

**Understanding the phenomenon of intersectionality  
and its effect on inclusion and transformation in the  
South African legal profession**

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## **Abstract**

Black female attorneys in South Africa shape their lives through historical, gendered, racial and classist experiences, perceptions, environments and structures. Their intersectional existence is compounded by the patriarchal and gendered structures and processes of law firms, the legal profession in general and society.

This study aimed to understand Black females' lived experiences as products of a multiplicity of identities and structures to ultimately understand how intersectionality impacts their experience in the workplace and why there is limited career progression.

Due to the nature of the study and the existence of intersectionality as a social phenomenon, the study adopted an exploratory, inductive, qualitative approach through a phenomenological methodology. A total of 11 semi-structured interviews were conducted with Black female attorneys in South Africa.

The findings lead to the proposal of a conceptual model that can be used by organisations, such as law firms, to recognise the impact that a lack of intersectionality has on its staff and their career progression. This model also offers a hypothesised positive impact that understanding intersectionality may provide.

**Keywords:** Intersectionality, race, gender, inclusion, transformation, legal profession

## **Declaration**

I declare that this research project is my own work. It is submitted in partial fulfilment of the requirements for the degree of Master of Business Administration at the Gordon Institute of Business Science, University of Pretoria. It has not been submitted before for any degree or examination in any other University. I further declare that I have obtained the necessary authorisation and consent to carry out this research.

Michal Sara Sasinsky

1 December 2020

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## **1. Chapter 1: Introduction to Research Problem**

This research studied the phenomenon of intersectionality and its impact on Black female attorneys' sense of inclusion in the South African legal profession. The researcher used an inductive, qualitative methodology to explore the phenomenon in the context of an emerging market like South Africa which, to date, is an under-researched subject.

This study makes a theoretical contribution by providing a conceptual model of the need for understanding intersectionality within the workplace, specifically law firms. The model shows the potential theoretical impact that understanding intersectionality, or the lack thereof, has on employees' sense of inclusion and organisational turnover. This study also makes a practical contribution wherein the conceptual model can be used by existing and newly established organisations in understanding the importance of intersectionality in fostering inclusive and transformed organisations.

The study adopted a phenomenological approach to understanding the essence of Black females' lived experiences in the legal profession; what challenges they face; their sense of inclusion; and how these factors affect their career progression.

This chapter introduces the research problem, providing context and rationale behind the research topic. This is largely based on the low number of Black female attorneys in practice and the importance of transformation in a South African and global context. This chapter concludes with the purpose statement and outline of the remainder of the research paper.

### **1.1. Research Problem, Purpose and Rationale**

Diana Mabasa, a Black female attorney, spoke at a symposium specifically concerned with transformation in the legal profession (Derebus, 2015). She based her discussion on a report which revealed that Black females "were treated differently and that they received double prejudice because they are women and they are black" (Derebus, 2015, para. 2). A lack of understanding of the intersectional nature of Black females has resulted in a lack of transformation in the legal fraternity. For purposes of this research paper, the term Black refers to persons of African ethnicity and race, as opposed to the all-encompassing 'black' which includes individuals who are coloured or Indian within South African Legislation.

Fashioned by Kimberle Crenshaw, intersectionality refers to the interaction between race and gender which “shape the multiple dimensions of Black women’s employment experiences” (Davis & Maldonado, 2015, p. 55). Broadly speaking, inclusion refers to “process[es] and practices that involves working with diversity as a resource” and in respect of organisations, refers to “inclusive organizations and societies, [where] people of all identities and many styles can be fully themselves while also contributing to the larger collective, as valued and full members” (Ferdman, 2017, p. 235).

Whilst sexism, racism and the need for inclusion and transformation exist across multiple industries, there is a particular element that differentiates the legal fraternity. Designed, structured and originally occupied by White men, law is still a gendered profession (Acker, 1990; Jaga, Arabandi, Bagraim, & Mdlongwa, 2017). As a result of the embedded and compounded patriarchal system from which it was designed, the legal profession is viewed as one of the most untransformed (Klaaren, 2015; 2018).

In 2014, there were 22 400 practicing attorneys, of whom a majority of 64% were White and only 36% were black (which included African, coloured and Indian women). At that time, the percentage of division in gender was 63 males to 37 female attorneys. Of those numbers, only 13% were Black females as depicted in Fig. 1 below (Whittle, 2014).

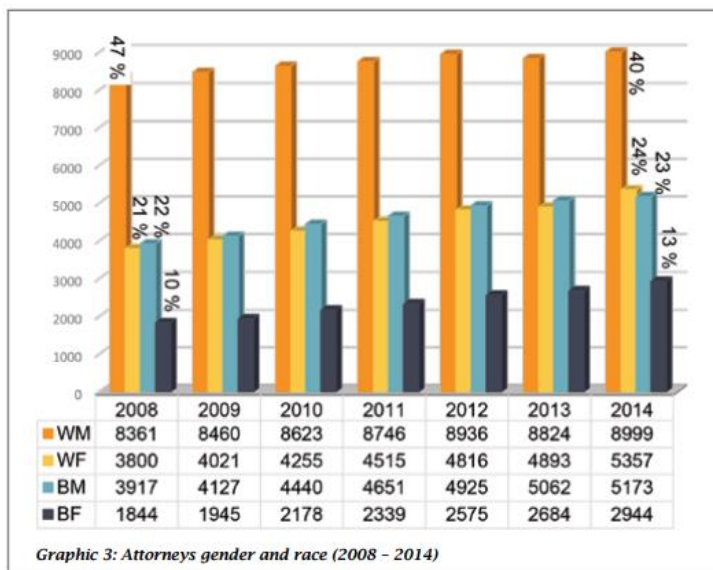


Figure 1: Attorney demographics from 2008 - 2014 (Whittle, 2014, Graphic 3).

A key focus of a 2018 Law Society of South Africa survey was to understand “the legal career of young lawyers”. Forty percent of all respondents felt it was unlikely that they would make partner and Black females were the “most pessimistic” about their prospects (Law Society of South Africa, 2019, p. vi). Importantly, these numbers are problematic as they include Indian and Coloured females together with Black females, the effect of which removes Black females’ individual intersecting identities.

Although Xaso (2017) alluded to it, it is not fully understood why Black females represented the smallest group of practicing attorneys (Law Society of South Africa, 2016) but the greatest number of candidate attorneys (Klaaren, 2018). Simply put, after Black females have served their articles the number of Black females decreases drastically once they are admitted into the profession. It stands to reason that more Black females are being recruited at a junior level but are not progressing upwards.

Despite the regulation, legislation and attempted implementation of transformation in South Africa, “Black women are still the minority in corporate spaces and [they] are wholly unrepresented in the power structures” (Xaso, 2017). This is not to say that no progress towards transformation has been made, however, it remains a challenge and “there is still much work to be done” (Top Empowerment, n.d.; Nkomo, Bell, Roberts, Joshi, & Thatcher, 2019). A result of this lack of representation and transformation is the acceptance of gender discrimination, sexual harassment and additionally, racial discrimination in the profession (Klaaren, 2018).

Intersectionality and a lack of inclusion result in the internalisation of negative stereotypes, which leads to additional stress, hampering career progression (Xaso, 2017). Organisations have become increasingly aware that a diverse workforce, and the manner in which these demographics are managed, will affect an organisation’s “functioning and effectiveness” (Shore, Cleveland & Sanchez, 2018; Ferdman, 2017; Roberson, 2006). This means that a lack of transformation will ultimately affect law firms’ bottom line.

Phenomenological research has been conducted on intersectionality, but this has been done more so in the context of the USA and the United Kingdom (UK) and not emerging markets such as South Africa (Davis & Maldonado, 2015). Although some similarities exist, research relating to the USA and UK should not be generalised to the unique context of South Africa. Therefore, this body of knowledge is still developing and requires further research. Although Carastathis (2014)

acknowledges that the concept of intersectionality has existed since the 1980s, the research thereon is limited. In addition, research conducted on intersectionality has largely focused on academia and psychology (Crittenden et al., 2020; Windsong, 2016; Mählick & Thaver, 2010; Davis & Maldonado, 2015). Some research on intersectionality in professional services firms exists but this is limited to America, the United Kingdom, Australia and New Zealand – all of which are established markets – and professions such as engineering and accounting (Tomlinson, Muzio, Sommerlad, Webley, & Duff, 2013; Tomlinson, Valizade, Muzio, Charlwood, & Aulakh, 2019; Kricheli-Katz, Rosen-Zvi, & Ziv, 2018; Ruiz-Castro & Holvino, 2016)

The gendered nature of professional services firms has been examined but there is limited research with particular emphasis on the legal profession. The majority of this research analyses the concept of the “glass ceiling” to the exclusion of intersectionality as studies most commonly focus on one aspect of discrimination - gender (Bourabain, 2020).

To contribute to this under-researched area, Ruiz-Castro and Holvino (2016) conducted research in an accounting firm: “while research in [professional services firms] has tackled directly or indirectly the social categories of gender, class and racio-ethnicity, to our knowledge there is no exploration of the intersection of these differences and their inequality effects” (p. 332). It is thus imperative to further study how intersecting identities and differences “operate as simultaneous processes of identity, organizational and societal practices” as systems of continuous and embedded inequalities (Ruiz-Castro & Holvino, 2016, p. 332).

The researcher aimed to understand why Black females are not significantly represented in law firms and to ultimately give Black females a voice in the legal profession. As an ally of the Black Lives Matter Movement and attorney herself, the researcher seeks to understand how law firms contribute to systemic racism. Although the research will be conducted in respect of South Africa and South African law firms, the essences that will be analysed and extrapolated have global relevance for organisations due to the global scourge of sexism and more particularly racism.

## **1.2. Purpose Statement**

Through the use of phenomenological research methods, this qualitative study sought to understand how Black females perceive their multiple intersecting identities

to impact their experiences as attorneys in South Africa, and the extent to which it affects inclusion and transformation in South African law firms.

It is important to understand Black female attorneys' common experiences of intersectionality to develop practices to aid law firms in transformation (Creswell & Poth, 2017). Based on the notion that law is a traditionally segregated profession, this study's findings should assist organisations, employers and policymakers in promoting Black female participation in a predominantly White and male industry (Acker 1992; Jones, 2020).

### **1.3 Document Structure**

This research paper will follow with Chapter 2 providing an overview of the literature and theory reviewed in support of this study, outlining the importance of intersectionality and its relevance in organisations. The literature review continues to explore the key constructs of inclusion and transformation with the added relevance of theory on sexism and sexual harassment. This ultimately provides the basis for the research questions contained in Chapter 3.

Chapter 4 then presents the research methodology and design including the reasoning behind the chosen phenomenological approach. Included in this chapter is the researcher's bracketing of her own experiences with intersectionality in an attempt to consider the research and findings more objectively. The findings produced by the semi-structured interviews are then detailed and presented in Chapter 5 according to the phenomenological analysis process suggested by Creswell and Poth (2017). Chapter 5 concludes with a summary of the essence of the phenomenon.

A detailed discussion of the results based on the research questions and new insights are then presented in Chapter 6. Finally, Chapter 7 provides conclusive remarks, a conceptual model for the importance of understanding intersectionality and recommendations for further research.

## **2. Chapter 2: Literature Review**

### **2.1. Introduction**

Aligned with the purpose of the study outlined in Section 1.2 this chapter uses an array of seminal and current literature to provide descriptions of the theories of intersectionality, inclusion and transformation as key constructs for understanding the experience of Black female attorneys. The literature review also provides a theoretical basis for understanding the phenomenon of the intersectionality of Black females in the workplace.

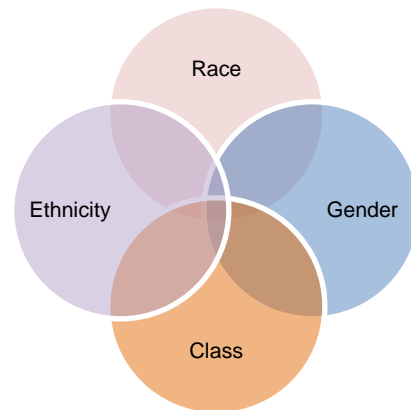
The literature review begins with an exploration of intersectionality and its importance in the workplace; the concepts of inclusion and exclusion, transformation, Broad-Based Black Economic Empowerment (BBBEE) and sexism and sexual harassment in the workplace. These various theories help inform the topic being investigated. The extant literature and theory on intersectionality has mostly occurred in the United States of America (USA), the United Kingdom (UK), Australia and New Zealand, countries and markets that are significantly different to South Africa in their economic and demographic make-up. Although contextually and historically different, this literature is still relevant for purposes of understanding the core constructs of this study. Finally, this section concludes with a summary of the relevant literature positing the study for the Research Questions contained in Chapter 3.

### **2.2. Intersectionality**

In South Africa, Black females construct their experiences through the framework of their intersecting identities as shaped by the country's social and political past. Although this is true for all individuals, the nature of Black females' construction will be different to individuals of other races, genders, classes and racio-ethnicities. Still today, Black women are the most predisposed group, subject to multiple discriminations, in the South African workforce (Jaga et al., 2017, p. 3). Due to the demographic make-up of the country and its historic context, intersectionality, like in the USA, has a role in the economic, political and social structure of corporate South Africa.

Intersectionality is the interaction between multiple identities which shapes an individual's identity and experiences (Davis & Maldonado, 2015; Howard & Navarro, 2016). It is both "a tool for analysis, advocacy and policy development that addresses multiple discriminations and helps us understand how different sets of identities

impact access to rights and opportunities” (Dudley, 2006, p. 37) and a “distinct social position” created when two minority identities intersect (Scheepers, Douman & Moodley, 2018, p. 11). When the two disadvantages overlap it creates a greater hardship than when disadvantages are considered individually (Scheepers et al., 2018). Due to the aim and subject matter of this study, the overarching theory is that of intersectionality. A simplified depiction of intersectionality is depicted below in Figure 2.



*Figure 2: Simplified depiction of intersectionality adapted from Bell and Nkomo (1992)*

In emerging markets, the ratio of male to female lawyers (which encompasses both attorneys and advocates) at partner level is below 26% (Carmona, 2017). Feminists in western liberal democracies experienced many victories in the 1970s based on the equal rights doctrine, many others have found the equality doctrine to be problematic. This is because the doctrine entails comparisons which tend “strongly to reflect existing societal norms” (Bartlett & Kennedy, 1991, p. 5). Subsequently “equality for women has come to mean equality with men – usually white, middle-class men” (Bartlett & Kennedy, 1991, p. 5). Scheepers et al. (2018) warned against “the danger of treating all differences equally” (p. 11). Thus, it was deemed important to consider the unique lived experiences of Black females.

Women in corporate law firms, operating within emerging markets face a “unique set of challenges” (Jaffit & Alexander, 2017, p. 244). Using an intersectional lens, Black females “have trouble breaking into white male dominated professional workplaces because of South Africa’s racial and patriarchal apartheid legacy” (Jaga et al., 2017, p. 3). Black females in South Africa have been identified as a specific group of marginalised persons (Scheepers, Chengadu & Durrant, 2017, p. 289). This can be

seen from The African Commission's need to not only investigate situations from a female perspective but a Black female's perspective specifically.

The general body of organisational literature that was engaged by the researcher tends to focus on females as a category of individuals or race or gender as a category of discrimination to the exclusion of considering the impact that intersections of multiple identities and organisational structure also has.

Intersectional theory is rooted in the critique of feminist literature which favoured one dimension of social discrimination above the others (Rodriguez, Holvino, Fletcher & Nkomo, 2016). According to Rodriguez et al. (2016) in recent years, intersectionality academics have expanded the theory by linking it with "other critical theoretical frameworks, such as postcolonial/transnational feminism, migration and mobility studies, and development studies" (p. 2). This is key for studying how intersectionality operates within organisational and work studies (Ruiz-Castro & Holvino, 2016).

Carastathis (2014) stated that in the field of feminist theory, intersectionality has become the principal method of "conceptualizing the relation between systems of oppression which construct our multiple identities and our social locations in hierarchies of power and privilege" (p. 304). She continued to champion that women's oppression cannot be captured by simply analysing gender or race or sexual orientation alone. There has been little effort to reflect upon precisely how intersectionality has moved across time, disciplines, issues, geographic and national boundaries and translated into empirical research (Carbado, Crenshaw, Mays, & Tomlinson, 2013; Windsong, 2016).

As suggested by McCall (2005), studies on intersectionality under-utilise the 'inter-categorical complexity' approach. By adopting and applying this 'inter-categorical' approach, the researcher is able to analyse how the existence of intersecting categories of identity like gender, race, class and racio-ethnicity, together with organisational structures and contexts can lead to a greater understanding of labour market outcomes (Tomlinson et al., 2019).

The concept of intersectionality captures "the inadequacy of legal frameworks to address inequality and discrimination resulting from the ways race and gender intersected to shape the employment experiences of Black women" (Rodriguez et al., 2016, p. 2). Thus, it is necessary to study the lived experiences of Black female



attorneys and understand how their intersecting identities impact their workplace experiences.

### **2.3. Inclusion and Exclusion**

Grissom (2018) stated that “diversity and inclusion are critical topics in the workplace” (p. 242). By understanding and incorporating inclusion practices, organisations can ultimately benefit from the innovative ideas that result from diversity (Shore et al., 2018). Based on the broad definition presented in section 1.1, inclusion refers to the acceptance and value of diversity in the workplace and the creation of a psychologically safe environment for individuals to be their authentic selves. Mor Barak’s (2015) concept of inclusion “refers to an individual’s sense of being a part of the organizational system in both formal processes... and the informal processes”. Inclusion provides equal opportunities for both marginalised and non-marginalised individuals and groups in the workplace (Shore et al., 2018).

For an individual to experience a sense of inclusion, they need to participate in decision making activities, formal and informal process such as social interactions, and knowledge and information sharing, and feel that equal opportunities exist for all members of the organisation. Professional services organisations, such as law firms, cater to a large and diverse clientele, however, the law firms are not representative of that diversity (Mor Barak, 2015).

There are multiple points in which an individual can experience exclusion in organisations, and these experiences can range from recruitment through to promotion. Mählck and Thaver (2010) found that barriers to inclusion existed at the recruitment levels in academic organisations. The recruitment criteria for Black individuals, particularly Black females, differed greatly with the additional requirement of a doctorate.

This, however, is the antithesis to what occurs at law firms in South Africa. In 2016, the largest number of candidate attorneys that entered into contracts of articles were Black females. However, statistically there are fewer Black female attorneys than other demographics. When considering Black females’ negative prospects of climbing the hierarchical corporate ladder, it is clear that Black females are not confident when considering job security (Law Society of South Africa, 2019). However, as mentioned above, there is little qualitative evidence as to why, particularly through the use of phenomenological research.

More recent research has shown that attitudes towards inclusion and diversity for marginalised groups have regressed and that deeper and continuous research on the topic is needed (Nkomo et al., 2019). This is evident from the emergence of the Black Lives Matter movement to counteract systemic racism, the resurgence of nationalism and White supremacy.

It is thus important to investigate Black females' sense of inclusion-exclusion in law firms in an attempt to understand the lack of representation and transformation in the industry and how this impacts career progression.

### **2.3.1. Inclusion: Constructs**

Issues of inclusion and how these are faced by Black female attorneys are important to consider in light of organisational culture and environments. Human resource management literature provides several inclusion constructs including, workgroup inclusion, leader inclusion, perceived organisational inclusion, organisational practices and inclusive climate (Shore et al., 2018). For purposes of this study, perceived organisational inclusion and inclusive climate were focused on.

This is because perceived organisational inclusion considers an employee's perception of inclusion within the organisation. Diversity and organisational culture of law firms contribute to Black female attorneys' perception of inclusion-exclusion which leads to their experience of "job satisfaction, organisational commitment, individual well-being, and task effectiveness" (Shore et al., 2017, p. 4). This is important as the study considers the individual experience of Black female attorneys.

An inclusive climate refers to an organisational environment that is "characterized by a collective commitment to integrating diverse cultural identities as a source of insight and skill" (Nishii, 2013, p. 1754). Where organisations exhibit a commitment to fostering and empowering diversity and uniqueness an inclusive climate will emerge. This also includes an acknowledgement that discriminatory practices occur and should be addressed (Shore et al., 2017)

The rationale for driving law firms with inclusive environments and perceived organisational inclusion is to enable Black women to "participate meaningfully in the S[outh] A[frikan] economy" and to progress to more senior positions (Jones, 2020, p. 11).

## **2.4. Transformation and Broad-Based Black Economic Empowerment in South African Law Firms**

Pringle et al. (2017) argued that barriers to female advancement still exist “with the gendered structure and culture of the law profession” (p. 446). It is common cause that the legal profession is a gendered fraternity favouring male employees in positions of power (Pringle et al., 2017; Carmona, 2017; Acker, 1990). According to Kricheli-Katz et al. (2018), promotions, opportunities and equal pay are limited by systemic exclusionary practices ultimately resulting in a “gendered professional environment in which women fair worse than men” (p. 439). However, more than the profession being gendered, it is also lacking in inclusion and consequently transformation.

Transformation in a South African context has a particular meaning reflective of the country’s socio-political transformation. As proposed by the Department of Education (1996), transformation includes the overcoming of “an historically determined pattern of fragmentation, inequality and inefficiency” with specific reference to Black individuals and women (Harvey, 2020).

Research in South Africa acknowledges the “deeply embedded gender and race prejudices that Black women professionals... confront in post-apartheid South Africa” (Jaga et al., 2017, p. 13). The need for national and organisational policy and solutions to address the intersecting discriminations faced by Black females is at its core about “social transformation” (Jaga et al., 2017, p. 13).

In 2016, the difference between White female attorneys and White female candidate attorneys was 1%. However, the difference between Black female admitted attorneys and Black female candidate attorneys was more than 50% (Law Society of South Africa, 2016). Efforts for transformation have been made and the number of Black female candidate attorneys is reflective of this. However, the anomaly exists when Black females move beyond a trainee level to associates, senior associates, directors and ultimately partners.

Where clients as well as professionals operate within a gendered class system, the patriarchal culture is supported, and inclusion and transformation are consequently ignored. Research has not specifically focused on the effect of the intersectionality (of gender and race) on inclusion and transformation in a multicultural, multi-racial society and emerging market such as South Africa. Failure to reduce and prevent

discrimination in the workplace inhibits “South Africa’s transformation agenda and inhibits national success” (Jaga et al., 2017, p. 13).

Pringle et al. (2017) applied Joan Acker’s “framework for understanding gendered organisational processes... to better understand why many women struggle to progress their legal career within large law firms”, the result of which is a lack of transformation within the profession (Pringle et al., 2017, p. 436). Their study focused specifically on the USA, Australia and New Zealand, countries and markets that are significantly different to South Africa in their economic and demographic make-up.

This study considers the existing gendering practices and structures, gendering cultures; and gendering interactions holistically in respect of the South African legal profession.

## **2.5. Organisational Structure and Behaviour: A Lack of Management Education**

According to Acker (1992), “gendered institutions” are those organisations in which gender exists in its “processes, practices, images and ideologies, and distributions of power” (p. 567). It includes the informal social interactions within the organisation. Institutions, organisations and various societal norms are arranged according to an individuals’ gender (this most often refers to gender assigned at birth and does not include transgendered individuals). Public and private, for profit and non-profit organisations, institutions and processes are historically developed by White men, largely benefiting White men – the legal profession is no different. As discussed above, the profession is still predominantly male. Acker (1992) eloquently and accurately stated that “[t]hese institutions have been defined by the absence of women” (p. 567). The researcher acknowledges this statement; however, to take this issue further, it can be argued that these institutions have been defined in the absence of women *and persons of colour*.

There is significant research that outlines the positive impact of organisational diversity and its “advantageous outcomes” (Mor Barak et al., 2016, p. 3). In addition, the benefits of a diverse workforce include:

- Job satisfaction
- Decreased turnover
- Organisational commitment

- Greater innovations
- Problem solving abilities
- Increased organisational performance

In addition, and important to professional services firms such as law firms, a diverse workforce leads to “increased access to a more diversified client base” (Mor Barak et al., 2016, p. 3). However, it must be noted that other studies found negative outcomes to having a diverse workforce such as “lack of retention, lost revenues, increased interunit conflict, and lack of cooperation” (Mor Barak et al., 2016, p. 3; Shore et al., 2017, p. 4). While it is important to acknowledge these potential drawbacks, the offering of equal opportunities and the importance of inclusion, transformation and workplace diversity far outweighs these concerns.

Despite the fact that intersectional understanding is needed to alleviate inequalities in the workplace, the phenomenon of intersectionality has not been fully explored in considering “structures of discrimination and systems of power and inequality” (Rodriguez et al., 2016, p. 2). Further to this, the need for intersectional understanding and possible management education is lacking in research.

Holvino’s (2012) concept of simultaneity refers to the existence of “simultaneous processes of identity, and organizational and societal practices that produce and reproduce particular identities and relations of inequality and privilege” (p. 6). This is the co-existence of different aspects and characteristics of identity (such as race, gender, religion and class) given a particular organisational, geographical and social context. This model considers the simultaneous existence of identities at an individual, organisational and societal level, making it relevant to this study of Black female attorneys experiences within the legal profession (Holvino, 2012).

Together with Holvino’s (2012) concept of simultaneity, the inter-categorical complexity approach calls for a deeper understanding of existing discriminations “within structures and institutions and argues that individual narratives, organisational practices and wider societal processes” need to be considered in an interconnected way (p. 262). Thus, these “categories” need to be studied in an interconnected way to disrupt the overarching dominant male structures and “challenge the power dynamics that sustain systems of inequality in organisations” (Rodriguez et al., 2016, p. 5).

## **2.6. Sexism and Sexual Harassment in the Workplace**

This study considers Ambivalent Sexism theory which is divided into two categories, namely hostile and benevolent sexism. According to Pacilli et al. (2018) hostile sexism is “an antagonistic and adversarial attitude toward women who do not conform to traditional gender roles and is openly intended to justify and preserve male dominance” (p. 475). Whilst benevolent sexism is subtler and not as confrontational. However benevolent sexism is still problematic because it perceives women “as wonderful and fragile creatures who need and deserve men’s protection and adoration” (Pacilli et al., 2018, p. 475).

Although benevolent sexism appears to be the lesser evil, it still promotes sexist behaviour, undermines female career progression and gender equality in the workplace. This is because it does not support women in masculine positions such as managers or directors (Hideg & Ferris, 2016). These findings suggest that benevolent sexism may manifest in seemingly positive consequences on the surface, for example in as a positive performance review, yet simultaneously undermine the advancement of women in subtler ways that may not be immediately observable (Jones et al., 2017; Bourabain, 2020)

According to Khumalo, Gwandure and Mayekiso (2015) there is “no single theory that adequately explains sexual harassment in the workplace” (p. 107). Social cultural theory proposes that sexual harassment manifests as a form of sexism whereas organisation theory is linked to organisational structure relating to the power distance between seniors and juniors (Khumalo et al., 2015). Important are the consequences of sexual harassment in the workplace as it negatively effects employees psychologically and may result in stress, depression, posttraumatic stress disorder, work disorderliness, mood disorders, withdrawal symptoms and poor performance.

## **2.7. Theory and Literature Review Conclusion**

This section provided an understanding of the overarching theory of intersectionality and its importance in organisations. It then described the theories of inclusion, exclusion, transformation, sexism and sexual harassment in a global and South African context. The theory and literature highlight that more information and consideration is needed to understand and acknowledge Black females’ particular

circumstances in the law firms and the need for this research in an emerging market (Shore et al., 2017).

In light of the purpose statement in Section 1.2 and the limited available literature in the outlined areas, within a South African and emerging market context, this study adopted an exploratory approach to understand the phenomenon of intersectionality for Black female attorneys.

The Research Questions as informed by the literature contained in this Chapter, are outlined in Chapter 3.

### **3. Chapter 3: Research Questions**

The research questions were based on the purpose of the study and the availability of knowledge and theory contained in the literature review. The rationale for the research questions, as derived from the literature review, was to understand Black females' lived experiences of intersectionality as a potential barrier to career progression in the legal profession. As phenomenology seeks to understand the participants' essence of the experience with the phenomenon, the researcher adopted a broad and open-minded approach to intersectionality. This approach led to the development of open-ended interview questions that were broad in nature and attempted to understand the particular experiences and circumstances in which Black female attorneys experienced intersectionality and then to better understand how the phenomenon affected the participants in the workplace. The researcher formulated the interview questions to gain insights into the research questions.

To understand the phenomenon of intersectionality and its effect on inclusion and transformation in the South African legal profession, the following research questions were posed:

#### **Research Question 1: How do Black female attorneys' intersecting identities impact their experience in the workplace?**

The aim of this question was to understand the essence of a Black female attorney's experience in law firms and to understand how multiple intersecting and often degraded identities impact an individual's performance and existence in an organisational environment.

#### **Research Question 2: What meaning do Black females ascribe to their experiences of inclusion in respect to their career progression?**

Due to the low numbers of Black female attorneys working in law firms (as opposed to corporate organisations), the aim of this question was to understand if and why Black female attorneys' sense of inclusion impacts their career progression.

In a greater sense, together these research questions seek to assist gendered professions, such as law, with understanding the effect that intersecting identities may have on inclusion and transformation. Finally, by acknowledging the male privilege associated with the profession, the research aimed to assist in overcoming the obstacles and boundaries which may be felt by Black females.



## **4. Chapter 4: Research Methodology**

Chapter 4 outlines the purpose of the chosen methodology and the underlying philosophy of the study, followed by an in-depth discussion of the nature of the research design, methodological choices and data gathering and analysis techniques. As the research was conducted on the phenomenon of intersectionality and its effect on inclusion and transformation in the South African legal profession, an area that is relatively unexplored, an inductive, exploratory, qualitative, phenomenological study was undertaken. The section includes the role of the researcher in this phenomenological study, the interview process and concludes by identifying limitations to the study.

### **4.1. Choice of Methodology**

The need to understand how Black females experience their social world in law firms lent itself to a qualitative, interpretivist research approach (Žukauskas, Vveinhardt, & Andriukaitienė, 2018). According to Saunders and Lewis (2012), “interpretivism relates to the study of social phenomena in their natural environment” (p. 106). Due to the subject matter, the complexity that exists in organisations and the need to understand the research subjects’ point of view, interpretivism was the most appropriate philosophy to adopt for this study (Saunders & Lewis, 2012). As an understanding of each Black female’s experience of intersectionality was sought from their subjective views and experiences, a positivist, objective philosophy would not have been appropriate (Žukauskas, Vveinhardt, & Andriukaitienė, 2018).

Saunders, Lewis and Thornhill (2012) provided that if research begins with data collection to explore a phenomenon whereafter theory or a conceptual framework is built, the research approach will be inductive. Black females’ reality is constructed “through historical and cultural norms” that operate in their individual lives, thus, an inductive study that “develop[s] a theory or pattern of meaning” was undertaken (Creswell & Poth, 2017, p. 24). An inductive approach allowed the researcher to understand the “meaning humans attach to events” (Saunders & Lewis, 2012, p. 109).

As this research only used a qualitative methodology, it is considered mono-methodological research. This exploratory research explored the factors of intersectionality, inclusion and transformation, the interaction between these constructs, and sought to explain why intersectionality may have an impact on

inclusion and transformation (Saunders & Lewis, 2012). Due to the time constraints involved in the research, a cross-sectional study was conducted. The data were collected from the participants at a particular point in time. This was useful as the researcher explored the legal profession at that specific point, considering how and why the industry remains predominantly White and male. This snapshot in time allows for past and future comparisons of transformation in the legal profession.

Phenomenology, the chosen qualitative methodology, seeks to make the implicit meanings of human existence, explicit (Sanders, 1982). Due to the desire to understand the essence of Black female attorneys' particular experiences, phenomenology was the most appropriate approach (Saunders & Lewis, 2012). Creswell and Poth (2017) defined a phenomenological study as research that "describes the common meaning for several individuals of their lived experiences of a concept or a phenomenon" (p. 75). Eidetic phenomenology, in particular, seeks to present the form and nature of an individual's reality through their lived experiences.

A narrative study "tells stories of individual experiences" (Creswell & Poth, 2017, p. 67) whereas a phenomenological approach seeks to understand and describe the essence or common meaning of a lived experience by several individuals. The nature of this research sought to describe a common experience of intersectionality and the extent to which it affects inclusion and transformation for Black female attorneys. Thus, phenomenology was more suitable than a narrative approach.

Whilst undertaking this phenomenological study, and to ensure the research is credible, the researcher set aside and bracketed her experiences insofar as she was able to (Creswell & Poth, 2017). Although this is rarely perfectly achieved, the researcher described her own experience with intersectionality, inclusion and transformation prior to analysing the experience of others (Creswell & Poth, 2017). To avoid assumptions, Sanders (1982) described bracketing as "the temporary suspension of all existing personal biases... to get straight to the pure and unencumbered visions of what a thing 'essentially' is." (p. 355). This epoché is a common feature of phenomenological studies and is contained in Section 4.9.

## **4.2. Data Collection**

As a result of the national restrictions placed due to the COVID-19 pandemic, in-depth, semi-structured and virtual one-on-one interviews were conducted. A video teleconference platform, Microsoft Teams (MS Teams), was utilised to facilitate the

virtual interviews. Semi-structured interviews provided the researcher with the flexibility to change the order of the questions or the specific questions to be asked (Saunders & Lewis, 2012). This depended on the responses given by the participants. This flexibility allowed the researcher to 'probe' answers and request the participants to build on their answers. According to Saunders et al. (2012), semi-structured and in-depth interviews are used to "understand the 'what' and the 'how' but also to place more emphasis on 'why'" (p. 376). In-depth interviews were an important mechanism to understand the reasons that the participants have their particular opinions and attitudes towards inclusion and intersectionality (Saunders et al., 2012).

Non-standardised, virtual interviews provided the researcher with the opportunity to utilise her full interview skills (Saunders & Lewis, 2012). Semi-structured interviews ensured that key themes were covered and did vary from interview to interview (Saunders et al., 2012). To ensure the reliability of the data, the semi-structured interviews were mostly conducted early in the morning during weekdays at approximately the same time of day (Saunders & Lewis, 2012). This was in efforts to provide consistent interview conditions.

#### **4.3. Ethics and Sensitivities**

Due to the sensitive nature of the discussions concerning race, gender, discrimination, inclusion and intersectionality, all necessary precautions were taken and the questions were asked in a respectful and sensitive manner. In addition, the researcher was cognizant of her tone and facial expression (Saunders & Lewis, 2012). Furthermore, as the interviewer, the researcher was aware of the power dynamics and the position of power she held in respect of the sensitive nature of the subject matter.

Subject to the participants' informed written consent, the semi-structured interviews were also recorded. This provided the researcher with the freedom to listen to the participants instead of taking word-for-word notes. Audio-visual recordings provided an accurate and unbiased script of the interviews which the researcher was able to listen to again. This allowed the researcher to be engaged, attentive and interactive when interviewing the participants. In addition, the recordings and audio were safely stored on the researcher's private hard drive as well as on a digital cloud storage system and will be stored for a period of ten years whereafter they will be destroyed once the period has elapsed.

In conclusion, phenomenology provides rich and descriptive data and is thus ideal for understanding and describing the lived experiences of human beings. The purpose of this study was to explore Black females' experiences of intersectionality within the context of phenomenology and the legal profession (Creswell & Poth, 2017).

#### **4.4. Population and Unit of Analysis**

The term 'lawyer' describes both practicing and non-practicing attorneys and advocates. Non-practicing attorneys are those who no longer operate within a law firm environment. The Legal Profession's Council (previously as the Law Society of South Africa) has a list of *practicing* attorneys. As this study focused on attorneys (whether practicing or not), the population was Black female lawyers who had been admitted in court as attorneys. Their lived experiences of the phenomenon of intersectionality was analysed. Klaaren (2015) noted that data collection in respect of both practising and non-practising attorneys remains significantly slim. Thus, the entire population was unobtainable and collection of data therefrom would have been impractical (Saunders & Lewis, 2012); a sample provided a valid alternative (Saunders et al., 2012).

#### **4.5. Sampling Method and Size**

A sampling frame is a complete list of all of the cases from which your sample can be selected (Saunders et al., 2012). Non-probability sampling is useful in a qualitative study. Using her judgment to select the most adequate participants to meet the research objective, the researcher employed purposive sampling (Saunders & Lewis 2012). The participants were purposively selected as they provided an "understanding of the research problem and central phenomenon in the study" (Creswell & Poth, 2017, p. 158). The purposive sampling technique of a homogenous group prevented variation in the data collected (Saunders & Lewis, 2012).

As the nature of the population was homogenous, an in-depth study which focused on a smaller sample was used, providing the researcher with rich information and enabling her to meet the research objectives and answer the research questions (Saunders & Lewis, 2012; Saunders et al., 2012). Black, female attorneys are a particular subgroup with similar characteristics – gender, race and occupation. This allowed the researcher to explore the participants' experiences in greater depth (Saunders et al., 2012). Each participant exhibited the characteristics which were

being observed and were able to provide reliable information on the phenomenon (Sanders, 1982). The following criteria needed to be met: Black, female, admitted as an attorney, having worked in a corporate law firm in Johannesburg. These criteria ensured validity in the data collected (Saunders & Lewis, 2012). Although the sample size may vary in phenomenology (Creswell & Poth, 2017), 11 in-depth interviews amongst the homogenous group was sufficient as no new themes emerged after the eleventh interview (Saunders et al., 2012).

Creswell and Poth (2017) detailed data collection according to the various approaches (p. 150, Table 7.1). When using phenomenology, multiple individuals who have experienced the phenomenon are studied. A part of the criteria for the selection of these individuals was their experience of the phenomenon. When gathering data, in-depth interviews with a smaller number of individuals who have experienced the phenomenon is important.

In addition to interviews, as suggested by van Manen (1990), descriptions of the experiences from non-traditional research such as descriptions of the phenomenon by poets, authors or artists was collected. The participants were all asked if they had a poem, song or piece of art that they felt best represented their experiences in the context of the study. Several participants shared either a poem or a song to depict their emotions in an alternative way. These were then incorporated into Chapter 5 and Chapter 6 to articulate the participants' experiences with the phenomenon and ultimately their feelings of inclusion and transformation.

#### **4.6. Measurement Instrument**

In a qualitative study, the researcher serves as the measurement instrument (Maxwell, 2013). Thus, an interview protocol was used as a tool to ensure that the researcher covered the necessary themes and questions, and that data was collected consistently throughout the interviews. The interview protocol consisted of ten questions and directed the researcher in respect of the activities and questions conducted in the interview (Creswell & Poth, 2017). The instrument included an introduction to the research, the purpose and what the intended objective was. It also contained questions relating to the participants' background and professional experience, the constructs of inclusion and intersectionality and, finally, posed questions relating specifically to the participants' experiences (a copy of the interview protocol is included at Annexure 1).

To avoid data quality issues, Saunders et al. (2012) suggested that the researcher and interviewee be well prepared and knowledgeable prior to the interview. The researcher ensured that she had a good level of understanding of intersectionality, inclusion, transformation and the legal profession. She supplied each interviewee with adequate information and descriptions of the constructs. Due to the global COVID-19 pandemic, the researcher conducted the interviews over MS Teams. MS Teams provided an appropriate, quiet and private platform to conduct the interviews.

Furthermore, a pilot interview was conducted in advance with a test participant similar to the research participants. This was set up via MS Teams, prior to the commencement of the formal interviews and was done in a relaxed manner allowing the researcher to practice. This allowed the researcher to refine her interview technique and provided the researcher with an evaluation of the nature of topics and questions within the interview protocol. During the pilot interview, the researcher became aware of the possible technical difficulties that may be experienced. This was fortunate as the researcher was then able to inform her participants prior to their interviews of the MS Teams software and how to navigate it. The pilot interview was not included in the data set.

The researcher avoided biases that may affect the quality of the data produced. In addition to tone and sensitivity (as discussed above), the researcher dressed professionally, was cognizant of the nature of the discussions and words used, her approach to questioning, and demonstrated attentive listening.

#### **4.7. Data Gathering Process**

A total of 11 semi-structured interviews were conducted with the selected sample of Black female attorneys. The length of the interviews ranged from 44 to 90 minutes, averaging at 71 minutes per interview. This is indicative of the depth into which each participant shared their experiences with the researcher. Due to the nature of the subject matter, the researcher was sensitive and careful to provide the participants with enough time to share their experiences.

Initial contact was made via text message to establish the participants' willingness to participate in the study. This was followed by an email further detailing the purpose of the study, the confidentiality boundaries and providing the participants with a copy of the interview protocol and a consent form. The interview protocol and consent form were given to ensure details of the research constructs were provided and so that

the participants were comfortable with the level of confidentiality. Mutually convenient times and dates were then arranged via email and often confirmed via text message. The researcher ensured receipt of the signed consent forms prior to all interviews.

#### **4.8. Data Analysis Approach**

Creswell and Poth (2017) provided a simple approach to data analysis. Eidetic reduction “is the process of abstracting essences from consciousness or experiences” (Sanders, 1982, p. 355). This process involved investigating the implicit essences to locate commonalities in the participants’ experiences (Sanders, 1982). Thus, through the use of eidetic reduction, invariants then emerged from the descriptions and commonalities amongst the narratives were then identified (Sanders, 1982). To convey an overall essence of the participants’ experiences, a combination of the two descriptions was then used (Creswell & Poth, 2017).

Prior to the data analysis, the researcher bracketed her own experience. This involved the researcher’s description of her experience with the phenomenon of intersectionality as a White, female, attorney in an “attempt to set aside the researcher’s personal experiences” to focus on the participants (Creswell & Poth, 2017, p. 201). In analysing the data, the audio-visual recordings of the interviews were transcribed (Sanders, 1982). Once transcribed, the interviews were prepped for analysis by using Atlas TI, a software programme. These transcriptions were then used in the data analysis. Using an inductive approach, guided by the research questions and to begin the analysis of the data collected, the researcher developed “a list of significant statements” (Creswell & Poth, 2017, p. 201) by identifying descriptions of how the participants experienced intersectionality, inclusion and transformation. This horizontalisation of the data assists the researcher in avoided repetition and overlapping statements (Creswell & Poth, 2017). The researcher then grouped the significant statements into broader themes (Creswell & Poth, 2017).

Once the themes were established, the researcher developed textual and structural descriptions of the subjects’ experiences. The textual description included what the participants experienced with the phenomenon of intersectionality including verbatim examples from the interviews. The structural description detailed the context that influenced how the participants experienced the phenomenon in terms of their situations. A description of the particular instances where the phenomenon occurred was provided. Lastly, a composite description of the participants’ experiences with the phenomenon was provided (Creswell & Poth, 2017).

The phenomenological analysis process is presented in Figure 3.

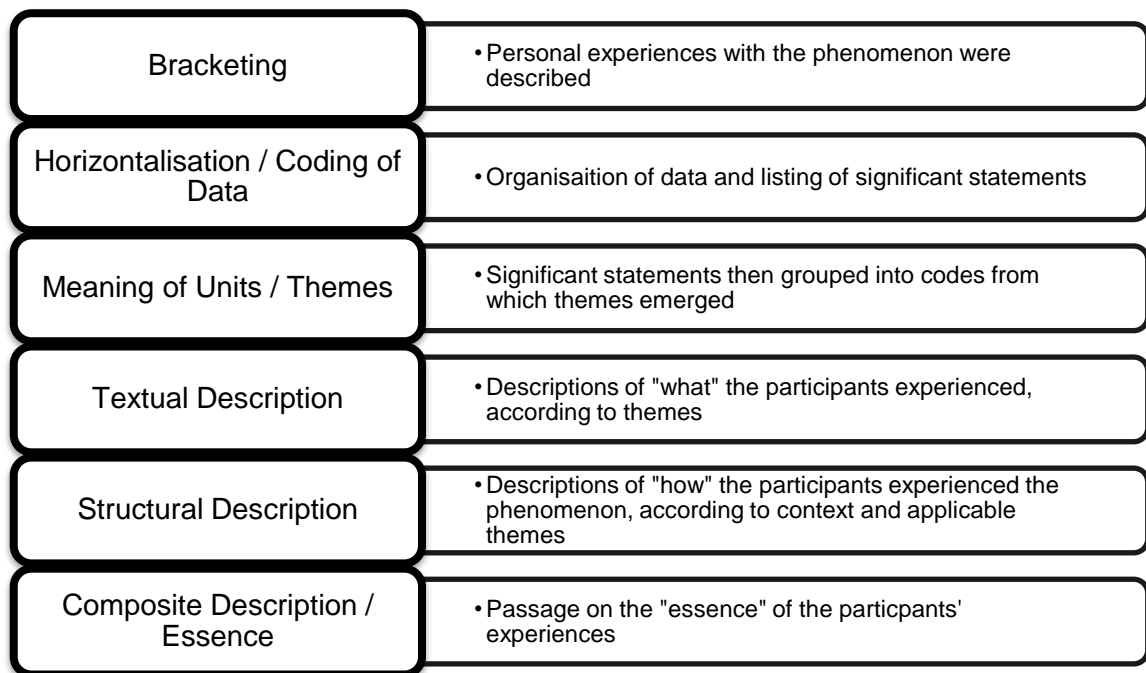


Figure 3: Phenomenological analysis process. Adapted from Creswell and Poth (2017)

#### 4.9. Role of the Researcher

In a phenomenological study, the researcher must bracket her own experience with the phenomenon (Creswell & Poth, 2017). In an attempt to suspend her own understanding in an insightful manner whilst simultaneously cultivating the researcher's interest in the topic, the researcher describes her experience with the phenomenon on intersectionality.

The researcher is a Jewish, White, female, attorney who, throughout her legal career has experienced sexism, limited sexual harassment, being undermined by male colleagues and a feeling of worthlessness. She acknowledged early on in her career that law was a predominantly male profession and predominantly White. Feelings of being excluded due to the nature of the male privilege associated with the legal fraternity formed part of her reasons for leaving practice for legal advisory positions.

As a White female, the researcher is aware of certain privileges provided to her. She was educated at a private school, had the funding and support of family to pursue a tertiary education in law, and was raised in a financially comfortable and supportive



household. The researcher's additional minority identity of being Jewish has had both positive and negative effects on the researcher.

The researcher's upbringing provided significant context for this study. Her father, an ever supportive feminist in his own right, together with her mother, a professional doctor who had experienced her own form of sexism and biases based on gender in the medical profession and yet was the breadwinner for the researcher's household, played a formative role in the researcher's interest in the lived experiences of females in the workplace.

The researcher feels it important to include two examples of her experience with the phenomenon and the study's constructs. Firstly, when involved in a legal financing transaction at one of the larger, well-recognised law firms in South Africa, the researcher was made aware of her Black, female colleague's reality. In a consultation and room of all but one White individuals, a comment was made about the minority of the room's religion. Upon this utterance, the researcher's Black, female colleague indicated that she was aware of what it was like to be in the minority. In this particular incident, the colleague was the only person of colour in a room of approximately 20 (White) people. This first incident was highlighted by the researcher's experience during her entry into her postgraduate studies when a Black, female classmate, who is a qualified engineer working in the mining industry, expressed her own experiences and difficulties in a predominantly White and male profession. Although her experience existed in an industry which differs greatly to law, what the researcher's classmate said resonated with her on multiple levels. She ultimately had a superficial understanding of what her Black, female colleague had expressed in that consultation two years prior.

The researcher's rising concerns for the lack of transformation in the legal profession were only exacerbated when the researcher's previous, White, male, partner (who was an attorney and partner at a large South African law firm) expressed his detest at the researcher's proposed topic for this study. His opinion was representative of the legal fraternity's lack of understanding on intersectionality and ignorance towards the gendered and racist realities of the legal fraternity in South Africa.

This, together with the realisation that transformation and Black female representation was lacking in the South African legal profession, led the researcher

to explore the phenomenon of intersectionality in the hope to understand its impact on diversity, inclusion and transformation in the legal fraternity.

With this explanation of the researcher's experiences with the phenomenon of intersectionality, inclusion and transformation in the legal industry, the researcher attempts to suspend her own experiences and subsequent judgments in order to better understand the lived experiences of her Black, female, attorney colleagues. Through increasing awareness of her own biases, the researcher provides a more objective account of the phenomenon to avoid subjectivity in uncovering the essence of Black females' experience with intersectionality.

#### **4.10. Quality Assurance**

A number of strategies are available to the researcher to ensure validity and quality of her research (Creswell & Poth, 2017). Firstly, the researcher utilised multiple sources of data to elucidate an emerging theme. This was achieved through the perusal and consideration of multiple sources of theory and literature. As phenomenology lends itself to descriptions of lived experiences through the use of unconventional research, the researcher triangulated her data through the use of poetry and music. This was done through asking the participants for an expression of their experiences as Black females through art, music or poetry. This is detailed throughout Chapter 5 in respect of various themes and discussed in Chapters 6 and 7.

Secondly, the researcher aspired to report on any negative analysis that presented itself. This was evident in the contrast between some of the data and the literature as well as the inclusion of various and sometimes disagreeing theory as was presented in Section 2.3. Lastly, the researcher clarified any bias at the outset of the study by bracketing her experience with the phenomenon of intersectionality, inclusion and transformation as discussed in Section 4.9 (Creswell & Poth, 2017).

#### **4.11. Limitations**

Limitations to using phenomenology include the use of jargon specific to phenomenological research and the fact that no precise methodology exists (Sanders, 1982). In addition, the researcher's own bias and being a White female attorney may have created a barrier with the interviewees. As an attorney herself, with an experience of gender inequality, bracketing her own experience was difficult but necessary (Creswell & Poth, 2017). Van Manen (1990) described the potential

impact on the researcher herself, which possibility the researcher was aware of. Although never entirely achievable, the awareness of the impact on the researcher was a constant reminder of the need for her objectivity in this study. Lastly, interpreting phenomenological data involved an analysis of the participants' lived experiences with the phenomenon together with the researcher's attempt in understanding how Black females experience their personal and social worlds (Creswell & Poth, 2017).

With regard to the limitations of the interview, there is potential for a distortion of the data depending on the biases and emotional state of the participants during the interviews (Patton, 2002). With qualitative research, there is a risk that participants' responses may be influenced by the researcher's reactions or because the participants may be conscious of the researcher's potential perception and possible judgement of them (Patton, 2002).

A risk of self-selection bias does also exist as the participants who agree to participate in the study may do so because they are passionate about the subject. This means that they could be different from the individuals who declined to participate in the study (Saunders & Lewis, 2017).

Due to the COVID-19 lockdown restrictions, in-person interviews were not possible. This posed a limitation to the chosen methodology. Due to the nature of the study, non-virtual interviews would have been ideal as they provided the researcher with a visual representation of what the participant was explaining. For example, over a virtual interview, the researcher was not able to fully comment on body language which may have represented the emotions attached to what the participant was saying.

An additional limitation was that the focus of this study was on only four intersecting identities and characteristics. This research does not consider additional characteristics such as sexual orientation, religious or gender-identity. Thus, because multiple discriminations exist at any point in time for an individual, a certain level of nuance may be lost.

## **5. Chapter 5: Presentation of Results**

This chapter reports on the findings from the semi-structured interviews in an attempt to answer the research questions contained in Chapter 3. For purposes of confidentiality, the participants, company names, and clients that were discussed in the semi-structured interviews have all been de-identified.

The chapter is presented according to the phenomenological analysis process as described and depicted in Chapter 4. The findings were first organised and listed into significant statements from where codes groups and themes emerged. The resulting categories were then developed into overarching themes, which are used to discuss the textual and structural descriptions in this chapter.

This allowed for any emergent themes to be recorded and documented, even if they were not directly related to the research questions. It also allowed themes to emerge which had not previously been considered or found during the literature review. The subsections that follow further link emergent themes to research questions to demonstrate how themes were used to answer the research questions.

### **5.1. Description of Sample**

The term 'lawyer' describes both practicing and non-practicing attorneys and advocates. Non-practicing attorneys are those attorneys who no longer operate within a law firm environment. The Legal Profession's Council (previously as the Law Society of South Africa) has a list of practicing attorneys. As this study focused on attorneys (whether practising or not), the population was Black female lawyers who had been admitted in court as attorneys. The study analysed their lived experiences of the phenomenon of intersectionality. Table 1, lists the particulars of the participants, a brief history of their backgrounds and significant statements made by the participants which are reflective of their experiences with the phenomenon.

The audio-visual recordings of the interviews were transcribed with the assistance of a professional transcription service. Once received, the transcripts were reviewed, edited, cleaned and organised. This involved listening and re-listening to the interviews.

Table 1: Description of participants.

Interviewee	Experience (including articles), demographics	Key Quotations	Additional Information
<b>Participant A</b>	Seven years' experience, grew up in Hazyview. Went to Graskop for primary and high school and studied law at the University of Limpopo and then joined current firm. Completed articles at Firm A in Johannesburg and has been with the same firm since articles. She completed her LLM and is currently studying at GIBS in her first year MBA.	<i>"I really believe that there needs to be a deliberate effort. You cannot just treat women especially as part of a pack."</i>	Participant A left Firm A to join the Johannesburg office of Firm C.
<b>Participant B</b>	Two years' experience, grew up in Soweto, went to Mondeor Primary and High School. Completed matric in 2010 and took a gap year in 2011. Studied at the University of Johannesburg - BCom Law Degree, that took three years and then went straight into the LLB, finishing in 2016. Confused and did not know if she actually wanted to be an attorney, so went to Corporate L and spent 2017 there. Then then looked for articles and started articles in 2018-2019 at law firm in Rosebank and served under Mr D for the entire two years. Admitted August 2020.	<i>"For us, when work is not done right it directly comes back to 'Oh yes, you are Black and oh yes, she is a girl.' It always comes back to that and also when you do something wrong as a Black female, you feel like you are letting down the squad and then you feel, 'I cannot believe that that has happened'. There is a lot more riding on it and there is a lot more that goes into it, it is definitely not the same for Blacks and Whites."</i>	Participant B has left practice but is consulting to a law firm.
<b>Participant C</b>	Seven years' experience, grew up in Soweto, married for three years in December. Went to high school where late mom went, was head girl. Was always outspoken. Studied at UNISA because marks did not get her into full university entrance. After first year at UNISA, went to the University of Limpopo in 2008 and graduated in 2012. Did articles there for two years and did practical legal training for a year. Spent about three and a half years there and was poached by another firm in Roodepoort. Worked there for two years, became an associate and then a senior associate and then left to go work for a corporate.	<i>"I hate to admit it that made me leave is at some point because we have to reach target and all of those things, we were sent on courses and one of the directors made a comment and said, 'Remember we are sending you to these courses because you are a Black female and that will get us more points'."</i>	Participant C has subsequently left practice and is an in-house role but is currently looking to go back into practice.

<b>Participant D</b>	Five years' experience, Zimbabwean-born and raised. South African Citizen through grandmother. High school in Zimbabwe and then in 2007 came to South Africa to attend University of the Witwatersrand. Did a BA and then an LLB. Did not go straight into articles, went into an internship in a mining-related private equity company. Was with them for three years and then handled their mineral rights. Then realised had to do articles, resigned and went to a smaller firm of attorneys in Sandton. Was with them for a year for articles and eight months' post articles after being admitted. Joined Firm C as an associate.	<i>"I think I generally weary about interacting with Black male directors, in terms of just making sure that there is a boundary and I have just been conscious of stories. I don't want this to be anything else."</i>	Participant D is currently a senior associate at Firm C.
<b>Participant E</b>	Seven years' experience. Grew up in KZN in a small town called Bergville. Attended school nearby. Completed LLB Degree at the University of Pretoria and did articles at a small firm in Ladysmith.	<i>"You realise that people still regard this as a very male orientated profession."</i>	Participant E is currently practicing in KZN.
<b>Participant F</b>	Six years' experience. Went to University of the Witwatersrand and did a BA with focus on politics and international relations and finished two years in LLB thereafter. Eventually decided to find a job and found work at Firm D in Sandton.	<i>"There was an incident where I think he crossed the line a little bit where he acted inappropriately and made me feel uncomfortable and that in a way hampered what I thought was possibly a good potential working relationship where I could work and learn from him."</i>	Participant F has subsequently resigned from Firm C to join a smaller legal "start-up".
<b>Participant G</b>	Grew up in quite a few places, Cape Town, Pretoria and in the Vaal. Went to high school at Riverside in the Vaal. Went to University of the Witwatersrand and graduated with a BCom Law degree. Then started articles.	<i>"Corporate abuse is normalised, where you're told, 'No, listen, work is not for sissies. It's not your mom's house. You take it, you deal with it?' There are many, many of us who cried in the bathrooms... And tell you, 'Come to my house.' And you're thinking, 'I don't need you to hit on me, I need you to help me.'"</i>	Participant G left practice for an in-house role and is currently on maternity leave.

<b>Participant H</b>	From Ladysmith, went to school in Ladysmith and then moved to Pretoria to do LLB at the University of Pretoria. Then did articles at Firm H.	<i>“As a black female, you’re working extra hard to prove that you deserve to be there. That’s the other element: if you’re an EE appointment, now you need to work extra hard because you’re showing that ‘I wasn’t hired because I’m black, I was hired because I’m competent’.”</i>	Participant H has subsequently left practice and is in an in-house role.
<b>Participant I</b>	Legal and compliance manager at Corporate Z presently. Pretoria born and bred. Went to Assumption Convent Primary School and matriculated at Pretoria High School for Girls. Completed LLB at the University of Pretoria and then did six months of full-time law school in order to do articles in one year. Moved on to civil and commercial litigation firm and then moved from practice into a more corporate work environment. Spent about two years at Corporate C.	<i>“We had one partner who used to throw files at us, he got so upset if you did not do things the way he wanted it... he literally picked up the whole thing and tossed it at her and in his shouting he picked up the stapler and this is a dangerous object to toss at someone and he tossed that at us.”</i>	Participant I has subsequently left practice and is in an in-house role.
<b>Participant J</b>	Grew up in a township called Vosloorus on the east of Johannesburg. Went to school in Benoni. Parents were entrepreneurs performed quite well in her early childhood. She was able to go to a private school, and get a good education. For high school she went to the National School of the Arts and majored in drama. At that point, her parents’ business started failing. It was around the 2008 global crisis. They lost most of their assets and house was on the verge of being repossessed. Moved out to live in Boksburg. No budget to go to university but managed to get an entrance scholarship. Went to University of Witwatersrand and studied law.	<i>“This is where I don’t know whether it’s self-imposed, that I didn’t bring it up to talk about it a lot, or they were just not alive to my inherent challenges as a Black female coming from a disadvantaged background.”</i>	Participant J has subsequently left practice and is in an in-house role.
<b>Participant K</b>	Born in the Democratic Republic of Congo, moved to South Africa in 1995. Obtained citizenship in 2011. Went to medium-sized firm. From a family of lawyers, mom and sister.	<i>“I walked away, feeling so disgusted, like my own boss pimped me out to his clients. And I said to him, it was a very uncomfortable experience and I prefer not</i>	Participant K has subsequently left practice and is in an in-house role.

		<p><i>to go back there. 'Oh, come on, guys. You guys have been so sensitive.' But I could see exactly what the plan was there. And it's this constant thing. And not every corporate does it. But I've also seen that if you look at the girls who look more, you know, they've got the afros, they don't do the weaves, they're more natural looking and they don't speak as eloquently as the others. They're almost pushed to the side, stay at the back."</i></p>	
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## **5.2. Horizontalisation of Data**

Once the data was organised and cleaned, to arrange the data, the researcher developed a list of significant statements taken from the interview transcripts. These statements included direct quotations from the participants. These quotations are representative of the participants' experiences with the phenomenon of intersectionality, inclusion and transformation as Black, female attorneys in a male dominated profession.

This was done in Atlas TI. where the significant statements were highlighted, selected and placed into singular codes and are contained in Annexure 3. Initially, 150 codes were developed. From there, these were further narrowed and merged to 99 codes. Once the codes were established, the meaning of units and themes were able to emerge as discussed below.

## **5.3. Meaning of Units and Themes**

The singular codes were then grouped into code groups and meanings of units to create clusters. The code groups clusters provided the researcher with general themes for interpretation of the data. A list of the code groups is provided below:

- Intersectionality
- Inclusion and Exclusion
- Transformation
- Broad-Based Black Economic Empowerment
- Patriarchy and Male Privilege
- Hostile Work Environment
- Differential Treatment
- Support Factors
- Over-performance
- Management Education

Once these code groups were established, the researcher further grouped the codes together which led to the creation of four overarching themes to be discussed in detail in Chapter 6. The code groups and respective themes are depicted in Figure 4 below.

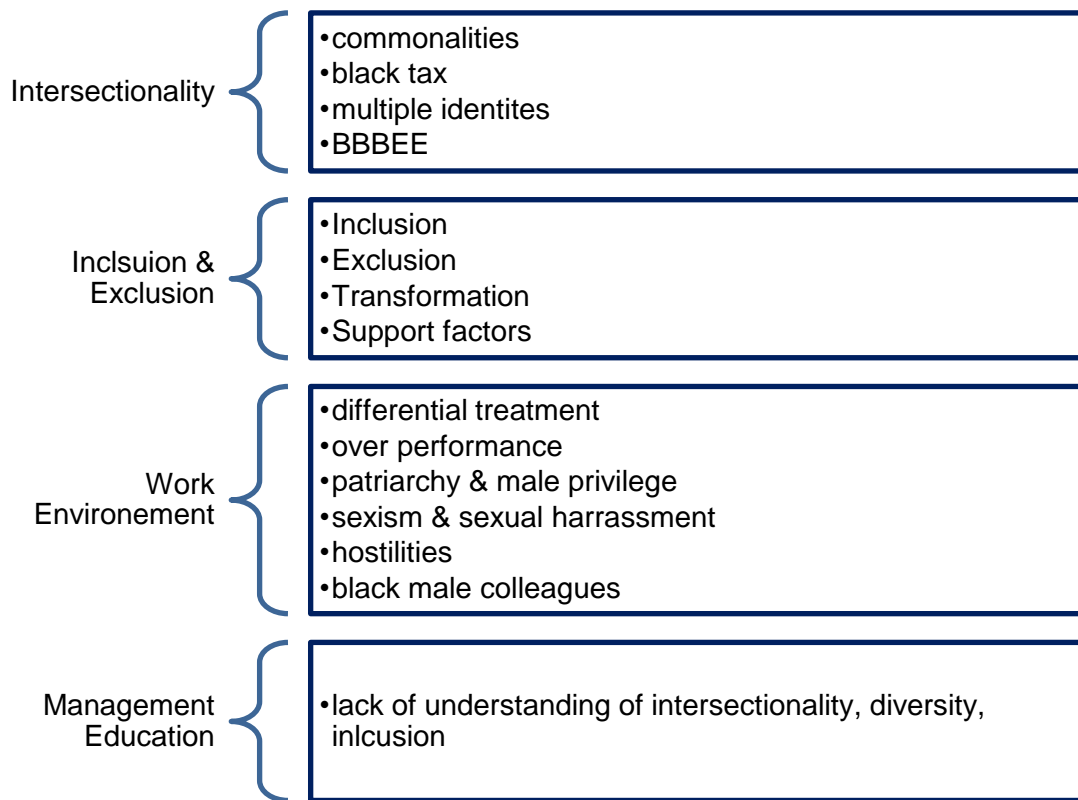


Figure 4: Depiction of Overall Themes and Code Groups

## 5.4. Textual Description

The textual description of what the participants experienced with intersectionality, the constructs of inclusion and transformation and what happened to them is described in this section. In order for the researcher to interpret and reflect upon the participants' experiences of the phenomenon and respective constructs, the transcript code groups were then divided into common themes – intersectionality, inclusion and exclusion, work environment, and management education. This textual description of the phenomenon and constructs provides a depiction of what happened to the participants through verbatim quotations and examples.

### 5.4.1. Intersectionality

As expected, the participants as Black, female attorneys shared many similarities in their intersecting identities. What arose, however, was the existence of various additional strata to their identities. This is in addition to belonging to particular victimised race and gender groups. Highlighted in this section is the fact that although there exist common experiences amongst Black female attorneys, not all women or

women of colour, are treated equally, nor do they experience life equally when compared to one another, their Black male or White male and female counterparts. Participant A so eloquently summarised the idea of intersectionality and the need for its understanding when she said, *“I really believe that there needs to be a deliberate effort. You cannot just treat women especially as part of a pack.”*

#### **5.4.1.1. Common Experiences of Intersectionality**

Examples of the participants’ common experiences of intersectionality include common experiences of hardship, having to prove oneself as a Black female, and the difficulties around BBBEE appointments and legislation. A main commonality amongst the participants was the experience of hardship as a Black female.

Participant E explained, *“it has not been one of the easiest. As a Black female they make you feel that you are a Black female”*. For Participant H, *“there was just that additional level that Black females had to deal with.”*

All participants spoke to having to work harder than their White male and female counterparts – sometimes even when compared to their Black male peers. All of the participants’ referenced some form of sexist behaviour from males, either within their firms or organisations, or from clients. Ten out of eleven participants referenced experiencing differential treatment as a Black female attorney.

Participant K attempted to express her experiences as a woman, but ultimately could not ignore the fact that she too is Black when she stated:

*I felt that very early on in my career, in articles where female was not so much an issue as women of colour was an issue. ... Also, they're a little bit derogatory towards women, like they used to treat you like objects, but it wasn't a sense of, because you are a woman, we will not give you work, it wasn't like that. It was more because you are Black, we will not give you work.*

#### **5.4.1.2. Black Tax**

Four of the participants spoke about the reality of black tax, which is the additional monetary and familial commitments that Black individuals face when entering the workforce. Participant A mentioned that *“there is also Black tax. You think about your obligations, then you think, ‘If I can make all those figures, I will immediately be able to support my family.’ Takes off the pressure”* when speaking about an opportunity

to leave practice for a corporate position and the potential for earning a greater salary.

Coming from a position of under-privilege, Participant J expressed that when she was offered more money for a corporate position, she approached her team leader and explained that Black tax “*is a reality that [she] can't ignore*”. She explained to the researcher that she has:

*...always been very driven by money, just because I take care of so many people in my life. I take care of my mom. My sister doesn't work, she's got two kids; I take care of her kids. My brother doesn't work, he's got one kid; pay school fees.*

The existence of black tax is a reality that is often ignored by organisations. Although not an obligation by organisations to pay employees according to their needs and dependants, organisations do need to be cognizant of the pre-existing realities that their employees deal with whilst not in their places of work. A fact some managers are often ignorant of. For example, when Participant K's manager arranged a weekend away for the team, it was for the staff's personal expense:

*There's very little understanding of the fact that our money is not just to blow... It's literally, your parents almost expect you now that you're working, you take on all your expenses, and you help at home as well. So it's not pocket money.*

#### **5.4.1.3. Identities in Addition to Gender and Race: Racio-Ethnicity, Age and Class**

Examples of the participants' additional identities included realities such as different upbringings. Not being South African born and raised, although South African by citizenship, resulted in treatment that differed from their South African raised Black female peers. Participant K, who was born in the Democratic Republic of Congo and came to South Africa as a refugee, experienced a different level of complexity and intersectionality. She explained:

*The big firms tend to not consider candidates based on that, especially Black female candidates, which is interesting, because you could be a white female, who's maybe born in London or another country, and that would not even be an issue.*

Not only was she not considered Black in terms of South African legislation, but she also highlighted the differential and beneficial treatment that White females receive. Having a different upbringing manifests in express differences in treatment amongst Black females. Participant K continued:

*The black girl that I was with, she's very similar to me. So, we talk similarly and we kind of look the same, almost like you would say, you come across as if you went to like a private school. So, you're more eloquent. There was another girl and she was not like us, she didn't speak the way we did. So, you could see she didn't go to private school. Although she was quite smart, she didn't really fit in that culture.*

The paradox of not being considered Black for BBBEE purposes but being treated with more regard as a result of how she spoke and the light tone of her skin, was not lost on Participant K as she stated:

*As a black female, especially, you are very much judged on the way that you speak. And the way that you look, if you are light in complexion, and you come across as if you went to the private school, or you speak in that way. Someone who they might even describe as being attractive, they will put you in the front line, and they'll want you there because they know that they can then attract a certain kind of client base.*

Participant I experienced “othering” based on class. She felt that she is:

*...not white enough for the white people, so the white people will see me as a Black person, but the Black people, I am too white for the Black people, I am not Black enough so when I deal with other Black ... For Black people I am a fancy Black person and I am not Black enough and then for white people I am not white enough because I am actually a Black person.*

This ultimately resulted in a sense of isolation and exclusion.

Participant D found that being raised in Zimbabwe benefitted her experience. Stating:

*I do find what has helped me in my working world is, I think because I am Zimbabwean born, I am treated slightly different I have noticed than my normal Black South African counterparts in terms of just how I have been received.*

Similarly, to Participant K, Participant D was “*aware of being chosen over my [Black female] peers because I am well-spoken or whatever*”. When asked if her experience as a Black female differed from her South African Black female peers, Participant D said:

*Yes, I definitely think so and I think because of my exposure and my experience. I think part of racism and that kind of stuff.*

An additional element to consider when analysing intersectionality is age, and the discrimination faced because of one’s appearance as being young. Participant B expressed her belief about age:

*It is a factor though, being the youngest in the room and experience. At the end of the day you realise that you have to earn your respect and that is okay and that is what has given me peace and I have stopped taking things personally.*

Participant H shared her sentiments on the perception of age by other individuals:

*‘Oh you’re so young, when did you start?’... and you can already see the change in the tone, because they think you’re young. Okay, the Black part I think you can tell, but yes, I’ve had experience already where by the time I meet someone then it is that conversation, ‘Oh you’re so young’ and it just changes the tone of the conversation, whereas when I spoke to them over the phone it was fine.*

For Participant H, this additional discrimination affects her everyday functioning:

*For example, this afternoon, one of my gazillion calls for today, most of the people on the call were White males. I actually switched off my camera because I know that I’m young, then people start undermining you, whereas if it is just my voice, we had a great conversation. We made progress with what we were negotiating.*

#### **5.4.1.4. Experiences Based on either Race or Gender**

To the contrary, there were shared experiences based on either race or gender, to the exclusion of the other. Participant A reflected on the treatment received by her Indian male team leader:

*I do commend him because it was not about being female or male. I saw him push males just as hard and it was not about [race] for him, but I did realise beyond him, it was about that.*

Participant F believed that in some instances it was a matter of proving herself irrespective of gender:

*...just a Black person, female or not... whether you are a Black male or female practicing here, it is very hard to see the future.*

And for Participant K being a female:

*...was not so much an issue as women of colour was an issue. Being a female wasn't a problem... they're a little bit derogatory towards women, like they used to treat you like objects, but it wasn't a sense of, because you are a woman, we will not give you work... It was more because you are black, we will not give you work.*

This too was evident when discussing gender irrespective of race. Participant E shared that while her director:

*...tried to interact with me, he still had that factor to say, listen I am and that thing that I will always be better than you as a female... our clients don't take kindly to female attorneys, so it is better that you don't do certain types of matters.*

Participant D spoke to the lack of female representation and not having “functional” female seniors to look to:

*I think terms of the overall environment, I think the female aspect is struggle for me in the sense that I feel like I have not seen any female in directorship positions that have some sort of functional life or functional family life. I only know two female directors in the firm that have families. When I decide to have a family and I don't know how that is going to happen or look like.*

Whilst Participants J and I spoke to motherhood and family life:

*I'm speaking from a female perspective...I don't think it's a very friendly career to people who are starting their lives with the spouse, or trying to start a family. I always knew that I wanted to leave the practice area of things.*

Participant I

*...the way society behaves when you pregnant, I have no idea what is up with that but it is such a tag especially when you young and still at school.*

#### **5.4.1.5. BBBEE**

The theme of Broad-Based Black Economic Empowerment (BBBEE) was common amongst the participants. BBBEE has elicited multiple experiences, both positive and negative for Black female attorneys. Notably, this theme arose naturally from the interviews as the researcher did not include specific questions regarding BBBEE in the interview protocol.

Although in essence BBBEE is purposeful and needed, in many instances it is used against Black female attorneys in order for the firms to achieve a particular BBBEE level and benefits. Participant C stated:

*We were sent on courses and one of the directors made a comment and said, 'Remember we are sending you to these courses because you are a Black female and that will get us more points'.*

From the start at Firm C, Participant F knew that she was hired as a BBBEE candidate:

*He was very upfront with me and said we needed to hire a Black female. So Firm C was going through a huge transformation where a lot of the old school partners – and he had been here for 20 years – were told that they had to get 'with it' now, you cannot have this firm that is just a blank White firm.*

However, often the participants felt the backlash from being considered as BBBEE points only, resulting in a questions of their competence and ability to perform. Participant A shared:

*Firstly, there is the question of 'Is she capable or is she just here in an affirmative appointment, is it just not BBBEE?'.*

Participant H experienced the same:

*As a black female, you're working extra hard to prove that you deserve to be there. That's the other element: if you're an EE appointment, now you need*



*to work extra hard because you're showing that 'I wasn't hired because I'm black, I was hired because I'm competent'.*

On occasion, the request for Black female representation has come from the firm's clients. Participant C *"had it with the XX client. They specifically said that they want to preferably deal with someone who is black female"*. However, there are also instances of "window-dressing", for Participant G:

*I did experience the window dressing and where they would pretend like you're the associate when you're not. And when there is a Black client, you sort of run with the matter... So by and large, I felt like we were there to fill in numbers because there's not a chance that all of us were incompetent. Not a chance. And we worked. We really worked... I felt like the firm where I worked strategically will take as many Black juniors as possible to tick the boxes, the BEE box... I felt very quickly that we're there to tick numbers for legislative purposes. It was very quick for you to realise that we are here for BEE purposes and for BEE score.*

Participant D had a similar experience when brought into work on a particular transaction:

*From the get-go, the reason was made clear, 'I need you to work in my team because you are a Black female and that is specifically what the client has requested'... I don't think that it would have made a difference whether I was there or not.*

Participant H also experienced window dressing in her role as an associate:

*We even had one meeting with a client and when we had that meeting, we thought it was just a normal meeting to discuss our matters like we usually did, only to find that it was a discussion about BEE*

Relating to intersectionality and the reality of multiple identities and discriminations, Participant K said:

*You're not South African born so BEE plays a role... But the minute that you're Black, then all of a sudden, the BEE thing comes in, but you're excluding a whole bunch of other people who studied in South Africa.*

### 5.4.2. Inclusion and Exclusion

Reflective of the title of the study, the themes of inclusion and exclusion emerged. In addition to considering the constructs of inclusion and exclusion, the researcher considers transformation, BBEE and the respective role players as both drivers and barriers of inclusion and exclusion for Black females in law.

#### 5.4.2.1. Inclusion

Generally, the participants experienced a sense of inclusion when either working in a predominantly Black team or firm. Participant E experienced a sense of inclusion when working at an all-Black law firm in Durban:

*The Black law firm I felt really felt included in the day-to-day decisions and the running of the business because my director of the law firm was of the opinion that if each individual employee grows then the company grows, that was the attitude that he had towards each and every one of us, even the support staff. We must all assist each other to grow.*

Participant G echoed this particular sentiment, “because I worked at a predominantly black-owned black-managed place, it was a better sense of inclusion”. Her experience of inclusion was exhibited through the trust that her Black colleagues had in her abilities:

*There was a sense of ‘You're competent’, to the point where you'd even do something and he asked you, ‘I need you to research this and that’, then you send the memo, and he's quiet, then you say, ‘You didn't say anything?’ He says, ‘Why must I say anything? You did your job. If there was a problem, I would have said something. But you answered what I needed.’ And so you felt, ‘Oh, okay.’ You felt good enough.*

Unlike the majority of the other participants, Participant A had a positive experience as a Black female attorney. Recently making director, at only 28, she experienced inclusion and growth in the sense that:

*...there has been inclusion because I have had independence for a very long time, and I suppose that that is what contributed to growth as well.*

Similarly, to Participant A, Participant J had a mostly positive experience at her law firm. She too was promoted to director at a young age and throughout her tenure at

the firm (until she became director) felt included. However, she did mention that this was limited to her particular, all-BBBEE team (it must be noted that her team included Black males and females, Indian males and females and a White female):

*Within my team we actually operated like we were a whole different unit within the firm, with our own culture, and our own little thing, and if you ask a lot of people who worked around us, they actually said that quite a lot.*

Although Participant I did experience inclusion, she still felt “*that there is a lot of segregation and a lot of – yes you are included but you are still have that thing of ‘I am black and I am a female’ that kind of thing.*” In another breath Participant I explained:

*I guess once you belong and going the extra mile there were certain things where you felt part of the ‘boys club’, I think maybe the department that I worked in was this very physically demanding. If you played as hard as the ‘boys’ you would feel inclusion.*

In this instance, she experienced inclusion when she operated as one of the boys rather than by simply being herself.

#### **5.4.2.2. Exclusion**

Whilst the participants did experience some levels of inclusion, a greater number experienced the difficulties associated with exclusion. For example, having a White male team member, although junior to Participant F, resulted in her exclusion. It is important to note that an incident did occur with a Black male senior in her team, which Participant F does reference (as discussed below).

*... at that same time another [White male] CA effectively joined our team, ...meant that whatever little work that I was getting from him was completely gone and going to him. The last six months I did not have that much work and I did not know if it because I was stupid, incompetent or because of the things that had happened.*

As initially apart of a team with an Afrikaans, White, male team leader, Participant D expressed “*that [she] was definitely being excluded on account of just language or race to an extent*”. The effect of exclusion on Participant C was difficult: “*To be honest at first it really dampened my confidence a lot.*”

Once Participant J had been promoted to director, the conduct by her Indian male team leader changed and she suddenly experienced differential treatment resulting in a sense of exclusion and pain. She acknowledged:

*He was dealing with a lot at the time, and he was under pressure for his budgets and all of that. But there is no plausible excuse, I feel, for that. I think he could have really handled it better. And I think he didn't. At the time, it was very hurtful.*

When asked about her experience of exclusion, Participant G commented:

*It would be nice to know that you actually can chill with your White director on the weekend, have a glass of wine. It would be good to know that there aren't groups; it would be good to know that I'm just your employee, you're just my boss, and you're looking out for me and I will cross the ends of the ocean for you, and you know that.*

Participant I presented examples of clear segregation within the firm,

*Things like in the mornings in the kitchen there were a specific time when you had the Black people in the kitchen and you knew it and when the Black people were in the kitchen it was very jovial, people talk and laugh ... After a certain time it is the White peoples' turn to be in the kitchen.*

Participants I, J and K felt exclusion as a result of not being a part of the "old boys club". Participant J stated:

*I feel, with a lot of the other practitioners who quite frankly, have either old boys clubs or have formulated those kinds of things, there's a nice little network that they operate in, and that they can give each other work on and they can have those discussions to say, "I'm not meeting my budget, you think you could do this?... But I certainly felt more excluded, especially in the things that matter, like work, like those networks for clients.*

Participant K expressed her sentiment about her sense of exclusion being evident in her differential treatment compared to her White peers when, at the end of her first year of articles:

*My friend and I found out that certain people were getting increases and others were not. So that's when we went to discuss it with our principal, just to say that, you know, we feel that it's a bit unfair, because we all work the same. Why is it that some people are getting salary increase, and others are not? He proceeded to completely insult us. And that's when he said to us that we are actually deserving of a salary decrease, and how dare we even challenge him and we should be grateful to be there. It was difficult for us to accept.*

#### **5.4.2.3. Transformation**

Participants spoke about both the progress that had been made and the continuous lack of transformation. In some instances, the participants, such as Participant B, saw themselves as “*the vessels or the tools for change*”. Participant D felt positive about there being “*a lot of female Black colleagues starting their own firms and are very successful in them*”.

When discussing what is needed in order for the profession to be truly transformed, Participant D referred to the role of clients:

*I think the only way that that transformation will happen is when the clients and being the people that bring money into the firm is when they insist, this is when the firm would do it.*

When discussing transformation at Firm C, Participant F expressed:

*There is definitely no transformation here. You say that we are part of these big plans but and you have future for us but I don't see that future and I feel 100% excluded from the future that you think is there, so that is the exclusion and it is far worst for females I think than for White females than for Black men.*

Although the lack of transformation is officious in law, it exists in corporate organisations too. Participant H expressed:

*There are companies that are making an effort; they also have their nice diagrams about where they're headed and all of that, but it is just as bad. By the time I left Corporate E, I was the fifth Black female to leave and they still didn't know what the problem is.*

#### 5.4.2.4. Support Factors

This theme arose from factors that either motivate Black female attorneys or make their realities somewhat easier to experience. This included factors such as Black female role models, no longer being in a law firm environment, and sponsorship.

Participant G shared an example of a friend who had rejected their place in a top law firm and rather did her articles at a smaller Black female-owned firm, the result of which was greater support and trust.

*I remember, another friend of mine, she said, 'I actually thank god that I didn't accepted at a big law firm and that I got accepted at a Black female-owned law firm, because I get trusted, I feel competent'.*

The impact of being trusted on the participants' self-esteem was threefold. Participant E expressed that:

*Once your confidence is boosted, it is easier for you to attend any situation or any scenario that comes your way, whether it is a personal attack that comes your way as a Black female or whether it is a professional attack.*

Participant E sought comfort in poetry and expressed that Maya Angelou's poetry provided comfort and confidence when questioning her self-worth:

*I love Maya Angelou a lot, the poetry that she writes is very encouraging especially for our young women it really boosts your confidence.*

In addition to this, being a part of a Black team or law firm led to a greater sense of inclusion and opportunity. For example, Participant G:

*Because I worked at a predominantly Black-owned black-managed place, it was a better sense of inclusion.*

An observation for the researcher was that Participant A and J, who both had comparatively more positive experiences than the remainder of the participants, both had Indian male team leaders and sponsorship. When the researcher probed this, Participant J felt that he was more understandings of the realities of being a person of colour:

*I think him being Indian did impact us, because he often spoke a lot about his own struggles, being an Indian man and trying to operate at that level... And I think he was being a bit more aligned to my struggles as a Black female.*

This was however, stated with a caveat:

*But even then, I think you can only understand some things to a certain extent.*

No longer working in a law firm environment has had a positive impact on many of the participants who have left practice for self-employment or corporate organisations. Starting her own consulting firm, Participant B said: *“It feels good because it feels like I am working for myself, which feels good. It feels if I am in control of my craft.”*

Participant J has had an overall better work-life experience since joining Corporate B:

*Just that holistic approach to people wellness, be it psychologically, financially, mentally, learning and development. I was there for all of six months before they sent me off on this course as well. So, they actively invested in developing their people. So, that's really awesome. I'm really, really loving it. I do feel part of an organisation now.*

### **5.4.3. Work Environment**

This theme encompasses many common difficulties experienced by the participants both as Black females in the profession and as a discussion on the reality of the hostility of the legal profession in general. More specifically, differential treatment, sexism and sexual harassment, over-performance by Black female attorneys, the patriarchy and male privilege associated with law, general hostilities, treatment by Black male seniors and talent acquisition and retention are presented.

#### **5.4.3.1. Examples of Differential Treatment**

As a common theme amongst the participants, all but one participant mentioned that they received differential treatment from their White female and Black and White male counterparts.

When addressing one of her managers at Corporate M, Participant H raised the fact that she had received different treatment to her White female counterpart:

*I find it interesting that when I started you had to proofread all my emails, and then six months later a white female joined the team and she could send off emails on her own. What could've been so different between the two of us that would make her competent and me not?*

Differential treatment manifested in different ways, for example with remuneration as depicted by Participant I:

*When it came to appraisals and all of that we picked up that White people are getting better salaries or White people are getting better appraisals...*

Or as a question of one's ability to speak, read or write English as with Participant H: *"I don't recall any of my White peers having to; whether someone questions their ability to write in English. And ultimately with career progression."*

Participants H, J and K spoke directly to career progression. As mentioned above, when Participant J was promoted, she:

*...witnessed how, when [the White male] transitioned from senior associateship to director, he was properly nurtured and carried through, he was given a few clients, he was set up nicely to transition out of it... And now I arrive. 'There are no clients for you.... I've got other people in the team to look after' ... And I was shocked to the core. Because I thought, no one else has been treated like this.*

Participant K made it clear that for her White colleagues, articles was a positive experience:

*It's funny because if you look at our year, most of the guys that are of colour, actually, all of the guys that are of colour left; all of the guys that are White stayed, because their experience was such that it was bearable, they're in a great place to work.*

Finally, in expressing her experience as a Black female attorney Participant G made reference to Hard Knock Life (Ghetto Anthem) by Jay Z and originally from the musical Annie. This song draws distinct examples between how orphans are treated when compared to other children. Participant G said that *"instead of kisses we get kicked"* when comparing her experiences to those of her White colleagues' emphasising the differential treatment received.



#### **5.4.3.2. Over-performance**

All of the participants expressly mentioned that they needed to work harder than their peers as a consequence of being a Black female. The effect of this results in over-performance, of proving oneself and of not having a choice but to do so. Participant A mentioned that *“you have all those hurdles to pass through and then you prove yourself, you work ten times harder.”*

As her White male principal’s first Black female junior, Participant C:

*...literally had to prove myself and I worked very hard. I had to work extra hard than my male counterparts I remembered during the interview that he usually gives people score of five, and I was trending on a minus five. I literally had to work my but off .... The only sad thing is that is as Black females, we always are needing to prove ourselves to ensure that we are just as good as our other White counterparts, male or female. For me it is a bit uncomfortable, but it is something as sad as it is to say, it is something that we learn to live with because we always know that we need to go the extra mile.*

Even when performing and going over and above, there was still a sense of inadequacy. Participant G explained:

*You really feel like you have to work three times as hard to be taken seriously. For some reason there is a level of automatic underminance that you have to, cross your hoops through. Where people get surprised if you perform well, like they didn't expect it.*

Linking back to BBBEE, Participant H said that:

*...as a black female, you're working extra hard to prove that you deserve to be there. That's the other element: if you're an EE appointment, now you need to work extra hard because you're showing that 'I wasn't hired because I'm black, I was hired because I'm competent'.*

#### **5.4.3.3. Patriarchy and Male Privilege**

The participants expressed their observations of patriarchy and male privilege within the profession. Participant A linked this back to upbringing and the culture of mistrust in women:

*You also find where people through their upbringing has also created a culture of just – disregarding what women say, not trusting what women say, if you ask a question and I give you my view, you will still call the next person to validate exactly to what I have said.*

Participant A also spoke of the privilege that her male colleagues were afforded:

*I had the opportunity of being surrounded by males, even at my level who always just had that [opportunity].*

Whereas Participant B wondered about the impact of religion on the patriarchal structure of the profession, she did not know:

*...if it is because of our religious backgrounds and all of that where the women where often told to sit down and be quiet, to speak when spoken to and as though you are better off in the kitchen barefoot and pregnant and looking pretty in the corner.*

From early on as a female in the legal industry, the participants were exposed to the gendered reality. Participant E for example realised “*that people still regard this as a very male-orientated profession.*” She continued to imply that being a Black female is an additional obstacle:

*As a candidate attorney it can be very hard, especially in an environment where it is male dominated in a profession, here you are you are a Black female and there are so many males around you and you are intimidated by all of that in that environment then it can get very hectic.*

Although Participant I attempted to fit in with the “boys” she explained:

*To a certain extent even if you put it away, you always feel it. I don't know how to explain it, you always feel at the back of your mind that I am different, it does not matter how much I tried to play with the boys, I am still different.*

When Participant K was put into an uncomfortable situation by her White male manager, she tried to broach the issue with him. In doing so she said “*it was a very uncomfortable experience and I prefer not to go back there*”. She reported that her manager responded to her by saying “*Oh, come on, guys. You guys have been so sensitive,*” showing disregard to his female employee’s discomfort.

Participant B reflected on her experience and its impact on her sense of inclusion in the profession:

*I think it impacted a lot and it goes a long way especially when you sitting at a round table with a lot of men and they don't look like you, the colour of their skin is different.*

#### **5.4.3.4. Sexism and Sexual Harassment**

The patriarchal nature of law and the prevalent male privilege often results in untoward male attention. As a female, one's abilities are questioned and often undermined as a result of sex and gender. This ultimately leads to being excluded from certain types of matter or work. Participant F reported:

*I think he mistrusts women and I think he was sexist. I thought he thought that the job was more for men and because of that I did not get the kind of work that I wanted.*

Subtle and overt sexism and inappropriate behaviour are common experiences, both with male seniors and clients. Participant A explained:

*Obviously being female is even harder because firstly there are questions... it is not told to you, but you can read it. Then secondly, 'is she not just a pretty face?' When you walk into a room it is not even about your intelligence, it is about 'okay, she looks good'. You can just read the room... you are basically stripped before you even get into a conversation.*

Even though Participant F had had her own experience with inappropriate behaviour from a male senior, once she moved, she:

*...worked for a guy who turned out also to be a sexual harasser but not towards me because he had a type.*

This particular instance is discussed in more detail in Chapter 6.

Ordered by her male manager to attend at a client's office to conduct a due diligence, Participant K spoke about the experience:

*These guys, I promise you, sorry to say it like this, but they were dogs. And Black men... And the client was welcoming; they want to pour some wine.*

*And I'm thinking, 'What is this? I'm here to do the due diligence, now you're pouring wine and like, what is going on here?' I walked away feeling so disgusted, like my own boss pimped me out to his clients.*

Similarly, Participant A experienced inappropriate behaviour from male clients:

*Sometimes you even go out and get work but because you are female, it is first talk about 'When are we having lunch, when are we having dinner?' and then you think, 'This is a client that I need to give up'. I remember one client asked me to go on holiday with him to Cape Town.*

#### **5.4.3.5. Hostilities: Abuse, Racism**

Many of the participants spoke about the legal profession being a sexist, hostile and an unwelcoming environment for Black females. Some experienced psychological and physical abuse from their male seniors.

Talking about her experience as a candidate legal practitioner, Participant K said, *"It was a baptism by fire."* While Participant E mentioned that *"when you are young and starting with your articles, you are more intimidated by everything until you get used to the environment. It does not help you very much when the environment is hostile"*.

Participant H commented on her seniors stating her need to toughen up. When questioned by the researcher on this, Participant H said, *"It might be an old-school way of thinking, that people need to toughen up or whatever, but it is not necessary."*

When explaining the harsh reality of her experience during articles Participant G told the researcher that:

*Corporate abuse is normalised, where you're told, 'No, listen, work is not for sissies. It's not your mom's house. You take it, you deal with it.' There are many, many of us who cried in the bathrooms... I almost turned into an alcoholic. I used to drink every weekend. And there would be days when I would just be so depressed from work that I drink directly from the bottle, and I would think, "Oh shit, Monday's coming"*.

Participant I experienced physical abuse:

*We had one partner who used to throw files at us, he got so upset if you did not do things the way he wanted it... he literally picked up the whole thing and*

*tossed it at her and in his shouting he picked up the stapler and this is a dangerous object to toss at someone and he tossed that at us.*

Participant K also commented on the normalised physical abuse:

*How can you treat anyone like that? Because if I go out in the streets, and I throw something at someone, chances are they're going to go to the police. I'm going to get arrested. These are crimes, these are criminal activities, but in the law firm, it's not spoken of, it's not treated like a crime. Had I been the one who threw something at that person, trust me, I would have been arrested.*

Participant H experienced express racism when her White male senior used a derogatory term:

*At the time when my boss had used it, I was in horror, because I thought, 'Oh, this is actually a Zulu word'... Pikinini refers to 'little girl', but it is derogatory term.*

The experiences of hostility within the legal profession (i.e. working at a law firm) in comparison to the experiences of Black females once they have left a law firm for an in-house, corporate position differed greatly. When referring to the derogatory nature of the legal profession against women, Participant K said that was no longer an issue in her corporate position:

*Whereas now, as I've moved on in my career, that hasn't been an issue, especially at Corporate N... I would say even Corporate C, these are companies that are really transformed. They really believe in upskilling and uplifting women, especially women of colour. So, my experience was so positive, because they really tried to give me as much exposure as possible.*

When detailing her reasons for leaving a law firm, Participant I told the researcher that whilst at the law firm she “*felt so out of place and un-welcome. I did feel that I was putting in the time and effort and I think that is what eventually led to me thinking that I don't want to be here. It is not worth it.*”

#### 5.4.3.6. Black Male Colleagues and Seniors

This sub-theme emerged as a new finding in several interviews and although the reality of competition and sexism in the profession is strife, the treatment of Black females by their Black male seniors was a new emergence. Participant E reported:

*Black male colleagues, because I believe because we all Black, so they would try and beat you on the same level, but at the same time they also have this little factor of letting you know that they are males and they are somehow dominant in the profession. I think it is a male-dominated profession and every male, they would make you feel that somehow they are male.*

Participant G said that “*Black males are still quite sexist*”. Rather than assisting, supporting and mentoring their Black female juniors, the Black male seniors objectify and sexualise them. Participant G reported: “*But the older [Black males], they just see fresh meat. ... instead of helping you [they sexualise you] ... And you’re thinking, ‘I don’t need you to hit on me, I need you to help me.’*”

Participant D expressed her concerns about interacting with Black male seniors:

*I think I am generally weary about interacting with black male directors, in terms of just making sure that there is a boundary and I have just been conscious of stories. I don’t want this to be anything else.*

This speaks to an insecurity the participant has when interacting with Black male seniors, the root for which could ultimately be racism. In this participant’s instance, it was not necessarily about the experience of sexual harassment, but the potential perceptions that could arise from her colleagues. There is nothing to indicate that White females experienced the same hesitation when dealing with White male seniors. Participant D said, “*Yes, because I am female and I just don’t want any room for weirdness or anything. I just want it far away from me.*”

Participant F spoke to a particular incident with her Black male senior in her team who, before this incident occurred, she thought of as a peer and mentor:

*The one director I thought that we had established a very good relationship, but I think there was an incident where I think he crossed the line a little bit where he acted inappropriately and made me feel uncomfortable and that in*

*a way hampered what I thought was possibly a good potential working relationship... But then an incident happened.*

The impact of that incident was that this Black male senior excluded Participant F from involvement in future work. In addition to the exclusion from the Black male senior, Participant F felt that she could rely on him for support:

*He was no longer someone that I could go to, to even spoke about my principal. Before that I would go to him and ask for his advice and he just would not, so that was gone now.*

#### **5.4.4. Management Education**

To conclude the interviews, the researcher asked the participants on their thoughts of organisational education. Participant A spoke to the gendered structure:

*The history of what it means to be a lawyer, what it means to run a law firm is about the bottom line... They just actually don't care, they are very hostile, you make a mistake, they cut you out and you don't get work for the rest of your rotation, you are excluded.*

Participant D believed that the hostility of the environment is not due to a lack of managerial training or organisational behaviour training:

*No, I definitely don't think it is that. It is in seminars, it is in talks, it is people that is invested in specifically focusing on business development and all these kind of things. I don't think it is ignorance, I think it is just unwillingness really to want to change and inconvenient... I don't think it is not a lack of information, resources or understanding. It is just an inconvenience.*

Participant H made an interesting point when speaking about the lack of managerial training in law firms:

*If it was based on just a lack of training, then the White people, for example the White males that have got better treatment, better deals, some of those people actually got good training, they actually got the opportunities, they were backed up when they needed to be backed up. So, I think it is actually a matter of being selective when to bring out that skill or not... When it suits you, you know how to treat someone well, you know how to train someone*

*well, you know how to transfer the skill, but then suddenly when it is a Black female you can't. It is beyond just that.*

Participant F was of the following opinion:

*Lawyers are not managers and I have been saying this... lawyers are not managers... They don't want to take managerial courses, then they have to have teams and now they have to have associates and senior associates and run people... they like the hierarchy, they like the system and because it keeps going because other structures in the economy allows them to keep going.*

Participant J reported:

*We don't place enough importance on certain stuff like, how to become a good leader, how to be a good manager. I myself started doing this Henley business course, it's that advanced certificate in management practice, and the amount of stuff that I've learned in just that small amount of time, I don't understand why it's not a priority at law firms... So, I do think that is a big, big gap. It just trickles down into the culture and the people beneath them.*

An additional element in organisational behaviour education is the lack of understanding of the existence of intersectionality and contexts from which Black female attorneys emerge. Participant J gave an example of this lack of understanding. She was expected to show up regardless of her personal circumstances:

*When I started working everyone lived in and around Sandton. I stayed in Vosloorus, which is 45 kilometres away from Sandton. I was a sole breadwinner at home. So, I was looking after my whole family. And so those little differences sort of affect how you show up to work on a daily basis. I think just understanding those cultural differences a little bit better will also help you understand somebody's struggles.*

The expectation of simply showing up, like your colleagues, despite your personal circumstances should be considered together with the reality of Black Tax. She did acknowledge, however, that she was unsure of whose responsibility psychological safety in the workplace ultimately was:



*Was it a conducive space for me to speak about those struggles? I don't know. I just expected to show up be professional, keep your problems at home, sort of, and, and that's what I did most of the time... I don't know how it was meant to come up, or how I would have felt better understood, and my struggle is felt better understood in that sense. I'm not quite sure how I would have gone about making that known, or how Firm B would have gone about understanding that aspect of me.*

Participants G and E felt that if they had been better understood, their experiences would have been different:

*It's actually a good thing. And if we can all just understand that there are seniors and there are juniors, but at the end of the day, each person has a brain and each person has a good idea on how to make things work more efficiently.*

Participant E said:

*I think to a certain extent it has impacted negatively because we all come from different backgrounds and obviously it would not be easy to understand each and every one, but I think that should be considered by companies, especially in an integrated environment where you have different cultures and people in it.*

Participant I eloquently described how her manager's understanding of her multiple identities in comparison to her male colleagues would positively impact her:

*If my boss understands that I am a mother and now we are working from home as a mother, so my son may pop up here because he is now asking me something that he cannot do by himself. It is not the same for my male colleagues. ... My boss needs to understand that I can only start working at 09h00 because I need to get someone to school and maybe have to come back and maybe I have a presentation and make myself presentable for the thing, so sometimes to be treated differently is not a bad thing, as long as you not made to feel like you are being treated differently.*

Despite the very many real and perceived hostilities towards the participants there was still a sense of empowerment and fight. To describe her experience as a Black

female attorney, Participants K and E made reference to Maya Angelou's empowering poem Still I Rise wherein she depicts, that despite the hardships she continues.

The essence of Participant B's experience as a Black female, reverberated in the other participants' interviews. She felt that Hugh Masikela's song Thuma Mina, which translates to "send me" in English, was most representative of her experience as she saw herself as a "vessel" for change and transformation. She reflected that

*every time I felt like giving up and I feel this is not worth it... I would listen to that song and it will give me perspective just to remind me that we are doing this for our sons and daughters who are not yet born.*

## **5.5. Structural Description**

In the structural description, the researcher reflects on the experience of the phenomenon, how it was experienced and in what context and setting the participants' experiences occurred. Most often, these instances happened in the general office, in consultations with clients or commonly in one-on-one settings.

Below, specific examples are given where the participants described the contexts in which they felt a sense of intersectionality, inclusion or exclusion, sexism and sexual harassment.

Difficult to pinpoint were the physical surroundings of some of the themes that emerged, such as the reality of Black Tax and Support Factors.

### **5.5.1. Intersectionality**

The theme of intersectionality and its sub-themes often occurred in the office. For example, Participant K experienced othering when coming to the office:

*As a black female, especially, you are very much judged on the way that you speak. And the way that you look, if you are light in complexion, and you come across as if you went to the private school, or you speak in that way.*

This also happened during a consultation with a client and her male manager highlighted Participant K's ability to speak French. Participant K queried why this was necessary to say, as it had no relevance and merely felt like there was something to

prove. In these situations, Participant K was undermined as a Black female and rather portrayed as “international”.

Speaking directly about her intersecting identities and upbringing, Participant J pondered about the psychological safety of her physical environment at Firm B:

*Was it a conducive space for me to speak about those struggles? I don't know. I just expected to show up be professional, keep your problems at home, sort of, and, and that's what I did most of the time.*

### **5.5.2. Inclusion and Exclusion**

The themes of inclusion, exclusion and its subthemes occurred in various situations. Participant G explained that she experienced a sense of exclusion during an instance where she approached a senior Black male in a one-on-one conversation in his office, asking for advice:

*I felt the exclusion when that other [Black] director told me that, ‘You know that a good 80% of your White colleagues already know whether they'll be kept as associates or not.’ That's when I felt that there was actually serious exclusion because those people were nurtured. They sat, they had drinks with their bosses, they went to braais.*

Particular examples also emerged from encounters with clients and being asked to be present for BBEE purposes or window-dressing. Participant B experienced this whilst at the office, with Black clients in particular:

*Sometimes there will be Black clients that come over to the office and then they want to consult. And I have seen this and I have only picked this up last year; my boss will then call one of the Black attorneys to come and sit in on the meeting and then when a White guy or White female [client] comes into the office, then one of the White attorneys will then come in.*

Participant I spoke of the segregation experienced in shared spaces within the office, such as in the kitchen and cafeteria:

*Things like in the mornings in the kitchen there were a specific time when you had the Black people in the kitchen and you knew it and when the Black people were in the kitchen it was very jovial, people talk and laugh... After a*

*certain time it is the White people's turn to be in the kitchen and if you walked passed there it was the White partners and associates hanging out there making coffee and after then everyone would shift out of there and you would only see the tea lady. Come lunch time it was just the same.*

### **5.5.3. Work Environment**

#### **5.5.3.1. Differential Treatment and Over-performance**

The effect of the participants needing to work harder in order to prove their worth and competence resulted in over-performance. For example, being in the office to be seen more than was strictly necessary. Participant G said that, "*Out of the whole two years, I probably took only two days leave. I worked every single public holiday. I worked every single weekend. I left the office really late*". She said that she thought that that was what was expected of everyone, although it was not.

Participant I expressed that she was "*one of the first to enter the office and one of the last to leave.*" At the time of the interview she said: "*I am actually one of three people left in this office right now. The White female attorney left at 15h00 today and she came in after me, but if I had to do the same thing it would be frowned upon.*" The requirement for her to have stayed in the office was different when compared to her White female colleague.

#### **5.5.3.2. Patriarchy and Male Privilege**

This theme was common when the participants (those who were in litigation) appeared at court. Participant E gave the example of the collegiality between the White male attorneys, advocates and magistrates:

*I remember at one point I had a matter with a senior White male attorney. So, by the time when I got to court, he had already finalised the matter before it even started. He attended the chambers with a White male magistrate and they had spoken in chambers about the matter... He had finalised the matter before it even started.*

This is common practice amongst attorneys and magistrates, however, it is to the exclusion of involving the opponents' counsel. This practice occurred in the magistrate's private chambers, at court.

Participant A also commented on this: *“From a fraternity perspective, the profession is still unkind and unreceptive to women, you see it everywhere you go, whether it is in consult or CCMA or Court”.*

Participant B provided an example of an experience at court when she was treated as a personal assistant rather than the instructing legal practitioner:

*For example, I had been to court this one time and I was with senior counsel...old White man – I don't even think he was necessarily racist, it did not feel like anything racist... he was just like, 'Don't you want to go and buy a chocolate for me over there?', and that is when you are at work and in heels and you are looking professional and you are just thinking, 'Dude I am not here to buy you chocolates, I am also at work'.*

### **5.5.3.3. Sexism and Sexual Harassment**

Participant F's experience with inappropriate behaviour (which is tantamount to sexual harassment) occurred in the car with her Black male senior whilst they were on their way to a meeting with a client. She explained:

*This one day we had to go and consult in Pretoria and on the way in his vehicle we were speaking about life, and then he started speaking and said, 'You look fit, do you exercise,' and I said that I try to, and then he said that 'I sometimes see you in your little skirts'. I did not really say anything and I just kept quiet. I don't know what else he said but I think I felt quite uncomfortable in the car.*

This unwanted attention continued after the workday had ended:

*That evening when I got home just before I went to bed he sent me a text message saying 'I thought that you really looked great today and we should do drinks sometime', and I responded and said, 'I will never let that happen and that I think that it is inappropriate'. I think he then replied and said, that he did not mean anything by it, it will just be as colleagues... It was 11pm.*

Another incident occurred where Participant F was present when travelling with her White male senior:

*There was an incident that happened with him and the whole thing was horrible and we went to Johannesburg for a matter and we were staying in a hotel in Melrose Arch. It was me, him, two attorneys and the other team were two senior counsel and a junior counsel, very beautiful girl and blonde and she had a very good relationship with him. One night we had a group and everyone come down for coffee and we can chat about today's proceedings and there was an incident at the pool table with her and some photos were circulated of her at the pool table. So, the guys (counsel) were making fun of it and eventually they said in a joking kind of way they need to stop because they will get reported.*

This behaviour amongst males is common occurrence. Participant K experienced this in a different scenario when her White male manager sent her to Black male clients' offices:

*These guys, I promise you, sorry to say it like this, but they were dogs. And Black men. And the partner was very strategic. He sent the two of us... because he knows, they're going to find [us] pretty.*

#### **5.5.3.4. Hostilities: Abuse, Racism**

Hostilities were experienced in various forms and environments; two participants gave specific examples of encounters with senior White male counsel (advocates) at court as discussed above. Participant B described a scenario when her friend was asked by her White male senior for a cup of coffee:

*I have a friend who has a White male boss and she is much darker than I am and he said to her 'Go make me coffee', and she made the coffee politely so and she dropped it off on his desk and he said, 'Next time you make my coffee it must not be as dark as your skin, it must be a light as mine'.*

Discussed above, Participant H shared the details of her White male director calling her a derogatory name:

*We were in his office and he actually got up close to my face to point at me and tells me this. At some point, both our voices were raised. Our secretary that was sitting outside said they could all hear, but no one did anything about it.*

Participant K gave specific examples of differential treatment in the office and how she was treated in comparison to her White female juniors

*The consequences that came from, let's say, you did something wrong. So with us [Black females], it was very extreme. All kinds of things happened. I was threatened. I was told at one point that I don't even deserve a salary increase, I deserve a salary decrease. Why, I don't know. The one time my principal actually physically pushed me out of his office. And I've got papers crumpled up, letters crumpled up in my face and thrown at me. All those things happened.*

She reported that on the other hand, her White female juniors were mentored and spoken to with kindness and respect.

Participant A, when explaining why her male manager had told her to “*put her big girl panties on,*” he has said that this comment was made from a good space. She then provided the researcher with context:

*I had a moment and thought, ‘What am I doing here?’ He was my mentor and principle... and I started sobbing about what was happening and he comforted me and in the end he said “listen I need you not to immediately react to what I am going to say – you need to wear your big girl panties,’ and at first I thought, ‘What does this mean?’ and he said that ‘You need to grow a thick skin, because you need to be tough’.*

#### **5.5.4. Management Education**

The participants expressed their dissatisfaction with the level of managerial or leadership qualities and understanding that their seniors had. Participant G said:

*I think it's that and it's also a ‘This is how we do things; don't come in here and try to reinvent the wheel’ kind of thing. Yes, we've got BEE, we'll tolerate it, but at the end of the day we'll continue to do our own thing. And BEE is shoved down our throats, we don't appreciate it, we don't like it, but let's just get on with it.*

Participant B reported:

*There have been a couple of experience that have made me feel like I am Black and I am female.*

Participant I said:

*I still feel that there is a lot of segregation and a lot of – yes you are included but you still have that thing of 'I am black and I am a female', that kind of thing.*

Participant J said:

*This is where I don't know whether it's self-imposed, that I didn't bring it up to talk about it a lot, or they were just not alive to my inherent challenges as a Black female coming from a disadvantaged background.*

Participant K reported:

*But part of the work is also people management. If you have somebody that's under you, who requires assistance, support, mentorship, guidance, even when you're correcting them, there are a lot of soft skills that are required in correcting work, which is unfortunately a big part of what we do. We have to correct the letters and say, the way you phrase that is not correct, this is what it actually means. It's almost like teaching; there's a lot of education that goes into what we do. And we need to be trained for it.*

Participant K said:

*Firstly, I started off my [corporate] career with very low confidence. So I didn't believe in my abilities, I always felt as if I was doing something wrong; riddled with anxiety started off my working career on anxiety medication, just like many of my colleagues for various reasons, not just because of race, but just because of the environment.*

Participant K said that:

*There's nothing about practice that couldn't have been overcome, if you're working in the right environment.*



Participant B reported:

*For us, when work is not done right it directly comes back to, 'Oh yes, you are Black and oh yes, she is a girl'. It always comes back to that and also when you do something wrong as a Black female, you feel like you are letting down the squad and then you feel, 'I cannot believe that that has happened.' There is a lot more riding on it and there is a lot more that goes into it, it is definitely not the same for Blacks and Whites.*

For Participant H this additional discrimination affects her everyday functioning including the opinion that much work is needed to be done by her peers and colleagues:

*For example, this afternoon, one of my gazillion calls for today, most of the people on the call were White males. I actually switched off my camera because I know that I'm young, then people start undermining you, whereas if it is just my voice, we had a great conversation. We made progress with what we were negotiating. Just as we're putting in the effort as a Black female to prove that we're competent, we need the same effort from our counterparts. What are you actually doing to making that environment more inclusive? Is it a tick box exercise or are you doing it because actually you see value in doing it? So there's still some work that needs to be done.*

## **5.6. Composite Description and Essence**

This chapter has presented the experiences of Black female attorneys. The textural and structural descriptions provided the researcher with insight into the lived experiences of Black female attorneys who have multiple and complicated intersecting identities. The essence of Black females' experiences of intersectionality as attorneys includes feeling undermined, overlooked and over worked. The participants described encounters with sexism, racism and emotional and physical abuse which often resulted in psychological trauma and negative perceptions of their abilities. The findings ultimately revealed the essence of hostility within the legal profession, towards Black females and generally in respect of law firms' organisational culture.

This essence is best described through the participants' examples of poetry and art. Maya Angelou's, a Black female activist, Still I Rise and Phenomenal Woman was

quoted as touching on the uniqueness that women bring to the workplace. Characteristics that should be celebrated, rather than undermined or under-acknowledged. Participant G's reference to a Hard Knock Life (Ghetto Anthem) provides a composite description of Black females' experiences in comparison to their White colleagues, emphasising the existence of differential treatment towards Black females. Participant I referred to "Eye of the Tiger" which elicits images of the character Rocky training for his upcoming fight. Although Participant I referred to a different movie, the meaning of her chosen song was not lost. For her, this is her "*real go to war song*" inferring that existing as a Black female attorney is about overcoming the overt and tacit battles which she faces.

The participants experienced inclusion and exclusion in different environments, depending on their team members and the demographics of their organisations. The participants share a common sense of exclusion based on race and gender. On occasion they experienced exclusion as a result of racio-ethnicity, age and/or parental status. More often than not, the participants' experienced sexism from their Black and White male seniors and in some especially unfortunate instances, sexual harassment.

The essence of their multiple existing and intersecting identities is greatly misunderstood by the organisations for which they work and has resulted in low representation of Black female attorneys in senior and executive positions in corporate law firms in South Africa. These experiences occur in the participants' offices, consultations with clients, shared spaces and with the introduction of video-conferencing, on calls too.

According to the participants, the essence of these experiences is compounded by their opinions that law firms are unfriendly, unwelcoming and hostile environments for Black females. Rather than being subjected to discriminations and as a result having to over-perform to prove their competence, many Black females choose to leave law firms for corporate or legal advisory positions.

This essence is discussed more fully in Chapter 6.

## **6. Chapter 6: Discussion of Results**

Chapter 6 analyses and discusses the research findings based on the understandings of the sample group on the phenomenon of intersectionality. It compares and contrasts the participants lived experiences against the literature review. The results are discussed in respect of the literature review that was conducted in Chapter 2 and is based on research questions presented in Chapter 3.

Based on the literature and theory review, the researcher expected to uncover themes such as racism, psychological abuse, sexual harassment and sexism in the semi-structured interviews (Jaga et al., 2017). An unexpected discovery was the behaviour of Black male seniors to their Black female juniors and the contribution these Black males made towards the participants' experiences of the discriminations as detailed in the literature. In addition, some of the participants did discuss and present positive experiences which based on the literature review, the researcher did not anticipate.

Since the analysis of data was pursued through an inductive, phenomenological qualitative analysis, the research questions that are outlined in Chapter 3 were used as the organising structure for the discussion in this chapter. The themes identified from the significant statements, codes and code groups in Chapter 5 will be discussed in greater detail in relation to each research question in this chapter. In addition, the essence as mentioned in Section 5.6 is discussed in greater detail.

Due to the sample size, caution is exercised in applying generalisations from the sample to the population. Instead, generalisations are made about the sample group whilst attempting to maintain a focus on the participants' context and unique stories. To this end, the research is concerned with exploring the differences amongst the sample group while equally identifying the similarities.

It is worth noting that it was evident that each participant had previously reflected on her role as a person of colour and female in the workplace and legal profession. The questions in the interview protocol gave rise to an emergent discussion between the researcher, and the participants displayed a painstaking awareness of the role that their gender together with their race and additional identities played in their careers.

Understanding Black female attorneys' experience is important as it will "not only determine the status of Black women [attorneys] in post-apartheid South Africa but

will also have potential to influence generations to come” (Jaga et al., 2017, p. 6). In a greater sense, together these research questions sought to assist gendered professions, such as law, with understanding the effect that intersecting identities may have on inclusion and transformation which is important in a South African context. Finally, by acknowledging the male privilege associated with the profession, the research aims to assist in overcoming the obstacles and boundaries which may be felt by Black females as some of the most disenfranchised individuals in South Africa.

### **6.1. Discussion for Research Question One**

*How do Black female attorneys’ intersecting identities impact their experience in the workplace?*

This question aimed to understand the essence of Black female attorneys’ experience in law firms and to understand how multiple intersecting and often degraded identities impact an individual’s performance and existence in an organisational environment. To answer this question, a general understanding of the participants’ background and years of experience was required to establish their upbringing and intersecting identities.

Next, a general discussion of the participants’ experience as a Black female was undertaken, which included discussions around specific examples of their experiences, and how the phenomenon impacted their careers. This approach allowed the researcher to identify similarities in the challenges faced by the participants in different legal environments, taking their contexts and backgrounds into consideration.

#### **6.1.1. Intersectionality: Common Experiences, Black Tax, Additional Identities**

The importance of the participants’ backgrounds, such as where they grew up, went to university and did their articles and/or practiced as an attorney, assisted with identifying the multiplicity of intersecting identities. This assisted the researcher in understanding how Black female attorneys shape their identity and experiences (Davis & Maldonado, 2015; Howard, & Navarro, 2016). Understanding this is key for studying how intersectionality operates within organisational environments (Ruiz-Castro & Holvino, 2016).

It would not have been sufficient for the researcher to consider race and gender alone (Carastathis, 2014), and thus the emergence of racio-ethnicity and class as additional elements needs to be considered. This is highlighted by the cases of Participants D and K. Lastly, in a South African context, where Black Tax is a reality for the majority of the working and employed population, class cannot be disregarded which Participants J, A and I clearly referenced.

The data shows that Black female attorneys' experience in the workplace, more specifically in law firms, is difficult because they experience exclusion, racism, sexism, sexual harassment and othering. This confirms what Klaaren (2018) suggested in respect of the South African legal industry.

All of the participants spoke about having to work harder and longer hours than their White male and female counterparts, sometimes even when compared to their Black male peers. The majority of the participants referenced some form of sexist behaviour from males either within their firms, organisations, or from clients and ten out of eleven participants had experienced differential treatment as a Black female attorney.

Similarly, to what previous researchers (Rodriguez et al., 2016) have studied, some of the participants did not feel the additive discrimination or exclusion based on either gender or race which contrasts the premise of intersectionality. For example, Participant F commented that in some instances it was a matter of proving herself irrespective of her gender: "*whether you are a Black male or female practicing here, it is very hard to see the future.*" In heightened contrast, the majority of the participants experienced intersectionality at an extreme with additional discriminations, such as Participants B and H based on age, whilst Participants C and I because they were mothers which is another compromising factor of being female.

Both the literature and the research concur that understanding intersectionality is important for managers, leaders and organisations. Some of the literature explains how this is constructed, for example according to Ruiz-Castro and Holvino (2016), "class symbols and identities are also constructed in organizations in relation to gender and racio-ethnicity by standards of physical appearance and professional dress and demeanour." (p. 331). Participant K and J made specific reference to their appearance in their interviews.

Xaso (2017) acknowledges that when a Black female experiences intersectionality and discriminations the result is internalised. Therefore, in addition to the common reality of over performing and additional stressors there are internal psychological consequences which in turn hamper career progression (Xaso, 2017). This was alluded to by Participant G who displayed symptoms of high-levelled stress and resorted to self-medicating with alcohol, while Participant K provided details on her work-life-induced anxiety.

#### **6.1.1.1. BBEE**

It would be plausible to assume that, with the progress in BBEE and employment equity legislation and policies, Black females would not experience discrimination. However, according to Jaga et al. (2017), Black females often feel that despite the attempts in legislative actions, no real change has manifested in the workplace. This is because Black women still experience “dummy positions also termed ‘window dressing’ – where they are selected for positions because they are Black to meet a [BB]BEE requirement” but do not have any substantial input or make a material contribution (p. 7).

At least eight of the participants experienced this. Participant G expressly referred to window dressing: “*I did experience the window dressing and where they would pretend like you’re the associate when you’re not. And when there is a Black client, you sort of run with the matter... So by and large, I felt like we were there to fill in numbers*”. The reality of the participants’ experience with instances of window-dressing is that this behaviour “reproduces and reinforces racial hierarchies within organisations” rather than assists or empowers Black females (Jaga et al., 2017, p.7).

When considering the composite descriptions of the participants’ experiences, it is clear that the phenomenon of intersectionality is both tacitly and expressly felt through subtle micro-aggressions and outright pejorative behaviour. This experience often occurs in one-on-one interactions with male seniors but happens with clients too.

Jaga et al. (2017) claimed that firms are able to avoid diversity or appear to implement transformative behaviours “because they can hide behind clients’ demands” (p. 12). However, the insights yielded from the participants exposed that

it was, in reality, often at the clients' request that the Black female participants were involved in a transaction or particular matter.

The research exposes that Black females' roles are often muted when consulting with clients, for example when, during a consultation with a client and her Male manager, the manager highlighted Participant K's ability to speak French. It was obvious that this was upsetting to Participant K as she continued to rhetorically ask, "*Why do you have to say those things? And what does it prove?*". In these situations, Participant K was undermined as a Black female and rather exhibited as "international" due to her ability to speak French.

The reports of 'window-dressing' lend weight to the argument headed to in the literature that not enough is done through BBEE and employment equity legislation. In addition, it is not enough that clients require demographic representation. Tangible transformation will only come about when the law firms significantly and meaningfully change their current behaviour and cultures.

#### **6.1.1.2. Over-performance**

The impact of intersectionality on Black female attorneys in the context of the legal profession being patriarchal is that they need to constantly prove themselves and ultimately over-perform. This is rooted in the additional expectations that are placed on Black females (Mählck & Thaver, 2010). Despite this over-performance, the participants did not feel acknowledged nor appreciated and ultimately left the law firm environments. This was evident with Participant J who, although she historically made director at a young age, her over-performance and under-support resulted in her leaving.

This over-performance then also led to a hostile work environment for Black female attorneys, when Participant C said:

*The only sad thing is that is as Black females, we always are needing to prove ourselves to ensure that we are just as good as our other White counterparts, male or female... it is something that we learn to live with because we always know that we need to go the extra mile.*

It is clear that over-performance by the participants was as a result of a number of factors such as BBEE legislation and differential treatment, which, touching on research question two, leads to feelings of exclusion dictating their need to leave.

### **6.1.1.3. Patriarchy and Male Privilege**

Jaga et al. (2017) argued that organisations need to be “contextually sensitive and to use an intersectional lens” to understand Black females’ historic, imbedded and systemic disadvantages (p. 4). It is imperative that questions relating to the numerous and complex “ways inequality is systematised in structures, institutions, ideologies and practices” resulting in “hierarchical arrangements of power relations between groups” (p. 4) be raised because the existing power dynamics continue to privilege White males and subordinate Black females (Jaga et al., 2017).

Jaffit and Alexander (2017) assert that women in corporate law firms operating within emerging markets face a “unique set of challenges” (p. 244). Using an intersectional lens, Black females “have trouble breaking into white male dominated professional workplaces because of South Africa’s racial and patriarchal apartheid legacy” (Jaga et al., 2017, p. 3). The literature continues to explain that in these industries, the ideal worker is often perceived as male due to the requirements of longer working hours, the appearance of being seen and being overly busy, and choosing work over familial commitments, and travel for work regardless of their family commitments (Kelly, Ammons, Chermack & Moen, 2010). Due to the gendered nature and structure of the legal profession Black females continue to be undermined and subordinated (Acker, 1992; Jones, 2020; Chengadu & Scheepers, 2017). The study provided a window into the essence of intersectionality: that this reality has negatively impacted the majority of the participants, who felt they needed to leave the law firms in which they worked. This was the case with Participants B, J, K, C, G, H, and I.

There was some discussion amongst the participants about the lack of trust in Black females’ competence and abilities. Participant A suggested that the reason for this was twofold – firstly as a result of males’ upbringings and secondly as a result of the privilege simply afforded to men in the profession, whilst Black females have to over-perform in order to be considered valuable.

In a profession where, generally, only male seniors are available to junior females, the existence of sexual harassment and sexism is greater than if Black female junior



attorneys had Black female seniors to mentor, support and manage them (Scheepers et al., 2018). This leads to Black female juniors being left exposed and ultimately taken advantage of, highlighted by the experiences of Participant K and F. They believed that their male seniors would protect them from inappropriate behaviour when instead they were the reasons for being put into vulnerable situations.

## **6.2. Discussion for Research Question Two**

*What meaning do Black females ascribe to their experiences of inclusion in respect to their career progression?*

Due to the low numbers of Black female attorneys working in law firms (as opposed to corporate organisations), the aim of this question is to understand if and why Black female attorneys' sense of inclusion impacts their career progression. To answer this question, an understanding of the participants' experience with inclusion and /or exclusion was needed. The discussions around inclusion led to the interpretive understanding of how and possibly why the participants felt included or excluded.

### **6.2.1. Inclusion and Exclusion**

An employee's sense of inclusion is characterised by their perception "that their unique contribution to the organization is appreciated and their full participation is encouraged"; a sense that they form part of the informal and formal processes and that equal opportunity exists for all staff (Mor Barak, 2015, p. 85; Shore et al., 2018). None of the participants described their experiences in such a way that led the researcher to believe that they were appreciated for their unique qualities and different characteristics. The participants all encountered some level of exclusion from decision making processes, social networking and knowledge sharing (Mor Barak, 2015). While some of the participants felt a sense of belongingness, it was often at the cost of their unique characteristics, such as being female. This is highlighted by Participant I, who shared her experience saying that "*if you played as hard as the 'boys' you would feel inclusion*".

Generally, the participants experienced a sense of inclusion when either working in a predominantly Black team or firm. The essence of their inclusionary feelings presented in the form of making "*day-to-day decisions and the running of the business*" and the support received from employers and managers.

A sense of belonging was evident at all-Black law firms or in all-Black teams, however there was no mention amongst the participants of being appreciated for their unique qualities, as Black females. Participant G echoed this particular sentiment: “*because I worked at a predominantly black-owned black-managed place, it was a better sense of inclusion.*” Her experience of inclusion was exhibited through the trust that her Black colleagues had in her abilities. This is somewhat contrary to the definitions of inclusion from Mor Barak (2015) and Shore et al. (2017).

Jaga et al. (2017) focused on family-friendly practices and work-life balance for Black female professionals. The researcher believes that parallels can too be drawn for transformation and diversity practices. If employees do not identify as making a significant contribution as a result of unwelcoming, misunderstanding managers and law firm organisational cultures, then the effectiveness of transformation policies and diversity practices will be undermined. Only two participants explained that they had support from their male managers with the remaining participants feeling excluded from both formal and informal practices and processes when working in a law firm.

Unlike the majority of the other participants, Participant A had a positive experience as a Black female attorney. Recently making director at only 28, she experienced inclusion and growth in the sense that “*there has been inclusion because I have had independence for a very long time and I suppose that that is what contributed to growth as well.*” Which echoes the literatures’ definitions of inclusion (Mor Barak, 2016; Shore et al., 2017). Similarly to Participant A, Participant J had a mostly positive experience at her law firm. She too was promoted to director at a young age and throughout her tenure at the firm (until she became director) felt included. However, she did mention that this was limited to her particular, all-BBBEE team and did not extend to the greater organisation, from which she felt excluded.

Inclusion is an important emotion for all individuals to experience in the workplace, but it is more important to those who have been historically disqualified from participation in decision making, and societal and economic functions such as Black females in South Africa (Shore et al., 2017).

#### **6.2.1.1. Differential Treatment**

As discussed in Chapter 5, differential treatment was a common experience for the participants. According to Mor Barak et al. (2016), differential treatment can result in

a sense of exclusion. Individuals who identify with multiple groups (such as Black females) and do not identify with one category in particular, often experience exclusion which eventually results in turnover (Mor Barak, 2015). When an employee experiences exclusion, the outcomes are often detrimental and include lowered self-esteem and stress, both of which were experienced by multiple participants, for example, Participant K:

*...started off my [corporate] career with very low confidence. So I didn't believe in my abilities, I always felt as if I was doing something wrong.*

Where individuals are not recognised for their true characteristics and identities, they experience a sense of exclusion. This is true for both the reality of an experience and the perception of exclusion (Mor Barak, 2015). Exclusion can have negative effects on psychological and physical health, whether it occurs as an overt (i.e., acts of prejudice) or a subtle form of discrimination (Shore et al., 2017).

Participants H, J and K spoke directly to career progression and the psychological consequences of perceived injustices. As mentioned above, when Participant J was promoted, she:

*...witnessed how, when [the White male] transitioned from senior associateship to director, he was properly nurtured and carried through, he was given a few clients, he was set up nicely to transition out of it... And now I arrive. 'There are no clients for you. .... I've got other people in the team to look after.' ... And I was shocked to the core. Because I thought, no one else has been treated like this.*

#### **6.2.1.2. Hostile Work Environment**

The existence of sexism, abuse and racism is still prevalent today because of the legal profession's historical design and structure and the reality that these objective elements have not progressed with the transformations in society (Acker, 1990; Jaga et al., 2017). From an 'inter-categorical complexity' approach, it is clear that the narratives of Black female attorneys need to be considered in the context of their law firm environments and their experiences cannot be separated from this context. This is also evident from the participants' experiences once leaving law firms. Although some racism and gendering does exist, like Participants K and H alluded to, the majority of the experiences at corporate organisations was positive. This indicates

that Holvino (2012) and Rodrigues et al. (2016) were correct in their opinions of simultaneity and inter-categorical complexities.

In the legal profession there is evidence to suggest that both benevolent sexism and hostile sexism exist amongst male attorneys. These attitudes towards sexism may partially explain the lack of Black female representation in more senior positions. However, benevolent sexism refers to protecting women from the harsh realities of the world, which may in a sense be attributed to Participant J's experiences as benevolent sexism "can manifest as the provision of praise while withholding resources" (Jones et al. 2017, p. 1094) which occurred when she was promoted to director.

The work environment is often so hostile that Black females feel they have no choice but to leave practice. In Participant K's experience, she left Firm E before she had found alternative employment. As mentioned above, she stated that when she eventually started a new position at a corporate organisation she was:

*... riddled with anxiety I started off my working career on anxiety medication, just like many of my colleagues for various reasons, not just because of race, but just because of the environment.*

To further explain the hostility of law firm environments, Participant F's description of moving to Firm C, where she was specifically placed due to her being a Black female. This particular director was prevented from having White female juniors because of previous inappropriate instances with female juniors. The point of concern distinctly arose in the following ways: firstly, Participant F had experienced sexual harassment at her previous firm; secondly, if Firm C was aware that this particular White male director had displayed inappropriate behaviours, why was this not dealt with? Why was he still allowed to practice? Thirdly, why did Firm C feel it appropriate to assign a female junior to this director, irrespective of her race? Apart from the obvious sexism, this behaviour exhibits distinct tones of racism. Knowing this director "needed to hire a Black female" for BBEE purposes was not sufficient a reason to put a female in that situation. This was a particular example of intersectionality and the experience of sexism, sexual harassment, and racism in an organisational context.

### **6.2.1.3. Management Education**

Organisations have become increasingly aware that a diverse workforce, and the manner in which these demographics are managed, will affect an organisation's "functioning and effectiveness" (Ferdman, 2017; Roberson, 2006). This means that a lack of transformation will ultimately affect law firms' bottom line. There is cumulative research and literature that supports the proposition that "diversity representation and diversity management with a focus on inclusion have a positive impact on organizational performance" (Mor Barak, 2015, p 86).

Jaga et al. (2017) discovered that despite an individual's level of education, racial and gendered discrimination was persistent. However, they did not indicate that this was directly related to forms of organisational and managerial education (specifically at postgraduate levels). Organisation and managerial education or courses would be specifically important as management should pay attention to employee's perceptions of discrimination "whether or not employees' beliefs are consistent with reality, behaviors are affected" (Ensher, Grant-Vallone, & Donaldson 2001, p. 53).

Significant focus needs to be placed on leadership and managerial behaviour in law firms, not only in respect of employer-employee relationships, but with regard to organisational culture too. It was apparent that the participants could feel the exclusionary and out-dated cultures in the law firms in which they practiced. Participants K, J, G and A all specifically addressed this reality.

Although not specifically a part of many curriculums, understanding intersectionality is important for managers, leaders and organisations. This is because appreciating intersectionality leads to consideration for employees' personal circumstances. Intersectionality sheds light on and creates sensitivity around the ways in which several aspects of identity may combine to create distinctively strong disadvantages or positions of oppression. This is best understood through Participant I's example of how her manager's understanding of her multiple identities in comparison to her male colleagues would positively impact her.

### **6.3. Discussion on New Insights: Black Male Seniors**

A phenomenon not obvious in the literature review is the behaviour of Black male senior attorneys and Black male clients towards their Black female juniors and attorneys. Some of the participants avoid interacting with their Black male seniors for

fear of perceived inappropriate behaviour, whilst others experienced sexual harassment directly from them. Although this echoes similarities to what Ruiz-Castro and Holvino (2016) discussed, that building close relationships with male seniors could “be damaging to women’s careers, because relationships between men and women became easily sexualized” (p. 340), this emerged in particular reference to treatment by Black male seniors.

This sub-theme materialised as a new finding in several interviews and although the reality of competition and sexism in the profession is rife, the treatment of Black females by their Black male seniors was novel. This was evident with Participants D, F and G in respect of their Black male directors. The most notable comment was made by Participant G when she declared, “*I don't need you to hit on me, I need you to help me*”. Rather than assisting, supporting and mentoring their Black female juniors (such as White male seniors do with White male and female juniors), the Black male seniors objectify and sexualise them. Participant G stated “*But the older [Black males], they just see fresh meat... instead of helping you [they sexualise you].*”

Important are the consequences of sexual harassment in the workplace as it negatively affects employees psychologically and may result in stress, depression, and poor performance. Although Participant F did not detail any feelings of ill mental health, she did feel that she was possibly excluded from receiving work as a result of the incident with her Black male director.

It must be noted that this emergence does not negate the fact that White males are also guilty of sexual harassment as was obvious with Participant F’s director and Participant K’s principal “*pimping [her] out*” to Black male client because she was “*pretty*”.

#### **6.4. Conclusion**

To conclude Chapter 6 and answer the two research questions, the essence of intersectionality is the existence of multiple identities in various contexts. Having interesting identities is a reality for Black female attorneys. This reality impacts their experiences in the workplace as they are met with challenges, hostilities and the perception that they are incapable. It is also evident that a lack of intersectional understanding is highly prevalent in legal environments. Which may be attributed to the gendered history of the profession.

The participants discussed feelings of inclusion and exclusion and how this manifested in different treatment, exclusion from decision making and formal and informal processes. The participants also provided examples of sexism and sexual harassment from male seniors. The combination of these difficulties adds to the hostility of the profession, feelings of exclusion and led to the turnover of the majority of the participants, for corporate organisations.

A lack of managerial education and abilities also emerged as an area that is lacking in the industry. This too may contribute the hostilities and challenges faced by Black female attorneys.

It is clear that inclusion cannot be considered in isolation from the existence of intersectional identities. The research suggests that the two concepts are not mutually exclusive. For example, Participant I experienced inclusion but she still felt *“that there is a lot of segregation and a lot of – yes you are included but you are still have that thing of ‘I am black and I am a female’ that kind of thing”*, as a result of her being both Black and female.

## **7. Chapter 7: Conclusions and Recommendations**

Chapter 1 presents the strikingly low numbers of Black female representation in law firms. Once Black females move beyond their contracts of articles and serve their traineeships to become admitted as attorneys, the numbers of Black female attorneys in associate, senior associate and director positions begin to dwindle. Cognizant to this, the researcher sought to understand the phenomenon of intersectionality and its impact on Black female attorneys.

The study was supported by the expressions of the participants' experiences with the phenomenon of intersectionality, inclusion and transformation. By uncovering their experiences, and understanding the essence of Black female attorneys' lived realities together with support from the literature contained in Chapter 2, the importance of intersectionality and its place in organisational studies and education became apparent.

The purpose of this study was to ascertain why there is little representation of more senior Black female attorneys in law firms in South Africa; and to increase the understanding of intersectionality (which includes the intersection of sexism, racism, class and racio-ethnicity) in the South African legal profession from the perspective of the experienced, Black female attorneys. This study clarified that there is much work to be done in the legal profession in South Africa. Black female attorneys do not feel welcome or included. They are underrepresented and over-looked, leading to feelings of exclusion often resulting in them leaving law firms to pursue other employment avenues. This is ultimately the result of a number of factors including the gendered structures and nature of law; minimal managerial understanding of intersectionality; and a constant need to prove their worth through competence in light of being, and/or perceived to be, a BBBEE candidate.

This chapter offers a conclusion on the key findings obtained from the exploratory research questions; outlines the contributions made by the research, providing a conceptual model; considers the limitations of this study; and finally provides recommendations for future research.



## **7.1. Conclusion of Findings for Research Questions**

This section outlines the conclusions in respect of the research questions and ultimately provides the basis for the conceptual model of the cycle of understanding intersectionality.

### **7.1.1. Research Question One**

Research Question One aimed to understand the essence of Black female attorneys' experience in law firms and to appreciate how multiple intersecting and often degraded identities impact their performance and existence in an organisational environment.

Understanding intersectionality assists in understanding concepts like black tax and the reality of this additional commitment that Black females have towards their families. As mentioned in Section 5.4.1.2, the existence of black tax is often ignored by organisations. Although not an obligation by organisations to pay employees according to their needs and dependants, organisations do need to be cognizant of the pre-existing realities that their employees deal with whilst not in their places of work.

Black female attorneys share many common experiences, including encounters of hardship, having to prove oneself as a Black female, and the difficulties around BBEE appointments and legislation often resulting in over-performance. These experiences often occur in similar patriarchal and gendered environments. The data collected from the semi-structured interviews, together with the extant literature, make it clear that intersecting identities cannot be isolated from workplace environments and experiences. This is solidified by considering the improved positive experiences of Black female attorneys once they have left law firms and are employed at corporate organisations.

Applying the 'inter-categorical complexity' approach towards intersectionality shows how an individual's identities together with organisational processes and practices and societal norms interact in creating a multidimensional existence. This is relevant when considering Black female representation in a profession that is patriarchal and is generally designed to support men. Intersectionality cannot be understood in isolation from an individual's context. This is particularly important to industries that

are predominantly male and predominantly White because Black females also work and operate within these industries.

### **7.1.2. Research Question Two**

Research Question Two aimed to understand the meaning that Black female attorneys attribute to their experiences of inclusion and how feelings of inclusion or exclusion contribute to their career progression. Not only did the research reveal that experiences of exclusion exist which are attributed to differential treatment received by their colleagues and as a result of their intersecting identities, the data also uncovered the hostility of the legal profession and the lack of management education and understanding.

The majority of the participants who spoke to experiences of exclusion have subsequently left law firm environments. All but two of the participants who spoke to exclusion have left practice and instead are employed in 'in-house' legal positions at corporate organisations. In instances where the participants recalled their experiences of inclusion, it was not evident that this was as a result of an appreciation of their uniqueness. Although what was significant to the participants, which is in line with the 'inter-categorical complexity' approach of intersectionality, was perceived organisational inclusion and inclusive climates. The existence or lack thereof of these inclusion constructs clearly contribute to Black females' feelings of inclusion and exclusion because the participants placed importance on decision-making and participating meaningfully in their places of work. It appears that this was more important than to be considered and appreciated as unique.

It is clear that the legal profession is hostile and demanding. The employees are not treated like other employees. They are not paid over-time and are under appreciated. This, together with the already predominantly White and male reality, creates substantial barriers for Black female progression. In addition, the treatment by their male seniors is often unkind and sexist. There needs to be an acknowledgement by the legal fraternity that much substantial change and social transformation is needed.

### **7.1.3. Concluding Remarks**

Organisations require an understanding of their employees' intersecting identities and without that education, there will continue to be a high rate of turnover in the legal profession, particularly of Black females. This is not to say that Black female

employees do not experience these hardships across industries and professions, although there is literature to support that it is common in professional service firms (Holvino, 2012). The data also made evident that despite the hostile environment, with the support of sponsorship, mentoring and an inclusive climate, Black female attorneys may progress to more senior positions and in greater numbers.

It is important to note that in this study Black females' sense of inclusion and transformation was not separated from their intersecting identities. Although the research questions are distinct, they are also inter-connected and should be considered cumulatively.

The use of poetry and music enabled the researcher to triangulate the experiences of the participants' identity with an articulate essence of the phenomenon through an alternative medium. In addition, it provided a contextual understanding and embodiment of a difficult and sensitive topic. The participants who did share a poem or song with the researcher provided an alternative expression of their experience, adding weight to sense of inclusion or exclusion and the many difficulties faced.

## **7.2. Contributions Made by this Study**

This research uncovered the importance of understating intersectionality and how a lack thereof manifests in South African law firms. Although literature exists on the role that organisations and society play in contributing toward intersectional identity, this study uncovered a need for more practical contributions surrounding this research area, outside of academia and theory.

In addition to answering the purpose statement and Research Questions, this study contributed towards an understanding of the 'inter-categorical complexity' approach towards intersectionality which includes considering an individual's numerous intersecting identities together with the structures they are faced with and the contexts in which they operate. It is clear that one cannot consider intersectionality in isolation from an individual's environment.

According to Bourabain (2020), "the form and intensity of everyday sexism and gendered racism differs and changes according to the space in which it is produced and reproduced" (p. 16). In light of this, this study contributes to the importance of researching gender, race, class and racio-ethnicity in a particular environment such as the South African legal profession.

The researcher suggests an illustrative, conceptual model of the experiences of Black females in law firms that have little to no understanding of intersectionality. Figure 5 depicts the cyclical nature of a lack of understanding of intersectionality in the workplace.

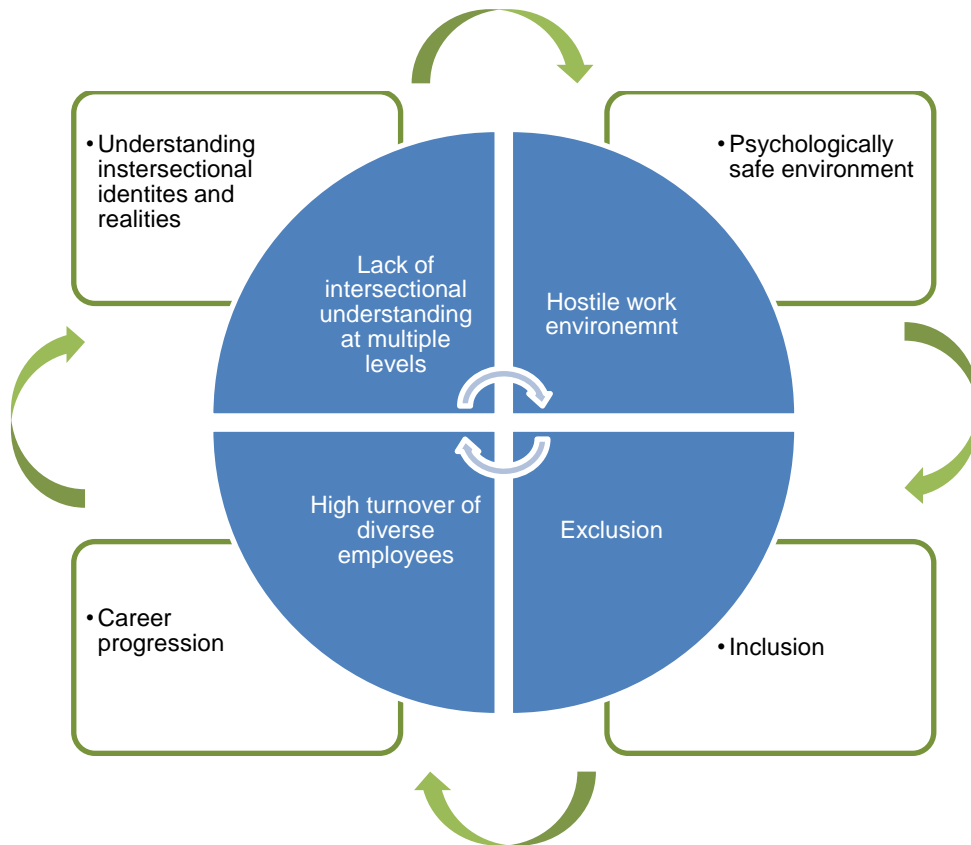


Figure 5: Conceptual Model: Depiction of Cycle of Intersectionality.

The starting point of the four inner quadrants is that, currently, law firms operate in a state of ignorance with regard to the intersectional realities amongst their staff as well as the impact that organisational practices may have. This ignorance fosters a hostile work environment as there is no sympathy, support nor understanding of the individuals' contexts and multiple identities by senior managers and team leaders. The effect of this is a sense of exclusion which ultimately results in a high turnover of diverse employees and low representation of Black females at more senior levels.

The external quadrants represent the hypothesised vision of what a law firm would look like if it had a strong organisational understanding of intersectionality. This would increase feelings and experiences of inclusion resulting in an inclusive and diverse

environment where intersectionality is understood and diversity is acknowledged. This would then lead to retention of diverse staff such as Black females as they would not feel the need to leave the law firm environment. This then create the opportunity for further career progression within law firms.

This study acknowledges the deeply embedded, systemic and structural gendered and racial prejudices that Black female attorneys encounter in post-apartheid South Africa. It is not enough that there are national and legislative solutions in place. South African law firms stand to “benefit by developing all managers in diversity management competences and aligning organisational leadership” (Jaga et al., 2017, p. 13). It is therefore recommended that law firms develop and apply intersectional, managerial and leadership education policies and programmes. Further quantitative research is needed on the effect of the lack of managerial education and programmes for attorneys.

Lastly, the phenomenon of intersectionality is best understood by acknowledging that multiple identities and categories of identities exist within an individual at any given point in time. Intersectionality is not limited to personal identity as it encompasses organisational and social structures and influences. Black female attorneys cannot exist without race or gender but, these identities too cannot exist without organisational and social impact and context.

As a final contribution, this study offers a concise yet all-encompassing term which may assist in understanding the phenomenon of intersectionality in an organisational context: intersecting realities. Intersecting realities is an expansion on inter-categorical complexity and simultaneity in that it is broader to include both theories, simultaneously.

### **7.3. Research Limitations**

It is important to consider the data within the context of the study including existing limitations. Although phenomenological qualitative research is meaningful and offers rich insights into the essence of an experience, the findings are not statistically generalisable to all Black female attorneys. It is important to acknowledge that Black female attorneys are not a homogenous group. This was also noted in Chapter 5 with reference to the existence of additional identities.

As discussed in Section 4.11 there are several limitations to conducting a phenomenological study including the fact that no precise methodology exists (Sanders, 1982). Although never entirely achievable, the awareness of the impact of the study on the researcher was a constant reminder of the need for her objectivity in conducting this study.

A risk of self-selection bias does also exist as the participants who agree to participate in the study may do so because they are passionate about the subject. This means that they could be different from the individuals who declined to participate in the study (Saunders & Lewis, 2017).

Due to the COVID-19 lockdown restrictions, in-person interviews were not possible. This posed a limitation to the chosen methodology. Due to the nature of the study, non-virtual interviews would have been ideal as they provided the researcher with a visual representation of what the participant was explaining. For example, over a virtual interview, the researcher was not able to fully comment on body language which may have better represented the emotions attached to what the participant was saying.

With regard to the limitations of the interview, there is potential for a distortion of the data depending on the biases and emotional state of the participants during the interviews (Patton, 2002). With qualitative research, there is a risk that participants' responses may be influenced by the researcher's reactions or because the participants may be conscious of the researcher's potential perception and possible judgement of them (Patton, 2002). Furthermore, despite following the interview protocol, the interviews varied from participant to participant in terms of probing and direction which relied on the participants' responses. The findings should therefore be understood as areas of consideration for future research.

An additional limitation relates to the complexity in navigating the participants' lived experiences through their interviews. It was particularly difficult to capture the many dynamic and multifaceted lived experiences in this limited research report with the responsibility falling on the researcher to decide what was valuable to include and discuss and what was acceptable to leave out. This was particularly relevant in that the study only considered four intersecting identities and characteristics. This research does not consider additional characteristics such as sexual orientation, religious or gender-identity.

#### **7.4. Recommendations for Future Research**

A new insight emerged in respect of Black male seniors and Black male clients. The fear of 'office gossip' surrounding Black females' interactions with Black male seniors and the evident inappropriate treatment by Black male seniors and clients was of concern. The emergence of these situations, why they happen, and how these situations and experiences can be prevented is an area that needs to be addressed in depth. Due to the rise in gender based violence and the global scourge of mistreatment of women there is an urgency for further research in this area.

For purposes of this study, little attention was given to the trauma experienced by Black female attorneys. A point for further research is the investigation of the possibility of collective trauma and consequential behaviour of Black female attorneys. The final recommendation arising from this study is the investigation into the concept of black tax and its effect on employees' sense of inclusion in the workplace.

The structure of law firms needs to be investigated. Further research on the particular organisational structures in South African law firms is suggested, not only for the benefit of Black female employees, but for the benefit of all employees.

With regard to clients' roles and potential influence in transactions, an area for further research is the impact of clients' preferences when staffing a transaction. It is also suggested that clients' knowledge of a Black females' substantial involvement in said matters be investigated.

As the two research questions should not be considered in isolation, rather, like Holvino's (2012) concept of simultaneity, the existence of intersectionality and Black females' experiences of inclusion should be considered as inter-dependant. A quantitative study is recommended to confirm the existence of these relationships and potential correlation.

Many similarities in this study can be drawn to Ruiz-Castro and Holvino (2016) research in that their study highlighted the concept of 'simultaneity' and intersectionality (Holvino, 2012), in an organisational context. This reality ultimately serves to explore intersectionality's impact on career progression. Ruiz-Castro and Holvino (2016) were able to show how multiple identities are constructed through the various contexts in which individuals exist, by focusing on the relationship between

intersecting identities and organisational structures and practices. It must be noted however that Ruiz-Castro and Holvino's (2016) study was conducted in Mexico, the demographics of which are significantly different to South Africa. Thus specific focus on macroeconomic environments is important in future research.



## Annexure 1: Consistency Matrix

**TITLE:** Understanding the phenomenon of intersectionality and its effect on inclusion and transformation in the South African legal profession.

Table 2: Consistency matrix.

RESEARCH QUESTIONS	LITERATURE AND THEORY REVIEW	DATA COLLECTION TOOL	ANALYSIS
Research Question 1: How do Black female attorneys' <b>intersecting identities</b> impact their experience in the workplace?	Section 3.1 (Jaga et al., 2017; Davis & Maldonado, 2015; Howard & Navarro, 2016; Windsong, 2016; Dudley, 2006; Scheepers, Douman & Moodley, 2018; Carmona, 2017; Bartlett & Kennedy, 1991; Scheepers, Chengadu & Durrant, 2017; Carastathis, 2014; Carbado, Crenshaw, Mays & Tomlinson, 2013; Bell & Nkomo, 1992; Jaffit & Alexander, 2017; Rodriguez, Holvino, Fletcher & Nkomo, 2016; Ruiz-Castro & Holvino, 2016; Tomlinson et al., 2019)	Interview Protocol	Phenomenological analysis process; Figure 3; Sections 5.4.1; 5.5.1; 5.6
Research Question 2: What meaning do Black females ascribe to their experiences of <b>inclusion</b> in respect to their career progression?	Section 3.2 (Grissom, 2018; Shore et al., 2018; Jones, 2020; Mählick & Thavers, 2010; Mor Barak et al., 2016; Mor Barak, 2015; Nishii, 2013; Shore et al., 2018; Ferdman, 2017; Nkomo, Bell, Roberts, Joshi, & Thatcher, 2019)	Interview Protocol	Phenomenological analysis process; Figure 3; Sections 5.4.2; 5.5.2; 5.6

## **Annexure 2: Interview Protocol/Schedule**

*Interview Protocol: Understanding the phenomenon of intersectionality and its effect on inclusion and transformation in the South African legal profession.*

Time: \_\_\_\_\_

Date: \_\_\_\_\_

Place: \_\_\_\_\_

Interviewer: Michal Sara Sasinsky

Interview participant: \_\_\_\_\_ (Participant \_\_\_\_\_)

### **Introduction**

Statistically, the numbers of Black female attorneys are staggeringly low. In addition, these numbers include Indian, Black and Coloured females. This study aims to understand what common experiences Black females encounter in law firms, whether Black females feel a sense of inclusion and transformation, and why there is little representation of Black female attorneys.

Intersectionality refers to the interacting between race and gender which “shape the multiple dimensions of Black women’s employment experiences” (Davis & Maldonado, 2015, p. 55).

Inclusion refers to “process[es] and practices that involves working with diversity as a resource” and in respect of organisations refers to “inclusive organizations and societies, [where] people of all identities and many styles can be fully themselves while also contributing to the larger collective, as valued and full members” (Ferdman, 2017, p. 235).

Transformation refers to the change in social landscape in South Africa.

## Questions

Table 3: Interview guide.

<b>Context and Background</b>			
<b>Question:</b>	<b>Answered?</b>	<b>More information is needed</b>	<b>Comment</b>
1. Please provide some background about yourself: where did you grow up, go to school, go to university, complete your contact of articles?			
<b>Research Question 1: How do Black female attorneys' intersecting identities impact them in the workplace?</b>			
2. How long have you been practising/non-practising (if applicable)?			
3. Please describe your experience in the law firm.			
4. How does being a Black female impact your career?			
5. What particular instances have impacted your experience as a Black female in law?			e.g.: describe the scenario and situation when you experienced the phenomenon.
<b>Research Question 2: What meaning do Black females ascribe to their experiences of inclusion in respect to their career progression?</b>			
6. Please describe your experience of inclusion/exclusion in the law firm.			
7. How does being a Black female impact your sense of inclusion?			
8. What particular instances have impacted your experience on inclusion/exclusion?			e.g.: describe the scenario and situation when you experienced inclusion.
<b>Additional</b>			
9. Do you have a song, poem or piece of art that represents your experience as a Black female in law?			

10. Do you have any additional comments about your experience as a Black female attorney; inclusion and transformation in the profession?			
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### Annexure 3: Lists of Codes Created During Data Analysis

Table 4: List of Codes Created During Data Analysis

No	Code	No	Code
1.	Abuse	2.	Age & Experience
3.	BBBEE	4.	Being Undermined
5.	Black Female Leadership	6.	Black Female Representation
7.	Black Firm	8.	Black Girl Magic
9.	Black Male Seniors	10.	Black Tax
11.	Clients Need To Push For Transformation	12.	Conscious And Unconscious Bias
13.	Consequence Of An Incident	14.	Different Environment
15.	Different Upbringing	16.	Differential Treatment
17.	Education Background	18.	Example Of Being Overlooked For A WF
19.	Example Of Flawed System	20.	Example Of Instance That Impacted Experience As A Black Female
21.	Exclusion	22.	Expectation Of Being Tough
23.	Experience As A Black Female	24.	Experience As A Black Person
25.	Experience As A CA	26.	Experience As A Female
27.	Experience At A Big Firm	28.	Experience At A Small Firm
29.	Experience Of Intersectionality	30.	Female In Law
31.	Female Seniors	32.	Few Opportunities
33.	Firm Culture	34.	Gendered & Racial Preferences
35.	Gendered Structure Of Law Firms	36.	Geographical Area
37.	Historic Impact	38.	Hostile Profession
39.	Impact Of Exclusion	40.	Impact Of Intersectionality
41.	Inclusion	42.	Inclusion & Leaving
43.	Insider Referrals	44.	Intersectionality
45.	Lack Of Consequences	46.	Lack Of Sponsorship
47.	Lack Of Support	48.	Lack Of Trust
49.	Lack Of Understanding Of Intersectionality		
50.	Leadership	51.	Learn To Deal With

52.	Leaving Practice	53.	Male Dominated
54.	Male Mistrust	55.	Male Privilege
56.	Male Seniors	57.	Management Education
58.	Meaning Of Inclusion And Career	59.	Microaggression
60.	Negative Experience as a Black Female	61.	No Prospects Because Of Manager
62.	Non-South African	63.	Not Easy
64.	Not In A Law Firm	65.	Nothing You Can Do
66.	Observations Of People Leaving	67.	Observations Of Progression
68.	Old Boys Club	69.	Oxymoron
70.	Personal Reason For Leaving	71.	Personal Reflection
72.	Place Of Articles	73.	Positive Experience
74.	Positive Experience as a Black Female	75.	Potential Reason For Low Numbers Of Black Females
76.	Progress In Transformation	77.	Protected
78.	Proving Yourself	79.	Question of Self Worth
80.	Racist Experiences	81.	Reason For Moving Teams
82.	Reason to Continue	83.	Reasons For Leaving
84.	Sexism	85.	Sexual Harassment
86.	Social Interactions	87.	Song, Poetry, Art
88.	Sponsorship	89.	Stereotype
90.	Structure of Firm	91.	Support
92.	Told To Be Tough	93.	Transformation
94.	Treatment By Black Men	95.	Treatment by White Female
96.	What is Not Working	97.	White Male Manager
98.	Working Harder than Others	99.	Year of Admission

## Annexure 4: Ethical Clearance Approval

**Michal Sasinsky**

**From:** MastersResearch2020 <MBAResearch2020@GIBSSA.mail.onmicrosoft.com>  
**Sent:** 31 August 2020 12:20  
**To:** 18377735@mygibs.co.za  
**Subject:** Ethical Clearance Approved  
**Attachments:** EthicalClearanceReport.pdf

### Ethical Clearance Approved

Dear Michal Sasinsky,

Please be advised that your application for Ethical Clearance has been approved.  
You are therefore allowed to continue collecting your data.  
We wish you everything of the best for the rest of the project.

[Ethical Clearance Form](#)

Kind Regards

This email has been sent from an unmonitored email account. If you have any comments or concerns, please contact the GIBS Research Admin team.

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