entry. Among those Basotho women interviewed, taxis were therefore a preferred means of travel home. Some women alternated between the two depending upon their circumstances each month. Figure 7.2 depicts these major transport means.



Figure 7.2 Passengers boarding the weekly bus from Bloemfontein to Maseru Bridge; taxis at the Maseru Bridge port of entry.

The connection between transport and remittances is two-fold. First, transport costs may significantly reduce the sum a woman can remit each month. Second, visiting home may be a migrant woman's only means to remit money or goods to her family in Lesotho. Thus even when a Mosotho woman need not return to the port of entry each month to renew her documents, she may *still* need to travel monthly in order to deliver her wages personally to family members in Lesotho. Because it costs so much to do so, women tend to seek and utilise other avenues for sending their money home, if possible.

Some Basotho women use the postal service to send their cash wages home to Lesotho each month-end:

For the time I am not coming, I take it to the post. The one for the school I [send] it to the principal's post box and she will take it and give it to the child. I will tell her to give him a certain amount to pay for such and such (Mamokotla).

However, as Mamoitheri explained, this method can be risky: 'I have a sister who stays in Durban. She used to send money using the post, but sometimes it never reached us. I don't know. You find the receipt, but not the money.'

Using bank accounts or supermarket accounts is another possibility, 'to save me the trouble of always travelling' (Likenkeng). However, as opening such accounts requires a South African ID, most Basotho domestic workers cannot do so. Some use others' accounts, for instance where family members or neighbours within Lesotho can travel to South African border-towns like Ladybrand or Ficksburg to withdraw the money there. Maleloko was able to use her mother's bank account in this way:

When I was not coming home I would deposit money into my mother's bank account. My mother works at Springs [in South Africa]. She left her [bank] card with her children so that she can deposit money for them when she is not coming, because transport money is an issue when we have to come home.

Hence women wanting to use this system must first 'find somebody who has a bank account' (Limpho). The system would also be less useful for those whose homes in Lesotho are in very remote areas, far from banking facilities.

Aside from posting or banking their wages, Basotho women often rely on other people to carry money back to Lesotho for them:

Lineo: How did you send the money home?

Mampolai: I used to give it to taxi drivers from Lesotho. I would give them R70 or R50 sometimes for the delivery. The minute the taxi arrived in Ladybrand, my family was always there waiting for the money.

Lineo: How did they know the right taxi?

Mampolai: I used to give them the number plates of such taxis.

Lineo: Was that mode of delivery safe?

Mampolai: Oh, it was perfect!

Alternatively, women may send money with family members or friends whom they are able to meet in South Africa. Some migrant domestics even rely on their employers, if they have come from the same area in Lesotho.

Unlike sending wages home through the post or a bank account, when asking other people to take remittances home to Lesotho for them, women can send goods as well as money. As Selloane commented, this even applies in the case of taxi drivers: 'both the

money and the goods, I am able to send with them.’ However, if they are relying on family or other contacts to carry goods, Basotho women are disadvantaged by their limited social networks. This can also shape the timing of remittances: ‘I used to buy things and keep them until I came home – or if I found someone I know who was coming home, I would give them my goods’ (Mampoi). Migrants’ ‘illegality’ therefore constrains and bounds their options for remittances to Lesotho.

Aside from cash remittances, Basotho women often send home clothing or shoes for their children. As other avenues are commonly unavailable, women usually carry these items home personally. As a result (and as a consequence of their limited social networks), women tend to remit goods to Lesotho less frequently than their wages. At the very least, gifts are carried home once a year – at Christmas time. Women may also send items in response to a request from family members: ‘I don’t send them every month, but when I get the message that the child doesn’t have this and that, I send them by my sister’ (Manthona). Carrying goods through a port of entry also entails a risk of extra expense; if identified by authorities searching women’s bags, goods may be confiscated subject to payment of a customs tax, despite the fact that women are taking the items for their children rather than for resale in Lesotho. Puleng explained this taxation problem, and how she had learned to evade it:

Even the tax that we have to pay is too much ... When you buy for example children’s Christmas clothes; they say that with every R100 spent you have to pay R25 for tax. If you don’t pay, you leave the clothes there and if you come back the following day or when you have money, they are not there and it’s new people working there. When you buy things you must also buy a bucket because they don’t search the buckets.

Women’s ‘illegality’, and disciplinary relations with officials at ports of entry, therefore also restrict their avenues for circulating remittances.

Going home

The need for regular remittances and the avenues by which cash or goods can be sent home also shape a Mosotho woman’s circular migration strategies. If they are able to find other ways to send home money or goods (and to validate their documents), migrant

women must then decide how often they will personally travel and visit home. Staying in South Africa at month-end would save on transport costs and therefore leave more money to send home. Thus women are forced to decide which would benefit their children more: their presence or the extra cash. Of course, this also depends on family members' circumstances, such as children's ages and their care arrangements, or parents' health. Generally those interviewees who could choose the frequency of their visits home opted to return three or four times a year: Easter, school holidays in June and/or August-September, and Christmas.

Women's remittance channels and circular migrations are also connected to their work location within South Africa. For instance, work locations may change the cost and time required for each trip home, and women's willingness to work in cities far from Lesotho may depend upon the availability of other remittance channels. Different destinations in South Africa are also associated with varying pay levels. Thus while several domestics working in Bloemfontein knew that jobs in Johannesburg could offer higher wages, they worried about the extra travelling time and whether monthly visits home would be possible if they began working there. To the possibility of working there, they commented: 'I want to see my children every month' (Malebaka); 'the transport is expensive' (Litsoako); or 'I don't want my days to expire while so far away' (Maponts'o). In this way, Basotho women are effectively bounded in their movements in South Africa, given the need to return regularly to Lesotho. However, it is worth noting that due to their restricted access to job opportunities, many Basotho women simply accept any job they can find, regardless of the location.

Practically all Basotho migrant workers return to Lesotho at Christmas time. However, the length of time a woman can spend at home with her family usually depends upon the whim of her employer, and ranges anywhere from a month to a mere 3 days. As mentioned, Christmas represents a time for bringing gifts home. As well as meeting certain material needs of family members, such gift-giving also displays the prosperity expected to result from a woman's labour migration to South Africa. Thus women are expected at least to bring clothes for their children at the end of the year. 'Mamako commented on the hardship she faced when she was not paid her full wages in December: 'When we get home they are expecting money ... Just imagine, when the children are coming to you hoping that you have brought something.'

The social pressure in Lesotho for a woman to bring gifts applies not only at significant holidays like Christmas or Easter, but through visible expenditure of regular remittances. For instance, a migrant woman is expected to pay for important rituals or ceremonies for her children, or to send her son to initiation school. When Maleloko's husband refused to pay for their child's christening ceremony at church, her humiliation was based upon the different expectations of her due to her employment in South Africa:

It was really embarrassing when he was not willing to pay the money for the child to be welcomed, because the neighbours are watching that you come back from South Africa and you cannot afford to pay for your child's welcoming ceremony. I was really hurt by this.

Mamorena also felt this pressure acutely: 'When you arrive at home they look at you because you're working ... they are always gossiping. They know that my husband is working but he is as good as dead – but still they judge a person.'

In the face of such expectations, returning to Lesotho empty-handed from South Africa, the land of money, is a shameful experience. Responding to such pressures, when visiting home most migrant women try to present their work as a 'success'. This ultimately exacerbates such pressures, raising family and community members' expectations. It also reinforces the concealment of Basotho women's employment circumstances in South Africa, as family members remain ignorant of migrants' exploitation:

Meisie: In these two years that you have been working here do you see any developments?

Malisebo: I don't see anything. R600 is little, you can't even get groceries. Children look up to you for clothes, there is no food for them, sometimes you have borrowed money so it needs to be repaid. You can't afford to buy furniture. Meanwhile people say you're working. When I told my mother that I did not have money she did not understand what I was saying.

Meisie: I'm sure she thought that you're having a jol [good time] while they struggle back home.

Malisebo: When I tell her how much I earn she looks at me in disbelief like I'm lying to her. There are no developments; I thought if I told her my problem she will understand so that she can do something.

Aside from remitting and displaying wealth, Basotho migrant women's ongoing responsibilities in Lesotho are also revealed by the ways in which they spend their time while visiting home. Usually they spend their time with children, cleaning the home, visiting family members, attending society meetings, and perhaps attending church. Some women also make a vegetable garden, or tend the family plot of land. For instance, part of the fieldwork for this project (in December 2008) was carried out during hoeing season in Lesotho – hence several of the women interviewed were actively spending their 'holiday' time hoeing fields in their home villages (see Figure 7.3).



Figure 7.3 A Mosotho woman hoeing her field immediately after an interview.

Likewise, Mamokotla hoped to plan her next trip home around the harvesting calendar: 'I have planned to come in May. Sorghum is harvested in May, so I want to come in May to harvest.' The weight and timing of various responsibilities in Lesotho therefore also shape women's movements back and forth. Reflecting their circumstances of economic insecurity, and their boundedness within gendered responsibilities for tending fields and providing for others, seemingly the lowest priority when visiting home is women's own need for rest. Due to long working hours in South Africa, and effectively being on call the entire time they are there, many migrants are exhausted upon reaching home in Lesotho. If they are able, women will take the opportunity simply to relax, or as Maleshoane put it, 'just sit doing nothing'.

Of course, women's time spent in Lesotho must not be seen as synonymous with the time they are absent from their workplaces in South Africa. Transport itself accounts for a significant portion of the time Basotho domestic workers spend 'away'. This leaves precious little time that women actually pass at their homes in Lesotho. Maleshoane described her routine of visiting home in Lesotho: 'I come home after every two months,

it's for a day because you just come on Friday and on Sunday you hit the road.' As mentioned above, if a woman's rural home in Lesotho is remote, the travel time and expense required to reach it may mean that she is able to visit less often, and that she spends less time at home each time she does make the trip.

Aside from routines of visiting home and sending or carrying remittances, Basotho migrant women may need to return to Lesotho on short notice. For example, a woman may need to rush home in the middle of the month to care for a sick child at home. Of course, a worker's freedom to do this depends upon her employer's consent, which is often difficult to secure. Deaths in the family – and more specifically, the need to host or attend funerals in such events – also often call Basotho women home.²³ Again, the possibility of attending these funerals is dictated by an employer's discretion:

Nthonts'i: When you were still working in Spruit [in South Africa], if you needed to go home for some reason, let me say a child was sick, could you do that easily?

Mamosa: She never allowed me ... So many things like illnesses, funerals, they always happened in my absence.

Attendance at such times is important not only for a woman's own welfare but to maintain her role or identity within her family and community in Lesotho.

Not all women miss all important events; some employers allow such ad hoc trips home. But it is significant that 'not all of them will allow it' (Mampoi); that the decision ultimately rests with employers rather than migrant workers themselves. Hence, missing funerals can be seen as a particularly distressing condition of a Mosotho woman's more general lack of control over her own movements, her bounding within the employment relationship, and her employer's unbounded discretion. Women often find themselves 'stuck' in South Africa at their employers' bidding, conscious of the conflict that requests to return home may trigger:

Sometimes when I have family matters to attend to she gets cross with me. She told me that I'm more concerned with my private business than domestic work. If I have a funeral she always complains that I want to go to

²³ The frequency of such funerals also reflects the high incidence of HIV/AIDS mortality in Lesotho. For example, Keletso said that she had been unable to achieve any goals since working in South Africa, because 'I had to bury four of my relatives in a short period of time.'

the funerals. She went as far as saying when people are at work they don't go home. I told her that I'm married so I have some responsibilities. She said it is better if she dismisses me; she will find people who [only] go home after six months (Mamoitheri).

Even if her employer allows her to go home to attend a funeral or care for a sick child, a woman's financial circumstances may preclude it. For example, if a migrant has already remitted her last month's earnings and is yet to receive her current month's wages, the significant expense of transport home may prevent her from leaving.

Migrant women also return to Lesotho upon the termination of their employment in South Africa; alternatively, a woman must quit her job because she needs to return to Lesotho for a long time (or permanently). This may happen, for instance, in cases of serious illness – either of women themselves or a close family member whom they are expected to nurse:

Unfortunately, I had to leave my job after my mother-in-law got very sick. I had to go back home so that I could take care of her. Afterwards, I moved to Maseru and then got another job in Clocolan. I left because one of my children got sick, just like my mother-in-law, and nobody was there to take care of her (Likae).

Similarly, childbirth may also call women home – again, either their own or their daughters'.

As explained in previous chapters, an 'illegal' migrant domestic cannot rely on housing or social safety nets in South Africa; her presence there is always contingent upon her ongoing employment (which is unstable). This section has further demonstrated that migrant women's lack of control over their own movements, and their need for constant circulation between Lesotho and South Africa, are also intimately connected with the subjectivity of 'illegality'. Thus Keletso explained her desire for legal status in South Africa as: 'When I'm here I'm separated from family. Even when I see them it's only for a short period.' Women's circulations between the bounded worlds of 'work' versus 'life' also bound their movements within South Africa in terms of their work locations. The border operates through a constellation of sites throughout South African cities, transport modes, and remittance channels, such that women's perpetual circulations reflect their ongoing production and disciplining as 'illegal' migrants. These circulations,

and the precariousness of Basotho women's presence in South Africa, continue regardless of how long they have worked in the country. As the next section illustrates, these circulations and the experiences of 'illegality' also perpetuate a migrant's reliance on wage labour.

Ploughing the sand: migrant 'illegality' and cycles of labour

The flows that Basotho women continually orchestrate between Lesotho and South Africa are best understood within the context of a larger cycle of women's continued reliance on wage labour for survival. This larger cycle is perpetuated by their remittances and oscillating migrations, as well as their disciplining as 'illegal' migrant workers in South Africa. Thus, while their entry into labour migration appears as an unbounding from their lives and roles in Lesotho, migrant 'illegality' and the split between the sites of work and life in fact bound these women within the labour market. This bounding extends to their children, such that these families and communities remain trapped in the cycle of labour migration to South Africa.

In order to understand how this bounding occurs, it is necessary to revisit women's motivations for entering domestic service in South Africa. Although they migrate as 'illegal' workers, with depressed wages and unstable employment conditions, the social pressures on Basotho women to support their families are no less than the expectations on Basotho men, who migrated for mining work under formal contracts and union representation. In fact, women's responsibility is even greater: they must fulfil *both* parental roles, while shouldering the burden of HIV/AIDS, erosion and economic decline in Lesotho.

Thus the fundamental motivation for women's labour migration is the welfare of their families. Beyond mere survival (keeping children alive), Basotho women work in the hope of creating a brighter future for their children, particularly by paying for their school fees. Coming from a relatively financially secure family, Mampolai originally went to work in South Africa hoping to save money to finish her own (tertiary) schooling, which had been interrupted by her father's retrenchment from the mines:

Mampolai: I wanted to save money for schooling. But, as you can see, it never happened, so, in short, I never achieved my goals.

Lineo: I realize that now you have a daughter, what are your plans for her?

Mampolai: I want to see her go to school and be successful in life. I don't want her to end up like me!

Waged employment in South Africa – or more specifically, the cash earned through such employment – is therefore hoped (if not expected) to secure a ladder out of poverty.

However, this often does not unfold in reality. In contrast, Basotho women's initial entry into the labour market and their ongoing employment – just like their transnational movements – are better understood as a cycle.

As with the transnational flows outlined above, this cycle is defined by women's experience as 'illegal' migrants. One of the avenues for obtaining permanent residence status in South Africa (and the ID book accompanying such status) is to be employed in the country on a work permit for a period of five years and be offered permanent employment.²⁴ South African legislation therefore paves a path for 'legal' migrant workers to eventual full social and legal inclusion. As 'illegal' migrants, Basotho women tread no such path: their 'illegal' status holds no promise of eventual 'legality' or formal inclusion in South African society, or even inclusion as a 'legal' foreign worker. Unlike other countries with large populations of 'illegal' migrants, the South African state does not regularly offer amnesties whereby such individuals can eventually become 'legal'.²⁵

For example, Mamotsoane, when interviewed at the start of 2009, recounted having worked in South Africa since 1977 – she had spent more than 31 years working and migrating back and forth. Her employment in South Africa continued unacknowledged by any authorities, with no prospect of any 'legal' status ahead. Working in South Africa had not enabled her children to finish their schooling, but she had managed to build a brick two-roomed house and fill it with furniture:

I don't have anything since 1977, but there is one thing that God has blessed me with, which is life. I don't have anything but God has given me strength. I'm able to feed six mouths with my salary. You see these sofas and bed, I bought them myself. I paid for them in instalments. I don't want to disgrace God by complaining while he has blessed me.

While Mamotsoane had managed to achieve some of her goals in terms of material accumulation, she characterised these accomplishments as blessings. The uncertainty of

²⁴ *Immigration Act 2002* (s 26). See Chapter Four.

²⁵ The South African government has offered amnesties in the past, including a 1995 amnesty offered to migrant mineworkers who met certain conditions; a 1997 offer of permanent residence to SADC-country citizens who had entered South Africa illegally before 1990; and a special amnesty for Mozambicans who had settled in South Africa during the Mozambican war. However, as the South African Department of Labour acknowledges, 'further amnesties are unlikely' (Department of Labour 2007: 15). None of the Basotho women interviewed mentioned these past amnesties, nor expected any potential one in the future.

such achievements – as blessings rather than assured outcomes of working in South Africa – was echoed in the statements of other Basotho women who were managing to make some progress: ‘I see things going very well but I don’t know if they will change on the way’ (Selloane).

A Mosotho woman who is working in South Africa ‘illegally’ is unable to lay any certain plans for her own or her children’s future. Her presence in South Africa is always unstable, contingent upon her ongoing employment and her ability to negotiate the constant threat of termination and deportation. The ‘illegal’ migrant has little control over her employment, including its location, its continuation, its remuneration and its conditions. Receiving wages already precariously low, she must surrender regular payments in order to maintain her documents or to make the long journey home to visit family: ‘It is not good that we have to bribe the border guards, because there is nothing that we bring back home’ (Khopotso).

When she does visit home, aware of the social expectations of her ‘successful’ employment, she presents herself and her experience in South Africa accordingly. As a result, she perpetuates an image of labour migration as a – if not *the* – means to a livelihood. This in turn encourages future migrants. When asked what made her decide to go to South Africa, Khauhelo replied ‘I was inspired by friends who worked there. They used to come home very clean and they looked happy and fulfilled.’ The misleading image of ‘success’ presented by returning migrants leads to disappointment for new migrant workers, as in Malebitso’s case: ‘I was deceived by the women who came here and I saw how much they had progressed in their lives. I thought I’d be well paid ... and see developments, but there aren’t any.’ Nevertheless, she continued to stay working in South Africa, where this interview was held.

Given that Lesotho-based social networks comprise the key strategy for job-seeking, as more Basotho women migrate to work in South Africa, more opportunities are created for other women to do the same. Women’s oscillating migration therefore fuels greater migration by encouraging and enabling more Basotho women’s engagement in the labour market. When asked whether the number of migrant women from Lesotho decreases or increases over the years, Likae replied: ‘The number increases each year. This is so because when some come for Christmas, they usually leave with others.’

Many Basotho women find that working in South Africa helps to keep themselves and their children alive, but they otherwise experience no significant change in their circumstances. Women need to continue working to continue life; there is no end-point where they can withdraw from the labour market since having achieved their goals. As illustrated in this chapter, even when their children have grown and finished their schooling, women may need to re-enter or remain in the workplace to support grandchildren, in-laws, and so on. They also accept that waged employment is inevitable for their own children. For instance, Ntsoaki commented about her daughters: 'They are fine but jobs are scarce so I would like them to help their husbands'. While accepting the likelihood of their own continuing employment in domestic service, Basotho women hoped for better work opportunities for their children.

Several women expressed frustration that they could not afford to pay for their children to attend school, as schooling was commonly perceived as the route out of unskilled employment such as their own. When asked whether she wanted her daughter to work like her in the future, Manthona replied: 'No, I want to educate her, I want her to attend school. I am saving some money for her so that she can attend school. I want her to work in an office.' Older Basotho women in particular saw that their employment in domestic service was a result of their limited schooling. However, these perceptions are not necessarily confirmed by existing labour market realities. Some of the younger interviewees working in South Africa had relatively high levels of education (including high school graduation), suggesting that education does not by itself secure a route out of domestic service work for Basotho women.

As the conditions in Lesotho which compel women to seek waged employment persist, their children are inevitably subject to the same social and economic forces. Even if migrants are able to pay for their children's schooling and perhaps build a home in Lesotho, the conditions drawing women into the labour market remain, and are even entrenched as life in Lesotho becomes ever more dependent upon cash earned elsewhere. Employment in South Africa – even as an 'illegal' migrant – continues to present the viable avenue for survival. Thus it was that during the research process, my research assistants and I encountered several Basotho families where both generations of women were employed in South Africa as domestic workers. Some women currently working also told of mothers, now passed away or ill, who had also once worked as domestic workers in South Africa. Thus the cycles of women's movements back and forth, can be

viewed within the context of a larger inter-generational cycle, of Basotho women's incorporation into – and bounding within – the South African labour market as 'illegal' migrant domestic workers.

If women do not manage to achieve their goals, they must keep working, and perhaps attempt to move within the labour market in search of better wages. If women manage to achieve their goals for survival or material accumulation, they must still keep working to earn the cash required to maintain this standard of living, and their children are expected to work once they are old enough. What is more, migrant women are unlikely to achieve high education levels for their children, and the job opportunities for Basotho children (with or without such an education) are extremely limited. Thus, whether migrant women fail or manage to achieve their modest goals – or, like most women, achieve some but not all of them – the larger result is still their bounding within this system. Under continuing socio-economic conditions, there is no possibility of reversing the reliance on cash earned through wage labour.

During the research carried out in Lesotho, the research assistants and I did not meet a single woman who had gone to work in South Africa, achieved her goals, and then finished working to retire in Lesotho. Rather, those who had returned had done so because of illness, or because there was nobody to look after their homes or children for them in their absence. As explained earlier in this chapter, almost all Basotho women enter the labour market as a short-term measure to deal with unforeseen hardship: 'I am intending to work and then reach my dreams and then come back home' ('Nete). Instead, they remain bounded within waged employment.

Particularly among women who found they could achieve their families' survival but little else, the futility of this cycle was reflected in their answers to the question of whether they had achieved their goals or been empowered since working in South Africa. As Mamotsoane responded to this question – repeating the comment in English, to be sure that I could understand, and not just Nthonts'i, who was interviewing her in Sesotho – 'that is a stupid question that you're asking'. The senselessness of any notion of progress also surfaced in women's discussions about the future:

Nthonts'i: What are your dreams or intentions for the future?

Matsepo: About what? The future, I don't think about any future. We are just working not to steal; we are working just to have something to eat. We don't see going back and going forward.

Puseletso, who had worked in South Africa for seven years, similarly commented: 'The truth is we're working but it is like we're ploughing the sand.'

Some scholarly literature has criticised the lack of progress experienced by migrant workers or their families, in terms of their consumptive (rather than productive) expenditure of remittances (for discussions see Guarnizo 2003; Kearney 1986; Pendleton et al. 2006). It is not my intention to outline Basotho women's expenditures in service of such a critique. Rather, the focus here is on Basotho women's own experiences and perspectives on the 'progress' that they do or can achieve through labour migration. Dodson et al. (2008: 41) also present survey results that a 'surprisingly large proportion of the female migrant-sending households from Lesotho regard the impact of migration as either negative or very negative'.

Reflecting that the need for cash led them to the labour market – and its significance as the main connection between their worlds of 'work' and 'life' – discussions of progress or development often revolved around money:

Meisie: Do you see any development in your life since you came here?

Likenkeng: Development is when you see what you do with the money you get. I don't see any because I just use it for food and clothes.

From this perspective, wages become the measure of a woman's current circumstances, with success judged by cash income. Conversely, failure is seen to result from not earning enough: 'I have so many goals. But I don't achieve them because of money' (Khopotso). This also reflects women's bounding within the labour market and cash economy: where 'there is no life without money' (Malironts'o), cash – and waged employment to obtain it – becomes the central goal, and Basotho women's aim for the future. When asked her dreams or intentions for the future, Mamoroesi replied simply, 'I want to work where I'm being paid a lot of money.'

These words also reflect Basotho women's experiences as 'illegal' and un-bounded migrant workers. A Mosotho woman remains bounded within her 'illegality' as a migrant

worker: she is unable to work towards any 'legality', obtaining an ID, aspiring to a different kind of job, or earning enough to leave the labour market. As an 'illegal' domestic, her wages are also depressed and unstable, making it even more difficult to meet even the basic needs of her family members back in Lesotho. In such circumstances, a Mosotho woman's remaining ambition is simply to keep working and earn more money. Even then, her avenues for entering the labour market, and for attempting to negotiate higher wages, are extremely limited, and typically remain so, regardless of her time spent working. Wage labour, within which she is bounded, typically remains a mere means to ensure basic survival.

Conclusion

Continuing to draw on women's interview accounts, this chapter has completed the analysis of Basotho domestics as 'illegal' migrants and un-bounded labour. It began by considering the increasing incidence of Basotho women's labour migration, revealing that although this trend apparently challenges the gender roles within Basotho families, women remain bounded within these roles, continuing to carry significant familial responsibilities during their time in South Africa.

The bounding of women's children and their communal lives within Lesotho, combined with the dehumanising experience of being an 'illegal' worker in South Africa, create a division between Lesotho and South Africa as contrasting worlds of 'life' and 'work'. The crucial connection between these worlds is money, and more specifically, the need for cash to sustain lives and livelihoods in rural Lesotho. Thus women maintain their presence and roles in both worlds through a careful orchestration of transnational flows of money, goods and themselves. Most women must also circulate documents in order to maintain their presence and employment in South Africa. This chapter has also contextualised these monthly or annual cycles within the inter-generational cycle of Basotho women's engagement in labour migration as 'illegal' domestics. That is, by examining migrants' narratives of progress or failure, the analysis has demonstrated the bounding of Basotho women and their families within the ongoing regime of labour migration to South Africa.

This analysis, and Basotho women's own narratives, speaks to international discourse and concern over 'the migration-development nexus' (see Raghuram 2009; Van Hear and Sørensen 2003), and particularly the celebration of working mothers as 'agents of development' (see Faist 2008). Where 'development' is understood as the spread and entrenchment of capitalist relations and wage labour, then Basotho women certainly experience development as a result of their labour migration to South Africa. However, their own perspectives on this experience are ambiguous at best: women usually only enter employment in response to desperate circumstances or a time of crisis, and their narratives are often centred around experiences of dehumanisation and exploitation rather than 'empowerment' and accumulation. This thesis therefore challenges the celebratory stances of various scholars and of many international organisations toward

the increasing participation of rural women from the global South in paid employment and in labour migration in particular.²⁶

More critical stances toward migration-development links have emphasised the entrapment of labour-sending areas (or 'labour reserves') within capitalist or cash economies. However, as outlined in the literature review in Chapter Two, these tend to focus on legal migration regimes and to cast the host state as the culpable dictator of labour migration flows. This case study has illustrated migrant 'illegality' as socially and discursively – as well as legally – produced. The ways in which Basotho domestics are disciplined as 'illegal' migrants implicate not only state agents or power but crucially rely on the roles played by employers, transport operators, social networks, and so on.

This analysis also develops the central themes and arguments of this thesis. Women's ongoing disciplining as 'illegal' migrant workers, with their unique employment experiences and labour market position, is shown to effectively perpetuate their poverty, their families' reliance on continued employment, and thereby the renewal of an ongoing labour supply for employment in South African homes. This adds further depth to the term borderwork: the border as a disciplinary apparatus not only shapes migrant women's experiences of employment, but operating through the subjectivity of migrant 'illegality' it also isolates the world of 'work' as a distinct social and geographical site. Moreover, by allowing Basotho women to earn and remit only enough money to sustain themselves and their children, the border perpetuates a potentially endless supply of dehumanised and un-bounded workers to South Africa.

²⁶ In a similar study, Manji (2006; 2010) demonstrates how the perspectives of rural African women challenge development discourse and practice that focuses on the importance of land reform in order to facilitate women's land ownership for access to credit (and thereby their entry into neo-liberal regimes of wealth, finance and debt).

Chapter Eight

Conclusion

Reiterating the arguments

This thesis has provided an in-depth case study of Basotho migrant domestic workers, focusing on their experiences of employment and migration. These experiences have been analysed according to the concepts of the border, migrant ‘illegality’ and un-bounded labour. Chapter One introduced these concepts as well as the case study group; a brief literature review demonstrated that these women and their circumstances have been largely ignored by scholars to date.

The novelty of this study was further illustrated in Chapter Two, which elaborated the central concepts and arguments while distinguishing them from existing scholarship. For instance, the view of migrant ‘illegality’ looks beyond law and state agents or power; that is, beyond the legal construction of ‘illegality’ to consider its social and discursive construction, through a set of inter-connected aspects. Borderwork carries several meanings, referring to: the ‘work’ of legally, socially and discursively producing the border throughout a range of sites and relations; women’s strategies for negotiating and ‘working’ the border; and the border’s crucial impacts on, and creation through, the worlds and relationships of wage labour. The concept of un-bounded labour encompasses the numerous ways in which Basotho domestics’ labour migration is both bounded and unbounded. While their employment and migration appears unbounded (i.e. unregulated or unrestricted), migrants’ subjective experiences reveal their boundedness within social roles, suburban homes, cocoons of ignorance and isolation, and so on.

Chapter Three prefaced the empirical analysis by recounting the research process. It outlined various ways in which the multi-sited fieldwork across both South Africa and Lesotho – and particularly the challenges my research assistants and I faced during this fieldwork – demonstrated aspects of migrants’ experiences, such as their concealment, social isolation and constant mobility between both countries, as well as the fearfulness of ‘illegality’. This chapter also discussed the complexities of ethical and political concerns,

which have transcended the field site, extending throughout the processes of writing and representation.

Chapter Four launched the empirical analysis of Basotho women's experiences in earnest, concentrating on the production of migrant 'illegality' through the regime of documentation and through women's encounters with South African officials at ports of entry. The continued ostensible failure of South African migration law to regulate Basotho women's access to territory and to employment was shown to give rise to the particular subjectivity of the 'illegal' migrant. This analysis allowed the Lesotho-South Africa ports of entry to be re-cast within a view of the border as a multi-sited and disciplinary apparatus: these ports were shown to serve not as territorial barriers, as commonly imagined, but as sites for the documentation and disciplining of women and their movements, with officials intimidating and extorting migrants on a regular basis.

Migrants' experiences of employment provided the focus of Chapter Five. This chapter again argued the productivity of South African law's ostensible failure: the failure of labour protections to reach Basotho domestics creates the particular subjectivity of the 'illegal' domestic worker, with a unique employment experience and labour market position. The ways in which migrants' employment experiences were shaped by their 'illegality' were then outlined. This included the instability of employment, with women's dismissibility adding to the precariousness of their presence in South Africa, as well as workers' everyday experiences of exploitation and dependence upon their employers to fulfil their basic needs. With employers exercising an unbounded power over the employment terms and conditions, the employment relationship was shown to take on particular significance for 'illegal' domestics, resulting in their reliance on strategic submissiveness to stabilise their employment. This submissiveness further produces Basotho migrants as 'different', uniquely flexible and exploitable domestic workers, while justifying their 'illegality'; ultimately the experience of employment is a dehumanising one.

Chapter Six illustrated the ways in which migrants' dehumanisation, and their reduction to mere workers in South Africa, occurs beyond the employment relationship. Structured around Basotho women's experiences of imprisonment, isolation and invisibility in South Africa, it showed the various interconnections between these aspects of migrant 'illegality' and with those discussed in other chapters. For instance, the spatial and social aspects of migrant 'illegality' are intertwined: women's boundedness within employers' homes

typically prevents them from connecting with other domestic workers in South Africa; this reinforces their subjectivity as ‘illegal’ workers who have limited job options and conceals them from a range of social, official and discursive sites. The various axes of Basotho migrant women’s concealment – spatial, social, formal and discursive – were also shown to perpetuate their continued labour migration to South Africa.

This temporal un-bounding of Basotho women’s labour migration forms the frame of the analysis in Chapter Seven. This chapter began by considering women’s motivations for entering employment, and how their movements challenge the regime and family co-ordination of Basotho men’s labour migration as during much of the twentieth century. Ultimately Basotho women were shown to be bound within ongoing familial responsibilities. These responsibilities drive women’s attempts to earn and remit as much money as possible from South Africa – the site of labour and market relations – to Lesotho, in order to sustain ‘life’ and family there. The contradictions women experience between these sites are intrinsically linked to their subjectivity as ‘illegal’ migrant workers; isolated, dehumanised, and precluded from developing any stable presence or community in South Africa. Finally, this chapter illustrated the ways in which women’s orchestration of cross-border flows serves to perpetuate their reliance on cash earned through employment in South Africa, such that their children also remain bounded within this larger cycle of labour migration.

Implications and contributions

The analysis offered in this thesis has numerous implications and offers various contributions to future scholarship. Contributions to future research are based upon the conceptual frame of this thesis, and its methodological approach. The central concepts – including the border, migrant ‘illegality’ and un-bounded labour – challenge and extend scholarly perspectives in several ways.

To begin, the thesis has approached the border not merely as a line distinguishing territories, but as the range of practices and relations which construct that line as a meaningful legal and social reality in particular people’s lives. This border has therefore been analysed as productive rather than proscriptive, highlighting the ways in which it includes rather than merely excludes migrants. The border was shown to produce and continually reproduce migrant subjectivities, by operating through a multiplicity of sites and actors, state and non-state alike. This understanding of the border – as constellation and as disciplinary apparatus – represents a key contribution to scholarly understandings.

The ostensible failure of migration and labour regulations was shown to produce the ‘illegal’ migrant domestic worker as a particular subjectivity. This thesis challenges existing scholarship on migrant ‘illegality’ as it has explored and underscored the ways in which such ‘illegality’ is produced not only legally, but socially and discursively as well. ‘Illegality’ has also been analysed in terms of various aspects – representing not merely the effects or impacts of ‘illegality’ on migrants’ lives, but also the everyday sites, relations and practices by which that ‘illegality’ is continually reproduced. This thesis therefore demonstrates the value of examining the productivity of ostensible regulatory failure.

In the case of Basotho migrant domestic workers, ‘illegality’ produces these women as a form of un-bounded labour, where the hyphenated word ‘un-bounded’ encompasses both boundedness and unboundedness. The thesis has illustrated the numerous ways in which these women, their movements and their employment *appear* unbounded, while women’s own subjective experiences reveal that they are repeatedly bounded, whether in spatial, social, economic or geographic respects. While various axes of un-boundedness confirm scholarly analyses of labour, labour migration or domestic service, this conceptual frame itself is unique and offers a significant contribution to scholarship. It also demonstrates the importance and fruitfulness of taking seriously migrants’ own accounts and subjective experiences.

Indeed, each of the key concepts and arguments of this thesis has been developed by paying close attention to migrants' narratives and experiences, across a range of social and geographical sites. The transnational approach taken was particularly revealing of the different worlds navigated by migrant workers, and their unique subjectivities in each. An interest in the detail of daily life in Lesotho also helped to destabilise the assumptions and biases so prevalent in migration research today, including: a dominant focus on and concern with the 'host' country or society;¹ the discounting of other ways of life and relational worlds beyond the 'developed' or market-based ones which migrants typically travel to enter; and an individualised view of migrants, separate from the web of relations which support and are impacted by their movements.

Focusing exclusively on host country experiences also risks the further reduction or dehumanisation of migrants *as migrants*. In this study, if I had focused exclusively on South Africa, the risk of contributing to migrants' objectification and dehumanisation would have been greater, as I likely would have missed all the relations and identities that Basotho women are able to occupy and practice in Lesotho but not as 'illegal' migrants in South Africa. For example, the interview experience as depicted at the opening of this thesis enabled my assistant Nthonts'i and me to appreciate and understand Matsepo's life not simply as a migrant worker but as a mother, a village resident, and at that time, as a breeder of livestock.

The implications of the specific elements of this analysis were emphasised in the concluding sections of each empirical chapter. However, it is worth reiterating the implications of un-bounded labour, in the context of Chapter Five in particular. This thesis has demonstrated the ways in which borders – and migrant 'illegality' in particular – unbound the wage labour relationship. In the absence of effective labour regulation for 'illegal' domestics in South Africa, these workers are subjected to (or bound within) the unbounded discretion of their employers, and are ultimately dehumanised as mere 'toys' at these employers' disposal. This analysis confirms the significance of labour protections, including not only state regulation or 'protection' for workers, but also union representation and other avenues of mobilisation. It also suggests the ultimately dehumanising nature or tendency not only of migrant 'illegality', but of wage labour itself.

¹ De Genova (2005: Chapter Two) discusses this bias in the context of his decision to use the term 'migrant' rather than 'immigrant'; however, unfortunately his ethnography is again situated in the 'host' context rather than incorporating any data gathered or generated in migrants' 'home' communities.

The case of Basotho migrant domestics is certainly an extreme one. As this thesis has illustrated in rich detail, not only do these women migrate and work under severe conditions of precariousness, exploitability, isolation and invisibility, but they are also routinely subjected to intimidation and extortion by officials. Nowhere has this thesis argued that all 'illegal' migrant workers, or all migrant domestics, occupy similar circumstances. And yet, Basotho women's accounts find their counterparts in many other studies of migrant workers in other countries, other socio-economic contexts, and other regimes of migration control or regulation.

As an example, recall the analysis of the ports of entry in Chapter Four. It was shown that the Lesotho-South Africa ports of entry, rather than serving as gateways to South African territory (or even to the labour market), ironically represented the *only* sites of such barriers along the frontier: ports of 'entry' featured walls and fences, while a short distance further along the Mohokare River, people were able to cross unrestrained. Thus the ports of entry, while farcically presenting themselves as openings in a continuous barrier that is the border, in fact served as barriers and thereby created the border where there was otherwise none. This is true in every case; despite popular and official imaginings, borders are not continuous barriers dotted by occasional openings. Rather, barriers are raised from bare land, and ostensible doorways serve as sites of intense and highly visible obstruction, confrontation and discipline. This more general reality is exposed in the case of Lesotho-South Africa as it unfolds there at the point of caricature.

Lesotho has also proved a valuable case study for examining borders in terms of citizenship or nationality. Unlike in other contexts, most Basotho migrant domestic workers are not distinguished from their employers on the basis of race, ethnicity or language. Many other studies explore such axes of difference, keen to place employer-employee contrasts within the regional or global context of divisions of labour along racial or 'first world'/'third world' lines. However, this case study has isolated the effects of the border – that is, of foreignness, and foreignness alone – on these women's migration and employment. Rather than merely representing an exception, however, the resulting analysis offers concepts and perspectives that could productively be applied in, or compared with, other contexts.

Thus I imagine that the case of Lesotho, through its extremity, brings to the analytical surface tendencies and processes that occur in many other scenarios. Ferguson (1990: 257-

258) discussed this in regards to his analysis of the ‘development’ discourse and practice: ‘Lesotho is not a “typical” case; it is an extreme case, and for the “development” problematic, an extremely difficult one. The extremity of the case of Lesotho has the effect of exaggerating many “development” phenomena.’ I suggest that the same dynamics apply in the case of labour migration and its regulation. In this respect, I hope that the analysis offered here may be engaged and utilised by other scholars examining migration, ‘illegality’, borders and migrant labour. Its contribution is particularly relevant in the context of globalisation and the pressing concern – from all points on the political and social spectrum, and throughout all regions of the world – with migration control and with ‘illegal’ labour migration more specifically.

Irrespective of its applicability and contributions beyond the case study, this thesis carries implications for specific groups and actors discussed herein. To begin, it unearths the concerns and unique position of foreigners as ‘illegal’ domestic workers – though of course most migrant women fully understand their options and circumstances upon entering domestic service in South Africa, and come to understand their unique labour market position over time. As argued in Chapter Five, ‘illegal’ domestics’ exploitability also reinforces the risk of their targeting as unwelcome migrant workers. Their presence and employment threatens to depress wages and working conditions, and undermine the efficacy of labour laws and institutions in regulating the domestic service sector in South Africa. Rather, it is not migrants’ employment in domestic service that carries these threats, but their production as ‘illegal’ domestics, employable under different circumstances and therefore different employment relations.

This analysis therefore suggests that any further official efforts to exclude migrant women from employment in domestic service will only fail to do so, and will ultimately reinforce the difference of the ‘illegal’ domestic from South African workers. Such measures would also reinforce the social and discursive construction of migrant workers as ‘illegal’ and ‘unwelcome’, thereby encouraging xenophobic targeting of non-citizens in South Africa more generally. As the unique position and circumstances of Basotho domestic workers arise from their ‘illegality’, logically any regulatory action or advocacy must aim to address this ‘illegality’ directly. The opportunities and challenges of doing so are discussed in the next section.

Looking to the future

As revealed in the empirical chapters of this thesis, the conditions driving Basotho women's labour migration persist. In Lesotho, rural poverty continues, many families are unable to meet all their needs through agriculture or participation in occasional cash-generating activities in their home villages, and women continue to shoulder the social and economic burdens of economic decline, mining retrenchments and HIV/AIDS. While textile factories provide many with employment, these jobs are not accessible to all Basotho women, and global economic fluctuations underlie their instability, as factories often close. In South Africa, migrant domestics typically remain unable to obtain the South African IDs which would enable them to settle and to access other, more lucrative, avenues of employment.

The South African government is also unable effectively to restrict Basotho women's entry to or employment within South Africa. As Coplan (2001b: 115) has summarised (and as reiterated by Steinberg 2005: 1), the South African state 'has neither the resources, the political will, nor even the moral authority to prevent or reverse in-migration from Lesotho.' Basotho women's access to domestic service jobs in South Africa may also increase as women working in South Africa stay there longer, and as their social networks grow. Thus, more Basotho women are likely to engage in such labour migration to South Africa in the future (see Figure 8.1).



Figure 8.1 A Mosotho woman, dressed in traditional Sesotho fabrics and blanket, who has just entered South Africa through the Maseru Bridge port of entry.

Migrants' subjectivity as 'illegal' workers in South Africa is also seemingly perpetual, as the factors and relations underlying the legal, social and discursive production of this 'illegality' continue. Amnesties offered to migrants in the past are unlikely to be repeated. The social and political pressures on the South African state to exclude unwelcome migrant workers

remain as strong as ever; the xenophobic attacks of 2008, and the government's ambiguous responses thereto, signify an ongoing tension which extends throughout community relations, media coverage and official discourse.

Although every Basotho woman interviewed who did not have a South African ID said they would like to have one, their hopes for the future – and for the potential impacts of this research – were far more modest. Tankiso's appeal reflected women's focus on and aims for accessing money, as discussed in the thesis: 'It would be better if she was saying she'll talk to the South African government on our behalf to give us money. When we return home we're still poor. They need to give us money.' Several women, upon being approached for involvement in the research, were openly pessimistic: 'What are you going to do, because you are just wasting your time talking to us, because those things will not be implemented' (Maleshoane).

Unfortunately, this pessimism is consistent with the political realities of Lesotho-South Africa migration policy. In 2005 the Southern African Development Community (SADC) approved a Draft Protocol on the Facilitation of Movement of Persons.² Article 3 of the Draft Protocol lists its specific objectives as the facilitation, in relation to every citizen of a State Party, of:

- entry, for a lawful purpose and without a visa, into the territory of another State Party for a maximum period of 90 days per year for a bona fide visit and in accordance with the laws of the State Party concerned;
- permanent and temporary residence in the territory of another State Party; and
- establishment of oneself and working in the territory of another State Party.

As the region's economic powerhouse and largest welfare state, South Africa has long drawn labour migrants from other SADC countries. As these aims sit in clear tension with South Africa's current immigration law and policy, it may well be this country's concerns (and bargaining position) which have delayed the Draft Protocol's progression to binding law.³

² Approved and signed by six member states in August 2005. The protocol is yet to be ratified by the requisite number of states (9) to come into effect.

³ For a general discussion of this protocol and its predecessor, see Williams and Carr (2006).

South Africa has, however, taken steps to deal with Lesotho bilaterally. In 2007 both governments signed an Agreement on the Facilitation of Cross-Border Movement of Citizens.⁴ If implemented, this Agreement would ease border-crossing for citizens of Lesotho or South Africa, eliminating the need for visitors' permits. On the South African side, officials from the Department of Home Affairs are ambivalent about the bilateral Agreement. This ambivalence echoes their attitude toward cross-border permits: while they remove the necessity for repeated documentation of crossings, these permits also heighten the challenge of stopping visitors from working in South Africa.

Both the SADC Draft Protocol and the bilateral Agreement aim to facilitate migrants' cross-border movements, but are emphatically silent as to the requirements or avenues for migrants to work legally within South Africa. As such, neither instrument would alter the 'illegality' of Basotho women's employment as domestics in South Africa. As one Home Affairs official explained to me, if implemented, the bilateral Agreement would alleviate the problem of long queues at the ports of entry. This suggests that such Agreements ultimately represent a response to the interests or concerns of migration officials – and South African officials in particular – rather than migrants themselves (for whom legal employment is of much greater import).

Nonetheless, the Lesotho-South Africa Agreement may affect migrant domestics differently to other 'illegal' migrant workers. As the Home Affairs official continued in his explanation, by easing congestion at the ports of entry, the bilateral Agreement would allow greater allocation of departmental resources to workplace raids and other in-country surveillance measures aimed at locating and deporting migrants working 'illegally' in South Africa. This would intensify the spatial aspects of migrant 'illegality' as discussed in this thesis, and particularly street-level policing of migrants in suburban and urban South Africa. As live-in domestic workers are more easily able to evade these threats by 'staying indoors', Basotho domestics could potentially be comparatively 'safer' than other 'illegal' migrant workers in South Africa. This would likely boost the attractiveness of domestic service to such migrants, and may aggravate job competition (which would further lift employers' bargaining position in this sector, and fuel tensions between South African versus foreign domestic workers).

⁴ *Agreement between the Government of the Republic of South Africa and the Government of the Kingdom of Lesotho on the Facilitation of Cross Border Movement of Citizens of the Republic of South Africa and the Kingdom of Lesotho*. This Agreement was signed in June 2007 but has yet to come into force.

Despite being signed by both the Lesotho and South African governments, the bilateral Agreement's ratification and coming into force have been delayed. When I asked government officials in Lesotho (in January 2009) about this delay, they stated that it has been 'for political reasons', and declined to elaborate. The analysis presented in this thesis helps to explain this delay, and officials' ambivalence about the Agreement.

The ports of entry are significant sites for the production and reinforcement of migrant 'illegality' through the confrontations and negotiations between migrants and officials which unfold there. For migrant domestics in particular, these ports of entry often comprise the *sole* site of their direct confrontation by the South African state. To forgo the requirement to document and record the movements of Basotho migrants through these ports is to surrender the primary opportunity for officials to identify, target, intimidate and extort – that is, to discipline – such 'illegal' migrant workers. This would undermine the productivity of ostensible failure in terms of reproducing migrant 'illegality' (while also undermining officials' capacity to profit personally from this ongoing ostensible failure, in the form of bribery). Maintaining the requirement for documentation, and more specifically, the visitor's permit with its 30-day limitation, is far more productive in this respect. Needless to say, none of the Basotho domestics interviewed for this research had heard anything about an agreement facilitating their border-crossings between Lesotho and South Africa.

Where does this leave Basotho migrants, and the potential contributions of this research to future policy? I have attempted in this thesis to provide a realistic account of the political situation, and frame my agenda accordingly. Ultimately the most I can hope for this thesis is to provide a platform for Basotho women's own advocacy and mobilisation – for their calls and desires to be granted some official recognition, more specifically in the form of access to South African IDs. My own task has been to illustrate the distressing and dehumanising impacts of their being denied such access and recognition; how ignoring these women's lives and experiences serves to naturalise and perpetuate their dehumanisation as 'illegal' migrant workers. This has involved unearthing the 'subjugated knowledge' of 'the delinquent'; the situated knowledge which 'make[s] critique possible' (Foucault 2003: 7-8). That is, my task has been to listen to Matsepo, and to encourage others to do the same.

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