Beyond discrimination: *Mahlangu* and the use of intersectionality as a general theory of constitutional interpretation

Shreya Atrey

Abstract
This case note explores the landmark decision of the South African Constitutional Court in *Mahlangu and Another v. Minister of Labour and Others*, which recognised intersectional discrimination under section 9(3) of the Constitution. It shows that the Court went beyond that in fact and recognised intersectionality not just as part of discrimination law, but also as part of general constitutional law, using it as a theory of constitutional interpretation in adjudication.

Keywords
Intersectionality, intersectional discrimination, constitutional interpretation, Black women, domestic workers

Introduction
*Mahlangu and Another v. Minister of Labour and Others*¹ was a challenge to the constitutionality of section 1(xix)(v) of the Compensation for Occupational Injuries and

Bonavero Institute of Human Rights, University of Oxford, Oxford, UK

Corresponding author:
Shreya Atrey, Bonavero Institute of Human Rights, University of Oxford, Oxford OX13UA, UK. Email: shreya.atrey@conted.ox.ac.uk
Diseases Act 1993 (‘COIDA’). The impugned provision expressly excluded domestic workers from the definition of an ‘employee’ for accessing social security assistance in the event of injury, disablement or death in the workplace. In its decision of November 2020, the South African Constitutional Court held that the provision was constitutionally invalid because it violated the rights of domestic workers who were predominantly Black women. The rights of the class of domestic workers thus came to be decided in reference to Black women and their constitutional rights, especially their right to equality and non-discrimination under section 9, the right to dignity under section 10, and the right to access social assistance under section 27 of the South African Constitution. With this, the Constitutional Court did something quite unique: it reinforced the prohibition of intersectional discrimination (discrimination based on a combination of grounds) under the Constitution, but for the first time explicitly; and recognised intersectionality (as a theory which helps understand the nature of discrimination based on a combination of grounds) as a general theory of interpretation for the bill of rights under the Constitution. In a sea of international and comparative jurisprudence which barely recognises intersectionality, let alone deploys it successfully; the decision in Mahlangu serves as an exemplar in discrimination law and more broadly, constitutional law, in its treatment of intersectionality. This case note parses through the reasoning in Mahlangu to appreciate how the South African Constitutional Court accomplished this.

The judgment

Ms Mahlangu was a domestic worker who had drowned in the swimming pool of her employer of over 22 years. She was partially blind and unable to swim. Her daughter (‘the appellant’) was financially dependent on her. On approaching the Department of Labour after her mother’s death, the appellant discovered that she was not entitled to any compensation under COIDA. Assisted by the South African Domestic Service and Allied Workers Union, and with the Commission for Gender Equality and the Women’s Legal Centre Trust as amici, she challenged the exclusion of domestic workers from compensation under COIDA. The High Court at Pretoria upheld the challenge, and the matter was appealed to the South African Constitutional Court.

The case before the Constitutional Court was that the exclusion of domestic workers infringed their right to equality, the right to human dignity and the right to have access to social security under sections 9, 10 and 27 respectively of the South African Constitution. In particular, because domestic workers, like Ms Mahlangu, were predominantly Black women, the claim was that the exclusion constituted indirect discrimination against Black women on the basis of their social status, gender, race and class.\(^2\) Furthermore, the amici submitted that the case be analysed ‘within an intersectional framework’ for ‘a nuanced, purposive and socio-contextual consideration’.\(^3\) In the oral hearings before the Constitutional Court, the respondents from the government conceded that the provision be struck down. But it was still for the Constitutional Court to satisfy itself that the provision was indeed invalid and infringed the Constitution.\(^4\) It went about establishing this thus.

Victor AJ, writing for the majority, first, considered the challenge to section 27(1)(c) which guarantees the right to have access to social security. She confirmed that COIDA
was a social security legislation for the purposes of section 27, and that in turn, social security assistance included support and sustenance for those affected by the injury, disease or death of a worker. To her, this was a conclusion flowing from the express text of the Constitution in section 27(1)(c) which guaranteed social assistance for the purpose of supporting persons and their dependents when they were unable to support themselves. COIDA was considered exactly the kind of legislation which was meant to provide such social assistance, insofar as its purpose was ‘to ameliorate the circumstances of those who would otherwise be condemned to living in abject poverty’. The only real question that remained was whether the exclusion of domestic workers from COIDA was reasonable. Herein, Victor AJ relied on the amici’s submissions to draw on an intersectional approach to appreciate the impact of the exclusion on domestic workers in this context, and to consider ‘those who are most vulnerable or most in need . . . [and] take cognisance of those who fall at the intersection of compounded vulnerabilities due to intersecting oppression based on race, sex, gender, class and other grounds’. To her, domestic workers as a category was defined by disadvantages associated with race, sex, gender and class – which rendered them extremely vulnerable and poor. She thus concluded that the exclusion of domestic workers was manifestly unreasonable and against the constitutional values of dignity, equality and ubuntu.

Secondly, the majority judgment considered the equality challenge under both section 9(1) and 9(3) of the Constitution on the right to equality as well as the right against unfair discrimination. With no basis of differentiation offered between all employees on the one hand and domestic workers on the other under COIDA, Victor AJ concluded that the impugned provision was violative of section 9(1). It was then that the inquiry turned to section 9(3). Titled ‘Section 9(3) challenge and the application of intersectionality’, the inquiry was entirely constructed in intersectional terms from the very outset. Three observations were made before launching into the discrimination inquiry. First, that the discrimination here was indirect in nature, because the domestic workers were predominantly Black women. Secondly, that the discrimination against them, as based on race, sex and gender, was to be considered presumptively unfair based on section 9(5) of the Constitution when the grounds of discrimination involved in the claim were those that were explicitly recognised by the Constitution. Thirdly, that because the case concerned more than one ground and that the Constitution explicitly prohibited discrimination based on ‘one or more grounds’ under section 9(3), that the ‘importance of an intersectionality analysis [became] unavoidable’. The discussion then outlined the intersectional approach, one which helped unravel the patterns of group disadvantage associated with multiple grounds which defined the group of Black female domestic workers. This was done through a perusal of ‘the nature and context of the individual or group at issue, their history, as well as the social and legal history of society’s treatment of that group’, that is ‘the particular history of social security in South Africa, as it relates to domestic workers [and] . . . the historical disadvantage that Black women have faced as a group’. Herein the majority judgment explored ‘the gendered implications of apartheid’s racist system’ which relegated Black women to the bottom of the social hierarchy, worse off than white men and women, and Black men. But according to the majority, ‘the case of domestic workers was particularly severe’. Not only did they suffer from the racist and gendered implications under apartheid, they also suffered a
personal loss of social and family life, living in poor conditions of their own, and devoting their lives to the lives of their employers. This marginalisation during apartheid has continued to date and reflected, as Mhlantla J described in the concurring opinion, ‘a complex history entrenching racism, sexism and social class’. And it was this understanding of their intersectional disadvantage that led the majority to conclude that the exclusion from social security assistance under COIDA constituted unfair discrimination which impinged on the Constitution’s goal of achieving substantive equality and transformation for everyone. Leaving domestic workers (Black women) behind in this goal was unjustifiable.

Thirdly, the majority judgment considered the dignity challenge under section 10 of the Constitution which provides that ‘everyone has inherent dignity and the right to have their dignity respected and protected’. For the majority, there was no doubt that the exclusion conveyed that domestic work was not real work. The exclusion thus undervalued the contribution of domestic workers to the social and economic life of the country and ultimately treated the domestic workers trivalingly. Furthermore, according to Victor AJ, ‘domestic work has been undervalued precisely because of who performs this work: poor Black women’. Thus, an intersectional analysis once again explained the harm involved, revealing how both gendered and racist assumptions defined the way in which domestic workers had suffered a loss of dignity.

Lastly, the Constitutional Court had to address the question of remedy and whether the invalidity could have immediate and retrospective effect. The government had filed a ‘high-level’ abbreviated actuarial report claiming that the economic and administrative costs of past injuries and diseases could have a negative impact on future claims. The majority was unimpressed with the lack of detail in the report which made no suggestion that the state was in fact unable to meet all claims. There was thus little evidence to actually substantiate the practical realities faced by the state in giving retrospective effect to the invalidity of the exclusion. Additionally, Victor AJ considered that the intersectional discrimination in this case compelled a retrospective remedy which could contribute towards the amelioration of systemic disadvantage suffered by these women and contribute to breaking the cycle of poverty they suffer. With this, the majority not only declared section 1(xix)(v) of COIDA constitutionally invalid to the extent that it excluded domestic workers, but did so with immediate and retrospective effect.

In his dissenting opinion, Jafta J too considered the impugned provision to be constitutionally invalid but for reasons materially different than those of the majority. Thus, the dissenting opinion found that not only was there no violation of section 27 or section 10 because other workers such as police and soldiers too were excluded; there was also no unfair discrimination in this case under section 9(3). But there was, according to Jafta J, a clear violation of section 9(1) on the grounds of rationality, since the exclusion did not serve any rational purpose whatsoever. Although he considered ‘the conclusion on rationality [as] sufficient for striking the provision down’, he also considered the unfair discrimination analysis because the majority had. He did so by reframing the starting point of the case as discrimination on the ground of ‘domestic worker’ status, a ground evidently not listed in section 9(3). Those excluded as domestic workers or as police or as members of the defence forces could be Black or white, and thus there was no reason to consider discrimination based on employment status or type of work to be based on
race, sex or gender. So, for him, the absence of any direct invocation of these named
grounds in the impugned provision under COIDA debarred an unfair discrimination
challenge under section 9(3), or at least, demanded greater proof of evidence to be
established than deemed sufficient by the majority.

Analysis

Two things stand out about the majority judgment in *Mahlangu* in the way that it is
framed, reasoned, and remedied: the use of *intersectionality* as a general interpretive
theory of the Constitution, and the analysis of *intersectional discrimination* in particular.

The *first* and the most striking aspect of the case is that intersectionality is deemed to
be the main theory of constitutional interpretation applicable in the case. According to
Victor AJ:

> Adopting intersectionality as an interpretative criterion enables courts to consider the social
> structures that shape the experience of marginalised people. It also reveals how individual
> experiences vary according to multiple combinations of privilege, power, and vulnerability
> as structural elements of discrimination. An intersectional approach is the kind of interpretative
> approach which will achieve “the progressive realisation of our transformative constitutionalism.”

In this way, intersectionality is considered not just at the point of the discrimination
inquiry to address intersectional discrimination based on multiple grounds under section
9(3) of the Constitution, but as a theory which guides the interpretation of all rights per se. In fact, the analysis under all three rights claims – sections 9, 10 and 27 invoke
intersectionality. This means that the focus of the inquiry was, at all times, on the
appellant, and those in her position, in their capacity as Black women who are either
dependents of or themselves workers who have suffered an injury or a disablement as
domestic workers. Thus, the infringement of the rights of domestic workers in this case is
specifically evaluated in reference to the impact on those intersectionally disadvantaged,
i.e. Black women. This approach seems to use intersectionality as both – (i) a framework
for approaching the bill of rights, i.e. having rights claims framed in reference to the
specific intersectional group whose rights are supposed to be violated; (ii) and an evaluative
standard for establishing the violation of rights, i.e. considering intersectional impact significant in proving a violation. In the first instance, according to the majority,
intersectionality is almost inevitable in assessing the impact of the possible violation of
rights in reference to ‘those who are most vulnerable or most in need, [and taking]
cognisance of those who fall at the intersection of compounded vulnerabilities due to
intersecting oppression based on race, sex, gender, class and other grounds’. Seeing the
class of domestic workers as against the relevant attributes (race, sex, gender and class)
was thus important for the Court in assessing the impact of the exclusion from
social security assistance. In the second instance, the impact was itself treated as
evidence of violation of the rights involved. In fact, intersectional impact was cast as
‘aggravated’, which ‘multiplies the burden on the disfavoured group’, and potentially
‘exacerbat[ing] patterns of group disadvantage’ when not recognised appropriately.
In other words, domestic workers’ experience of ‘racism, sexism, gender inequality and class stratification’ was considered particularly ‘exacerbated when one considers the fact that domestic work is a precarious category of work that is often undervalued because of patronising and patriarchal attitudes’,34 ‘thus rendering domestic workers amongst the most indigent and vulnerable members of our society’.35 The intersectional interpretation contributes to the Court’s view of impact of the impugned provision as worse than what maybe the impact on others who are not affected on an intersectional basis.36 This reasoning ultimately feeds into the Court’s view that the impact violated the rights at hand.

Moreover, the Court’s invocation of intersectionality as a general interpretive theory feeds into the analysis of the remedy in this case. Under section 172 of the Constitution, the Constitutional Court has power to declare any law or conduct inconsistent with the Constitution and make any order that is just and equitable, including a retrospective order. What is just and equitable is often assessed in reference to that which may ‘effectively vindicate [the violated] rights’.37 In Mahlangu, the Court added that ‘[t]he fact that this case concerns intersectional discrimination is a relevant factor in determining whether a retrospective order should be granted’.38 In fact, according to Victor AJ, because a retrospective remedy had the potential to ‘contribute towards the amelioration of systemic disadvantage suffered by [the domestic workers] and contribute to breaking the cycle of poverty they suffer’,39 it trumped any argument against limiting the retrospective effect of the declaration of invalidity.

Much of this analysis is aided by the South African Constitutional Court’s view of itself, which has always been imagined as playing a transformative role in the post-apartheid South African society for upturning the racist and gendered impact of the history of the country.40 What is more, this intersectional view of transformation is even recognised in the first provision of the Constitution in section 1 which sets out the founding values of the country as based on ‘non-racialism and non-sexism’. Intersectionality is thus truly central to South African constitutionalism and its use as a general theory of constitutional interpretation – beyond its recognition in section 9(3) of the Constitution which prohibits unfair discrimination on ‘one or more grounds’ – appears entirely expected.

But of course, secondly, because intersectionality is a theory of discrimination and disadvantage,41 it is best at home in section 9(3) which is where the Constitutional Court in Mahlangu used it liberally. In its most significant pronouncement on intersectional discrimination to date, the Court suggested that the simple fact the claim involved multiple grounds, made ‘the importance of an intersectionality analysis...unavoidable’.42 This is a grand shift from previous jurisprudence in South Africa which had always recognised discrimination based on multiple grounds, but seldom as unavoidably intersectional in nature. Thus, as I have shown in my work, the South African Constitutional Court’s treatment of discrimination based on multiple grounds can be traced along an interpretive continuum of categories which includes: substantially single-axis, capacious single-axis, contextual single-axis, multiple, and additive forms of discrimination.43 All of these categories of analysis of multi-ground discrimination differ from intersectional discrimination in one significant way: in that each of them fragment the discrimination in question instead of seeing it as both similar and different to
discrimination based on individual grounds and thus being a unique admixture which can only be appreciated as a whole and in reference to the complex patterns of disadvantage which define such discrimination. However, the Court in Mahlangu seems to settle this conclusively by making intersectional discrimination as the go-to category for analysing discrimination claims based on multiple grounds. Indeed, the fact that it does so by explicitly recognising intersectional discrimination not only as a concept (which it seems to have done implicitly over a decade ago in Hassam v. Jacobs anyway) but by adopting the locutions of ‘intersectionality’ and ‘intersectional discrimination’, seems to make this development in discrimination jurisprudence hugely significant both as a precedent in the South African context and as an exemplar for the adjudication of intersectional discrimination everywhere.

Furthermore, unlike the dissent, the majority judgment did not even begin with seeing this case as a possible case of direct discrimination against the class of domestic workers but proceeded from the standpoint where the case was framed as a case of indirect intersectional discrimination against Black women since domestic workers in South Africa were predominantly Black women. Therefore, discrimination in this case was defined as based on the grounds of race, sex and gender from the outset – grounds which are recognised in section 9(3) and thus presumed to constitute unfair discrimination under section 9(5) of the Constitution. What is particularly interesting here is that although the Court was cognisant that section 9(5) on the presumption of unfairness could only be invoked when discrimination was based on grounds already recognised, it did not require that discrimination be based exclusively on grounds named in the Constitution. Thus, the majority opinion weaves in elements of class, poverty and socio-economic status of Black women to complete its intersectional analysis alongside race, sex and gender; but does not seem to require those elements to all be recognised as grounds for section 9(5) to be invoked. This expands the possibilities of intersectional discrimination to be attracting the presumption of unfairness when it is based on at least one of the named grounds under the Constitution. In the absence of any express requirement that all grounds in a discrimination claim be explicitly named for section 9(5) to apply, the Constitutional Court seems justified in adopting a less demanding view for establishing intersectional discrimination as unfair in fact. After all, the presumption of unfairness in section 9(5) makes all the difference by shifting the burden of proof on the state or the respondent to show that discrimination is still justified or fair. The insistence of the dissenting opinion on the proof of indirect discrimination seems to read past this key manoeuvre of the majority which extended section 9(5) to the claim in Mahlangu.

What is also noteworthy about the approach to unfair discrimination in section 9(3) is that the Court seems to have navigated a rather complex category of indirect intersectional discrimination with ease. Indirect intersectional discrimination is obviously more complicated that direct intersectional discrimination based explicitly on multiple grounds. But it is also internally complex. It thus comes in at least four forms – the disproportionate impact of a neutral policy on an intersectionally disadvantaged group such as Black women (as was the case in Mahlangu); the disproportionate impact of the intersection of two or more neutral policies on an intersectionally disadvantaged group such as Black women (as was the case in Tilerne de Bique v. Ministry of Defence); or the disproportionate impact of a policy based on a specific ground (like marital status) on a
group defined by that and other grounds (such as unmarried female partners defined by marital status and gender, as was the case in *Volks v. Robinson*[^48^]), or the disproportionate impact of a policy based on a specific ground(s) (such as age) on disadvantaged groups defined by other grounds (such as sex and disability such as was the case in *Gosselin v. Quebec*[^49^]).[^50^] Indirect intersectional discrimination thus complicates our view of how discrimination is produced and reproduced in the society, rather than giving a false assurance that claims can be neatly divided into basic categories of direct and indirect discrimination and addressed without more. Each case of indirect intersectional discrimination has the potential to reveal something hitherto rendered ‘invisible’ or ‘erased’.[^51^] So, while the claim in *Mahlangu* was perhaps the most straightforward type of indirect intersectional discrimination, the Court’s openness to using the category of indirect intersectional discrimination to unearth discrimination which is as yet not visible or straightforward may prove to be crucial in future cases.

**Conclusion**

It is only customary to acknowledge that the origins of intersectional discrimination, in fact, the term ‘intersectionality’ itself, lie in Kimberlé W Crenshaw’s seminal article from 1989.[^52^] Efforts to recognise intersectionality theory in discrimination law[^53^] and human rights law[^54^] more broadly, have never ceased since. But in over three decades, no court, not even the South African Constitutional Court, had accomplished the task of naming and applying intersectionality theory squarely to a case of intersectional discrimination. *Mahlangu* is a breakthrough in discrimination law in this respect, and as I have shown above, in human rights and constitutional law more broadly. The reasoning of the South African Constitutional Court in *Mahlangu* thus has the potential to serve as the template for other courts and adjudicative bodies to employ intersectionality as an interpretive framework in discrimination and human rights cases. One can only hope that, with this, the next case to follow *Mahlangu*’s ambitious lead would not take as long to materialise.

**Declaration of conflicting interests**

The author(s) declared no potential conflicts of interest with respect to the research, authorship, and/or publication of this article.

**Funding**

The author(s) received no financial support for the research, authorship, and/or publication of this article.

**Notes**

1. [2020] ZACC 24 [hereafter *Mahlangu*].
2. Ibid [18].
3. Ibid.
4. Ibid [29].
5. Ibid [60].
6. Ibid [51]–[59].
7. Ibid [65].
8. Ibid [65] (Mhlantla J in their opinion, dissent on this point alone, but concur with Victor AJ’s majority judgment on all other points, including the analysis on unfair discrimination). Note also that ubuntu in Zulu stands for ‘I am, because you are’, an idea which is frequently invoked by the Court to provide constitutional interpretation a relational perspective.

9. Ibid [72].
10. Ibid [73].
11. Ibid.
12. Ibid [74].
13. Ibid [85]–[91].
14. Ibid [95].
15. Ibid [96]–[99].
16. Ibid [99].

17. Ibid [185]; see also Ibid [190]–[194] of Mhlantla J’s opinion.
18. Ibid [105]–[106].
19. Ibid [116]–[119].
20. Ibid [108], [110]–[112].
21. Ibid [110].
22. Ibid [125]–[127].
23. Ibid [127].
24. Ibid [128].
25. Ibid [159].
26. Ibid [160].
27. Ibid [161].
28. Ibid [79] (also quoting in part Minister of Finance v. Van Heerden [2004] ZACC 3 [27]).

29. See, the early theorisation of intersectionality in constitutional rights interpretation (in the United States of America), P. J. Williams, ‘Alchemical Notes: Reconstructing Ideals from Deconstructed Rights’, Harvard Civil Rights-Civil Liberties Law Review 22 (1987), p. 401; M. Matsuda, ‘When the First Quail Calls: Multiple Consciousness as Jurisprudential Method’, Women’s Rights Law Reporter 11 (1989), p. 7.

30. Mahlangu (n 1) [65].
31. Ibid [73].
32. Ibid [84].
33. Ibid [89].
34. Ibid [92].
35. Ibid [93].

36. See, this view developed in, S. Atrey, ‘On the Central Case Methodology in Discrimination Law’, Oxford Journal of Legal Studies [2021]; S. Atrey, ‘A Prioritarian Account of Gender Equality’, in R. Cook, ed. Engaging Across Borders on Gender Equality (Philadelphia: University of Pennsylvania Press, 2021) [forthcoming].

37. Mvumvu v. Minister for Transport [2011] ZACC 1 [46] (Jafta J).
38. Mahlangu (n 1) [128].
39. Ibid.
40. C. Albertyn and G. Beth, ‘Facing the Challenge of Transformation: Difficulties in the Development of an Indigenous Jurisprudence of Equality’, South African Journal on Human Rights
14 (1998), p. 248; C. Albertyn, ‘Equality’, in C. Albertyn and B. Elsje, eds. *Gender, Law and Justice* (Claremont: JUTA, 2007).

41. K. W. Crenshaw, ‘Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics’, *University of Chicago Legal Forum* (1989), p. 139; D. W. Carbado, K. W. Crenshaw, V. M. Mays, et al., ‘Intersectionality: Mapping the Movements of a Theory’, *Du Bois Review* 10 (2013), p. 303; P. H. Collins and B. Sirma, *Intersectionality* (Cambridge: Polity Press, 2016).

42. *Mahlangu* (n 1) [74].

43. S. Atrey, *Intersectional Discrimination* (Oxford: Oxford University Press, 2019), ch 3.

44. The majority seems to have been well aware of this momentous opportunity in fact. As Victor AJ wrote: ‘In light of the unique circumstances of domestic workers, this case provides an unprecedented opportunity to expressly consider the application of section 9(3) through the framework of intersectionality. This Court has also had the benefit of hearing full oral argument on the benefits and implications of the intersectional approach’. *Mahlangu* (n 1) [75] (Victor AJ).

45. 2009 (5) SA 572.

46. See, the analysis of *Hassam* as the first case in comparative discrimination law which reflects intersectionality adequately, *Atrey* (n 43) 127–130.

47. [2009] UKEAT/0075/11/SM (UK).

48. 2005 (5) BCLR 446.

49. [2002] 4 SCR 429 (Canada).

50. See, the discussion in, *Atrey* (n 43) ch 4.

51. *Mahlangu* (n 1) [85] (Victor AJ); [186] [195] (Mhlantla J).

52. Crenshaw (n 41). See also K. W. Crenshaw, ‘Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color’, *Stanford Law Review* 43 (1991), p. 1241.

53. N. Duclos, ‘Disappearing Women: Racial Minority Women in Human Rights Cases’, *Canadian Journal of Women and the Law* 6 (1993), p. 25; N. Iyer, ‘Categorical Denials: Equality Rights and the Shaping of Social Identity’, *Queen’s Law Journal* 19 (1993), p. 179; K. Abrams, ‘Title VII and the Complex Female Subject’, *Michigan Law Review* 92 (1993), p. 2479; M. Eaton, ‘At the Intersection of Gender and Sexual Orientation: Towards a Lesbian Jurisprudence’, *Southern California Review of Law and Women’s Studies* 3 (1994), p. 183; D. Kropp, ‘“Categorical” Failure: Canada’s Equality Jurisprudence – Changing Notions of Identity and the Legal Subject’, *Queen’s Law Journal* 23 (1997), p. 201; D. Pothier, ‘Connecting Grounds of Discrimination to Real People’s Real Experiences’, *Canadian Journal of Women and the Law* 13 (2001), p. 37; S. Hannett, ‘Equality at the Intersections: The Legislative and Judicial Failure to Tackle Multiple Discrimination’, *Oxford Journal of Legal Studies* 23 (2003), p. 65; A. McColgan, ‘Reconfiguring Discrimination Law’, *Public Law* [2007], p. 74; E. Bonthuys, ‘Institutional Openness and Resistance to Feminist Arguments: The Example of the South African Constitutional Court’, *Canadian Journal of Women and Law* 20 (2008), p. 1; D. Schiek and V. Chege, eds. *European Union Non-Discrimination Law: Comparative Perspectives on Multidimensional Equality Law* (London: Routledge Cavendish, 2008); I. Solanke, ‘Putting Race and Gender Together: A New Approach to Intersectionality’, *Modern Law Review* 72 (2009), p. 723; D. Schiek and L. Anna, *European Union Non-Discrimination Law and Intersectionality* (Farnham: Ashgate, 2011).
54. R. Coomaraswamy, ‘To Bellow Like a Cow: Women, Ethnicity, and the Discourse of Rights’, in R. J. Cook, ed. Human Rights of Women: National and International Perspectives (Philadelphia: University of Pennsylvania Press, 1994); P. E. Andrews, ‘Globalization, Human Rights and Critical Race Feminism: Voices from the Margins’, Journal of Gender, Race and Justice 3 (2000), p. 373; J. E. Bond, ‘International Intersectionality: A Theoretical and Pragmatic Exploration of Women’s International Human Rights Violations’, Emory Law Journal 52 (2003), p. 71; J. E. Bond, ‘Intersecting Identities and Human Rights: The Example of Romani Women’s Reproductive Rights’, Georgetown Journal of Gender and Law 5 (2004), p. 897; M. Campbell, ‘CEDAW and Women’s Intersecting Identities: A Pioneering Approach to Intersectionality’, Revista Diretio GV 11 (2015), p. 479; L. Sosa, Intersectionality in the Human Rights Legal Framework on Violence Against Women: At the Centre or the Margins? (Cambridge University Press, 2017); G. de Beco, ‘Protecting the Invisible: An Intersectional Approach to International Human Rights Law’, Human Rights Law Review 17 (2017), p. 633.