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**STEFFEN JENSEN & MORTEN KOCH ANDERSEN (EDITORS)**

# **CORRUPTION AND TORTURE**

**VIOLENT EXCHANGE AND THE POLICING OF THE URBAN POOR**

**AALBORG UNIVERSITY PRESS**

*Corruption and Torture: Violent Exchange and the policing of the urban poor*  
By Steffen Jensen & Morten Koch Andersen (editors)

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# Introduction: Towards Violent Exchange

By Steffen Jensen, Morten Koch Andersen, Kari Øygaard Larsen and Line Vestergaard Hansen

This book explores the relationships between torture, ill-treatment and corruption<sup>1</sup>. Our overarching claim is that torture, ill-treatment and corruption are intimately linked in policing practices around the world. This claim might be counter-intuitive. Indeed, torture and ill-treatment on the one hand, and corruption on the other, have long been addressed in both academia and policy circles as two separate domains of knowledge and practice – as examples of gross human rights violations or bad governance respectively. This book proposes to bring them together. We address the two concepts, torture and corruption, and the practices they describe as they unfold in the encounter between policing authorities (state or non-state) and the policed in urban centers of the Global South. We will argue that when a police officer ‘asks’ for a bribe in return for not imprisoning or violating someone, intimate relations between state (and non-state) violence<sup>2</sup> and monetary transactions are evident. It is these kinds of encounters that we propose to explore through the conceptual lens of *violent exchanges*.

Two challenges present themselves immediately when exploring these encounters and such linkages. The first challenge is that torture and corruption are inherently difficult to study empirically. They exist in a shadow-land where, in different ways, they incarnate abstract forms of the horrible and the bad. Secondly, both corruption and torture are legal categories grounded respectively in the United Nations Conven-

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1 We would like to thank Dennis Rodgers and Henrik Rønsbo for contributing to our thinking around violent exchange as found in this introduction.

2 When we use the concept of violence, it is restricted to the act of physical corporeal violence, or the potential for physical corporeal violence, not symbolic, psychological, structural or other forms of political, social or cultural violence. It is the violent act or the threat hereof that is the central issue in the following chapters.

tion against Corruption, UNCAC, and the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment, UNCAT. However, although they are factual and legal categories, their abstract and illusory nature – as well as the controversy and conflict they are embroiled in – render them less effective as analytical categories. They are as much what needs to be studied as they are concepts that help us to understand the social reality they were designed to shape. This does not mean that one cannot conduct a forensic analysis of corruption or explore the medical and legal implications of torture. Rather, we suggest a complementary analysis of how practices that might be associated with torture and corruption are linked empirically. This involves a move from legal notions to social practices.

The move involves a two-step process of concept formation: first, from the notion of torture and ill-treatment towards the concept of *violence*, and the second from corruption towards *exchange*. This move away from conventions and normative definitions towards social science concepts enables us to study social practices and conceptual interrelations such as normative and legalistic definitions, discourses and practices.

In so doing we arrive at violent exchange, a heuristic device and concept that will be nuanced and discussed throughout this book. Without going into too much detail, the concept of violent exchange allows us to combine a focus on sovereign power on the one hand (Schmidt, 2007; Agamben, 2005) and on reciprocity as a moral and utilitarian interaction on the other (Mauss, 2002; Gouldner, 1960; Sahlins, 1972) in order to understand policing encounters as relational and reciprocal practices of (dis-) respect, monetary transactions and violence between local authorities and those they police.

At this point, two clarifications are necessary regarding the focus of the book. Firstly, while both corruption and torture require the involvement of state officials, in practice the distinction between state and non-state is difficult to draw. Most of the analyses in this book concern relationships involving state officials – often police officials. However, as the burgeoning literature on state and non-state policing, including our own (e.g. Kyed and Albrechtsen, 2014; Buur and Jensen, 2004; Baker, 2002) suggests, policing authorities and those with the violent potential to levy resources from the policed *as if* they were police are not always state officials. Following Christian Lund (2006), who usefully suggests

the term *public authority* in an attempt to focus on state practices rather than making his point of departure state institutions, we suggest that violent exchanges constitute another side of public authority: the everyday side, regardless of whether the exchanges are carried out by state or by non-state entities. This is something that rarely attracts attention from the abovementioned policy regimes as it slips through conventional legal definitions.

The second clarification is that this book explores only urban experiences. This is not to suggest that violent exchange exists only in urban areas. However, the delimitation is deliberate. Public authority assumes a different character in urban environments. While we do not want to engage in a long discussion on the difference between the urban and the rural, suffice it to say that urban public authority is polyvalent and ever-shifting. Few forms of public authority – even state authority – manage to dominate any social field for long in the city (Simone, 2013; Landau, 2014; Hansen and Verkaaik, 2009; Jensen, 2009). This makes urban neighborhoods a privileged lens through which to gauge the myriad forms of violent exchange. In this light, the case studies in this book illustrate that such violent exchanges between police and policed are frequent enough to animate the production of urban citizenship – among urban residents as well as policing authorities (see also Scheper-Hughes, 1992; Wacquant, 2008; Jensen, 2008).

The book consists of four case studies that focus on different aspects of the linkages between corruption and torture. They should not be read as comparative analyses in which we ask corresponding questions in each case to assess or evaluate similarities and differences across urban areas, cities or contexts. Rather, our aim is to explore, through empirical triangulations, the interrelatedness of corruption and torture from different angles in what Marit Melhuus (2002) has called ‘cross-cultural comparison’. The case studies inspect citizens’ relations with some form of public authority, through specific encounters across contexts. In other words, these case studies of processes at the local level provide insights into the quality of organization on a larger scale (Moore, 2005: 9). It is in-depth descriptions and analyses of processes across contexts which through compilation thicken our understanding of and insights into situated dynamics and trends that build our argument of violent exchange as an analytical concept.

Hence, the Philippine case explores linkages between corruption and torture as it is understood by police officers, and how they legitimize their extortionist and exploitive practices. In the South African case, we focus first on how human rights groups understand such connections and secondly on how it plays out in relation to a number of different risk groups – poor undocumented non-nationals, young black men from the townships and sex workers – each with troubled and hence exploitable relationships with the police. The Kenyan case explores these linkages from a gender perspective by looking at how women manoeuvre in relation to threats of violence and demands for money. The Kenya study illustrates clearly that it is not only the state that engages in extortionist practices but also non-state actors. Finally, the case from Bangladesh explores connections between corruption and torture in two sets of narratives on how people deal with the consequences of a violent encounter. Conceptually, the case explores the accidental and intimate aspects of the linkages between corruption and torture.

While the aim of the book is to engage in scholarly debates about corruption and torture, it also has practical implications. The research project on which the book is based began primarily with a set of empirical questions that surfaced in a diverse set of human rights interventions across the world. Human rights organizations in various countries, collaborating with Dignity – Danish Institute against Torture, reported on different practices, but strikingly similar linkages emerged between corruption and torture as an inherent phenomenon of their work of combating human rights violations. This insight fuelled a conversation about the linkages between corruption and torture that was not purely academic, but critically located within the interventionist and policy frameworks of the organizations. We began to interrogate our work with questions like: What does it entail for torture prevention and human rights work aimed at protection that so many violations are linked to extortion? Does it allow – or even demand – a different kind of engagement with human rights violations and state violence? Could it be that successful anti-corruption campaigns might as a by-product lead to lower levels of torture and ill-treatment? Would it make sense to begin working deliberately to address torture through its linkages to corruption? Indeed, is it even possible to work against torture without somehow addressing corruption?

As part of the research project, we began sharing these questions with

our partners around the world: Odhikar in Bangladesh; the Independent Medical and Legal Unit (IMLU) in Kenya; the Centre for the Study of Violence and Reconciliation (CSV) in South Africa and Balay Rehabilitation Center in the Philippines.

This book is partly the result of the conversations and discussions we had with these four organizations. As such, it is a collaborative effort. Each chapter traces a case study based on a generic question of how linkages between corruption and torture play out in its specific context. Hence, all chapters are written by members of the research team at Dignity with different degrees of participation from the partner organizations in the four countries. The aim – apart from delivering a strong academic analysis – is that the analysis, findings and conclusions could form part of local, national and global advocacy campaigns to 1) contribute to a more nuanced understanding of human rights violations as intimately linked to issues of corruption in the everyday lives of urban residents, especially the urban poor and 2) to initiate a discussion on how to engage with corruption and torture in local and global policy domains.

We return to these issues of policy later in this introduction, but first we want to turn our attention to the concept formation of ‘violent exchange’. More specifically, we start out by describing how the move from torture and ill-treatment to violence on the one hand, and from corruption to exchange on the other, brings us to an account of how we understand violent exchange. Next, we introduce the four different contributions. To conclude, we return to the issue of policy with the aim of placing the conceptual approach within a larger policy framework.

## **Corruption and Torture**

Corruption, torture and ill-treatment are legal categories – or at least defined within legal conventions. However, the existing academic literature reveals a field in which ‘corruption’ and ‘torture’ are highly ambiguous terms that have different meanings depending on the specific context in question and the author’s professional background. So while we often think we know what we mean by the two terms, they remain slippery and shaped by political interests. In relation to torture, Toby Kelly (2012) shows how, despite the seemingly unproblematic nature of the legal category, it is constantly debated and contested as soon as it makes it into social reality. In much the same way as in relation to rape

(Estrich, 1998), everybody agrees that torture is horrible in the abstract. However, as soon as specific violent practices are compared to legal categories, debate and contestation ensue (Jensen, 2015). Similarly, Jean-Pierre Olivier de Sardan (1999) asserts that everybody hates corruption in the abstract. However, when it – or rather practices that might be associated with it – becomes part of social practice, condemnation is much more ambiguous.

Furthermore, corruption and torture often take place in the same situation. However, they are talked about as two different relations or events that take place at the same time. Take this example from Bangladesh where Jashim Uddin investigates security sector reform in Bangladesh. While he mentions that “corruption in policing has a close relationship with torture” (Uddin, 2009: 223), he does not expand on this relationship except to point out that they often occur simultaneously. Uddin’s study is indicative of the fact that corruption and torture are analyzed separately. Corruption is most often investigated and analyzed in purely economic and policy terms while torture is addressed and analyzed as human rights offences.

The ambiguity of the terms once they enter the realm of social practice, and the fact that the two practices are rarely explored together, suggest that neither corruption nor torture is particularly useful as an analytical tool or concept. There is therefore a need to translate the normative notions into more useful analytical concepts without losing sight of the normative power inherent in the notions of torture and corruption. In the following sections, we explore the analytical moves from torture to violence and from corruption to exchange towards what we call violent exchange through a brief – and by no means exhaustive – literature review.

## **Moving from Torture to Violence**

The literature on torture comprises largely documentation of human rights violations. These reports are often produced by human rights organizations with the goal of legal redress and justice for the victims e.g. filing cases against perpetrators, be they law enforcement agents, warlords or military commanders, within and beyond the state. The focus is on legal definitions that separate legal from illegal and legitimate from illegitimate. These definitions are then used as analytical devices to sort through and discuss different acts of violence. Let us stay with torture

and its legal definition. Finally in 1984, after much political debate and as a huge victory for the anti-torture movement, the United Nations Convention Against Torture (UNCAT) defined torture as:

*Any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions (emphasis added, UNCAT, article 1).<sup>3</sup>*

There are four indicators that determine whether an act can be classified as torture which we have highlighted – severity, intention, purpose and state involvement (whether directly or through consent or acquiescence). Apart from acts covered by article 1 (in the above), the convention also outlaws cruel, inhuman and degrading treatment (CIDT), a term less demanding in terms of severity, intent and purpose as long as “such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity” (UNCAT, Article 16).

Since 1984 then, the convention has provided the guidelines for much human rights work on a global scale, and the Committee Against Torture has become one of the most important international bodies in the field. The convention is also widely recognized as a ‘strong’ convention in as much as its application is without prejudice and expresses an absolute prohibition against torture. It is, in other words, not just words and good intentions. There are consequences for states that contravene the convention in the form of possible sanctions, public shaming and international scrutiny. For our present argument, it is not necessary to delve into detail about the anti-torture movement and how the work has developed since the adoption of the convention. Others have done a much more compe-

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<sup>3</sup> <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx>

tent job in that regard (Nowak, 2006; Murray, 2007; Rejali, 2007; Kelly, 2012; Carver and Handley, 2016).

However, while the convention and the legal processes around it seem quite straightforward, the definition of torture has been contested many times. Famously, during the wars in Iraq and Afghanistan, the Bush administration questioned the definition of torture and reframed it to cover only acts that potentially could lead to organ failure (Johns, 2013; Carter, 2012). This allowed for so-called enhanced interrogation techniques to be considered lawful and paved the way for practices in Guantanamo Bay and the so-called CIA black sites (Barnes, 2016). Darius Rejali, one of the foremost scholars of torture, argues that in fact the anti-torture movement has impacted on torture practices. The better the anti-torture movement got at documenting and fighting torture, the more torture turned stealth, for instance through leaving no marks and working on the psyche (Rejali, 2007).

A further complication is the distinction between torture and cruel, inhuman and degrading treatment – a challenge recognized by even the Committee Against Torture.<sup>4</sup> The then Special Rapporteur, Manfred Nowak, discusses in a publication with Elizabeth McArthur (2006) what practices are included, which not and under what circumstances. Nowak and McArthur have a more expansive notion of torture than the one endorsed most radically by the US government, arguing for instance that the power differential between victim and perpetrator is important when determining severity. Hence, children or people in detention are unable to fight the violent act and hence the responsibility on the part of the state is greater. We will not enter into this debate except to emphasize that the distinction is slippery the moment these practices become part of social life or, more correctly, are approached as inherent to social life. Let us provide one example from South Africa.<sup>5</sup>

Portia Adams from Ruyterwacht in Cape Town went to the police station to report an assault, but she herself ended up in police custody when the police officer on duty suspected that she had information about the whereabouts of her boyfriend. The officer placed her in a male

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4 CAT, General Comment No. 2, 'Implementation of Article 2 by States Parties', UN Doc. CAT/C/GC/2/CRP.1/Rev.4 (23 November 2007), §3.

5 This case has been elaborated in more detail in Jensen (2014) and Dissel, Jensen and Roberts (2009).

detention cell, and moreover, with her alleged attacker. She said afterwards, “I was thinking, ‘Oh God, I’m going to die in here’.” She was not released until a female police officer found her in the cell. Afterwards, she was left handcuffed in full public view in the charge office for hours while the police officer dealt with other complaints. After her release she went to the media with her story, and once it became news the commanding officer at the police station promised to investigate the incident. Regardless of the investigation and possible consequences, this practice is clearly in contravention of the convention, which prohibits maltreatment of people to gain information about third parties. The apparent unlawful arrest and subsequent imprisonment in a male cell, and with her attacker, would, given the frequent rapes in custody in South Africa (Gear and Ngubeni, 2002), be an extreme form of sexual harassment and threat to body and life, and could cause significant mental or psychological suffering. It is also in violation of international principles regarding separation of female and male prisoners and of police rules regarding detention of suspects. Finally, Portia Adams was made to stand handcuffed for hours in public view. In terms of the UNCAT Convention, all criteria are met: there was the intention and purpose of eliciting information of a third party; the impact was (potentially) very severe; and there was a state agent acting in an official capacity. Whether the incident qualified as torture or CIDT it clearly falls within the ambit of UNCAT. However, it stands to reason that the police officer did not understand the case in quite the same terms. For him she was probably just another township resident, girlfriend to a known gangster and suspected murderer. She was on the wrong side of the war against gangs and hence a legitimate target (Jensen, 2014).

The case illustrates that legal categories contained in torture conventions, policing legislation and bills of rights are contested in everyday practice. In this case, the perpetrator was clearly a public official. However, on the streets of Cape Town, it is no simple question who wields the authority to discipline and police. Elsewhere the blurred boundary between state and non-state forms of policing is captured through the concept of ‘everyday policing’ (Buur and Jensen, 2004). In similar vein, Christian Lund (2006) focuses on the practices of order-making and the exercise of authority. In his analysis, it is less useful to distinguish authority on the basis of institutions. Rather, we should focus on how authority

is exercised. Doing so makes it abundantly clear that authority does not emanate from one single source (i.e. the state). Lund coins the term 'public authority' to capture the situated exercise of authority, regardless of whether it is exercised by the state or not. In relation to violence, he argues, we are not necessarily helped in our analysis of social practices by an insistence on a state-dominated perspective, such as the abovementioned conventions; rather, we need to look at order-making as it unfolds empirically. This is what Kyed and Albrechtsen (2014) explore in their analysis of order-making in the urban South: What constitutes legitimate use of violence in specific local settings? What authorities other than the state exercise violence?

These questions suggest that if we stay with torture, CIDT and the associated (legal) assumptions about the state, we are unable to capture the intricacies of violent events as they unfold, even in relation to state violence itself. Furthermore, the Portia Adams case suggests that local legitimacy is not necessarily tied to legal frameworks. In fact, local legitimacy is often opposed to legal frameworks. In his analysis, 'Outsourcing the Sovereign', Lars Buur (2005) illustrates these points perfectly. He shows how corporeal violence by a neighborhood watch/vigilante group is used to elicit information and confessions from suspected criminals in ways that would qualify as violations of rights within the Convention Against Torture. In some of the cases he describes, state police are present and clearly consenting to the acts while at other times they strike at the group for taking the law into their own hands. As such, police officers act in ways that allow them the leeway to deny knowledge and hence responsibility for the torture that they themselves see as necessary for doing their work (see also Jensen, 2009). In this way, we need to explore practices of violence which are based in notions of public authority rather than focusing on whether they fall within the ambit of the UN-CAT.

Buur's analysis also helps us in another way. His cases illustrate the presence of resources. As few people in the townships are insured, recovering resources is absolutely central when residents approach vigilante groups. Furthermore, as these groups themselves comprise residents with few socioeconomic resources, their 'services' come at a price. While the extractive practices clearly do not constitute corruption in the classical sense, this illustrates the relationship between violent capacities and re-

sources. With this, let us turn our attention towards corruption as exchange relations.

## From Corruption to Exchange

In both academia and policy work the term corruption has been used to describe various practices that imply different phenomena and hence have different meanings. Taking bribery and nepotism as examples, the first usually involves a citizen giving money to a local authority, while the latter involves friendly favors from an official. Nonetheless, both constitute corruption. One of the largest organizations fighting corruption, Transparency International (TI), defines corruption as “*abuse of entrusted power for private gain*”<sup>6</sup>. In similar veins the World Bank defines corruption as “*abuse of public office for private gain*”.<sup>7</sup> The two definitions are very unspecific. In a footnote the World Bank describes the difficulty of defining corruption. Thus, none of the above two definitions completely capture the various and often diverging expressions that corruption takes in social life.

The major difference between the two is the World Bank’s reference to *public office*, which TI, almost two decades on, has rephrased as *entrusted power*. In other words, the earlier World Bank definition focuses on the formal power structures in society and excludes unofficially defined authorities. Empirically, however, as we saw above, there are often many different forms of authority, some formal, some informal and others in the territory between (Lund, 2006; Buur and Jensen, 2004). The instability of the definition creates fertile ground for the field’s terminology, and in just a cursory reading of the literature the terms used to describe corruption that emerge are many. Bribery, embezzlement, shakedown, speed money, neglect, kickback, collusion, cover-up, evidence manipulation and dirty means. Hence, in this volume the corrupt authorities are not always state officials but can also be local gangs or other informal authorities. Thus, it is important to pay attention to how different forms of authority use their power and position in relation to corrupt and violent exchanges and encounters. Furthermore, this entails paying attention to how social position, legal and economic status influence the encounters and relations

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6 See <https://www.transparency.org/what-is-corruption/#define>

7 See <http://www1.worldbank.org/publicsector/anticorrupt/corruptn/corruptn.pdf>, accessed 7 October 2016.

with authorities, be they state or non-state, formal or non-formal, such as gender, ethnicity, class, culture, race etc. We might also ask how these impact the situated encounters between policing authority and policed citizen, shaping power relations and the forms of interactions and exchanges, from voluntary transactions to exploitive extortions of resources and capital, symbolic, cultural, political as well as financial etc. While each encounter is unique, the violent exchange is always already present, constituted in the relationship, as we subsequently will show.

However, it is worth noting that corruption is often conceptualized as a means of advancing one's position in society – even if this is simply putting food on the table – and hence it touches upon issues of power and status. In this perspective corruption is often approached as a betrayal of an organization, institution or society, using public goods for personal gain (Punch, 2009: 11). Corruption does not necessarily imply a monetary transaction; it can also be an exchange of favors, as in the case of nepotism. Corrupt practices are furthermore often graded as either petty or grand corruption. This normative notion of petty and grand points to a scale of seriousness of the offence as well as where the corruption takes place, or more specifically the site and circumstances of the exchange. Petty corruption covers smaller transactions between individuals whereas grand corruption describes transactions involving large sums of money between powerful institutions and high-ranking individuals, often in the vicinity of public-private business interactions. The distinction between petty and grand corruption does not teach us much about what corruption is, but it points towards the complexity of the field and how many different practices it encompasses. Let us begin by exploring the different causes for corruption, as we find them in the literature.

Most studies on corruption in institutional settings with some form and level of public authority set out to explain the phenomenon through three different theories, which we may call the rotten apple theory, the rotten barrel theory and the rotten orchard theory. What they have in common is that they seek to describe the relationships an individual can have. Where they differ is in identifying the other party, relationships with other individuals, with institutions and with the state.

The bad apple theory views corruption as an individual pathological problem (Agbiboa, 2015). The corrupt police officer is one bad apple among otherwise healthy and good apples (Tankebe, 2010). In other

words, it refers to the 'one bad cop' whose corrupt behavior is an isolated incident and an individual choice. According to this perspective the danger of the rotten apple is that the corrupt behavior can be contagious and infect the healthy apples. Hence, the cure is to remove the officer before the behavior spreads throughout the institution. The main critique of the rotten apple theory (Agbibo, 2015; Tankebe, 2010; Scully, 2009; Punch, 2009) is that it fails to take the context of the individual into consideration, including any institutional or cultural problems associated with corrupt behavior. In other words, corruption is narrowed down to individual behavior. Many scholars argue that corruption should be investigated as collective behavior as the empirical tendency is that more individuals than one are involved in corruption and in maintaining corrupt relationships (Punch, 2009: 321).

Arguing against the notion of the rotten apple, some scholars conclude that the institutional culture in a police unit or department constitutes a 'rotten barrel'. It is the barrel that causes rot, not an individual police officer. In this vein, Judith Scully argues that "*violence ... is a phenomena [sic] that is embraced as a valuable part of police culture*" and therefore "*a function of the 'rotten barrel'*" (Scully, 2009: 138). Similarly, Demelash Debalkie and Rika Snyman argue that corruption is an 'occupational hazard' of policing as corruption always occurs in an institutional context (Debalkie and Snyman, 2014: 115; Punch and Gilmour, 2010: 12). The concept of the police institution as a rotten barrel moves the argument away from seeing the individual as culpable or separable from the milieu, and calls into question a legal system where individual police officers are charged with and convicted of corruption.

However, the argument that the police institution is a 'rotten barrel' that fosters misconduct and violent behavior has also been criticized. If police institutions are rotten barrels, why then are all officers not corrupt – or to reverse the argument, why are there certain institutions where only a couple of police officers are corrupt? How can we explain why the society surrounding the police institution would enable the barrel to stay rotten, instead of replacing it? In the article 'The Joke', the authors supports this critique (Launch et al., 2011). The article shows how a large police unit in Australia called 'The Joke' navigated to maintain corrupt practices for a number of decades by making sure to exclude honest police officers and only include officers whom they trusted to take part in

the corrupt practices (Launch et al., 2011: 199). The case of ‘The Joke’ shows how a police institution can be something other than entirely a ‘rotten barrel’ consisting of only corrupt police officers; it can also be a mix of honest and dishonest officers. This questions the usefulness of the rotten barrel theory.

Finally, the rotten orchard theory focuses on the systemic character of corruption, arguing that it occurs on all levels of society. In this perspective corruption is seen as a system failure (Punch, 2009: 11) in that it fosters itself on all levels of all institutions and systems. The rotten orchard highlights the systemic character of corruption and indicates that it is “*sometimes not the apple or even the barrel that is rotten but the system (or significant parts of the system)*” (Punch, 2003, 172). As such the entire system (the criminal justice system or the broader cultural and sociopolitical context) is seen as flawed and as fostering corruption. When the entire orchard is rotten, how can we expect either the apples or the barrel to be healthy? According to this theory we need a systematic change in order to change corrupt behavior. This means that there must be a strong political will driving the anti-corruption battle, as seen in Singapore (Quah, 2014). In his investigation of the campaign to curb corruption in Singapore Jon Quah argues that there is a need to focus on all levels of society (international, jurisdiction, institutions and local culture) in order to make a long-lasting effect. This, he asserts, depends on strong political will to make a change (Quah, 2014: 186).

While we find these discussions insightful, it does leave us with a very broad and normatively based research object. Corruption is highly stigmatized (Olivier de Sardan, 1999: 29) and often something that people will not admit to having taken part in. Thus we need a different approach to studying these encounters between authorities and citizens; one that takes us away from the prescriptions and conventions associated with the term ‘corruption’. One potentially fruitful avenue – to venture in Olivier de Sardan’s footsteps – is to explore how corrupt practices are rendered legitimate or illegitimate in encounters between police and policed, and how they are negotiated within their local context. As such, we propose to view corruption as forms of exchange.

Olivier de Sardan (1999) argues that corruption should be investigated from the viewpoint of the actors, and not from a normative, conventional viewpoint. He suggests that corruption is not *one* practice but rather a

complex set of practices that to different degrees and in different situations can be deemed legitimate or illegitimate. This is quite a departure from policy and legal frameworks, which treat corruption as illegal, wrong and bad. However, Olivier de Sardan points out that corruption in the everyday lives of people in Africa (and, as we shall see in this book, Asia too) is trivialized and the lines between what is legal and illegal, right and wrong, good and bad are blurred to the extent that it questions the dichotomies we find in conventions and legal frameworks.

This does not mean that corruption is accepted. Corruption is highly stigmatized and is understood as something that ruins society. Interestingly, actors involved in corrupt practices rarely consider their own actions as corrupt or bad (Ibid: 29, 34). On the contrary, corruption is often something that others do, and even then corruption is trivialized, as it has become increasingly ingrained in the everyday lives of most ordinary citizens (Ibid: 32). This blurs the line between what is corruption and what is not, and it makes it difficult to study 'corruption' ethnographically as it is defined in legal frameworks. Olivier de Sardan further complicates the question of legitimacy when discussing the moral obligations in many communities to share and distribute wealth. If someone is in a powerful position or if kin think someone makes a lot of money, they expect that person to share. This takes us back to the World Bank and Transparency International definitions of corruption, both of which focus on corruption as being motivated by private gain. Empirically, if there is a moral obligation to distribute then the gain may be understood not so much as a private one as communal and social. Every individual is required to share and help out their family and their networks. Yet again this points to a conflict between the empirical reality and the legal frameworks and conventions.

A first move in escaping normative definitions and understandings of corruption, then, is to move away from wanting to study 'corruption' and thus already having judged the practices of the actors illegitimate. Instead we propose to study exchanges. In this sense corruption becomes a form of exchange where something is transacted (e.g. money, favors, sex, access) between two (or more) people who have unequal levels of power, status or resources. In this book we are interested in exploring these exchange encounters from the viewpoint of the actors and thus how these encounters are legitimized and negotiated within their local context.

Bill Maurer for instance (2006: 27) suggests that we look at forced monetary transactions as social relations, symbolic systems and material realities that connect people in particular ways. This analysis suggests that the act and the social relation it establishes are akin to exchanges of gifts or the institution of debt (Mauss, 2002). While these exchanges are not necessarily violent, they are always underpinned by the threat of violence (Graeber, 2012: 425). It may seem counter-intuitive to explore these (potentially) violent encounters as gift exchanges and not as sovereign practices that negate reciprocity. However, rather than seeing sovereignty and gift exchange as opposing logics of governmentality, we suggest that a relationship exists exactly because the police are mandated to use violence (Schmidt, 2002; Agamben, 2005; Graeber, 2012). Money plays a central role in these exchanges. However, other non-pecuniary things are also exchanged, including respect or disrespect of the police (Van Maanen, 1978), commodifying intimate social relations (Andersen, 2016). It follows that we need to pay attention to what is being exchanged and the form that the exchange assumes.

Exchanges between people build relations, whether people actually know one another or just know of one another, as we shall see in the South African study. But people can also try to establish a relationship as a way of navigating an exchange encounter. A good example here, again from South Africa, is a motorist imploring an extortionist traffic cop not to take their money because they need it for food (Bruce, 2012). However, what differentiates the forms of corruption that we are interested in from other exchanges, even other corrupt ones, is the presence – or threat – of violence.

## **Towards Violent Exchange**

In this book we wish to explore how violence, or even the threat of it, acts as a catalyst in exchanges, and also how violence helps to maintain relations in such negative exchanges. In the previous section we moved from conventional and normative definitions of torture and corruption towards social science concepts of violence and exchange, which are more useful in ethnographic studies. In this section we combine the two to highlight the benefits of investigating these notions in relation to one another. As such, we start to conceptualize a ‘violent exchange’ as an exchange between an authority and a citizen based on or featuring elements

of violence that can broaden and nuance our understandings of corruption and torture.

A classic take on exchange that allows us to think about its less benevolent sides is Marshal Sahlins' study on 'Stone Age Economics' (Sahlins, 1972) where he discusses exchange through the lens of reciprocity. Sahlins distinguishes between three forms of reciprocity; generalized, balanced and negative. The latter, in contrast to the other two, is characterized by impersonality and maximization of individual interests: "Negative reciprocity ranges through various degrees of cunning, guile, stealth, and violence to the finesse of a well-conducted horse raid. The 'reciprocity' is, of course, conditional again, a matter of defense of self-interest" (Ibid: 195). Sahlins points here to exchange relations as potentially violent. However, like much of the literature we surveyed above, he confines the violence to impersonal forms of exchange.

Sahlins' insights are clearly important for understanding exchange and reciprocity in forms other than benevolent ones. The insights from the four cases presented in this book suggest that the violence inherent in many encounters maintains and produces relationships between citizens and authorities. Furthermore, while he would not use such words, we might say that Sahlins' understanding of negative reciprocity is one in which legitimization of extortionist, self-interested and impersonal reciprocity is not necessary. However, our findings suggest that legitimacy is indeed important for what we here term violent exchange. These findings focused our interest in local notions of legitimacy in relation to violence and exchanges, and in how relations shape and are shaped through exchanges of violence and resources. Without being exhaustive, three texts provide some guidance. The first text by Charles Tilly (1985) concerns the relationship between state formation and organized crime. The second text by Georg Elwert (1999) concerns patrimonialism and markets of violence, especially those coming out of Africa. Finally, from his Latin American perspective, Desmond Enrique Arias (2006) enhances our understanding of relations between gangs, politics and policing.

Thirty years ago, Charles Tilly wrote the seminal text 'War Making and State Making as Organized Crime' (Tilly, 1985). It presents a strong argument against singling out the state and its formation as part of a social contract in which citizens pay for their protection and wellbeing to a fair state, which exercises force with caution and restraint. Rather, he sees the state as basically a more successful racket where violence stands at the center of its

operation. In his account states are involved in four distinct activities that all involve the use of violence: war making against external enemies, state making against internal enemies, protection aimed at eliminating threats to its clients and extraction to pay for it all. We will not engage more thoroughly with Tilly's argument here, except to note that his contribution helps elucidate the constitutive role of violence in producing the state and its legitimacy, and highlights the entangled nature of war, state making, protection and revenue extraction. If we think through Tilly's argument we could argue that if state making is in part organized crime then organized crime, based on violent threat, is part and parcel of the making of authority. Hence, while extraction – in the form of corruption as opposed to legislated taxation – is clearly outside the law, it is not necessarily divorced from the production and maintenance of authority. It is just not the form of authority that we normally associate with the state.

In some ways, Georg Elwert's 'Markets of Violence' (Elwert, 1999) echoes Tilly's text. Elwert wrote his text amid and in response to large-scale war and warlordism in West Africa, which all seemed to revolve around extraction of resources. The main point of his argument was that there existed a rather rational market for violence in West Africa, where warlords and other 'big men' were engaging in extractive enterprises through violence. Hence, what at first sight appeared as a chaotic miasma of violence was part of a market in which individuals were maximizing their profit by sacrificing the lives of others. This echoes what another seminal text of the period calls 'the instrumentalization of disorder' (Chabal and Daloz, 1999) and the arguments around the emergence of what William Reno (1996) calls 'warlord politics'. These forms of politics – markets of violence, instrumentalization of disorder and warlord politics – emerged in a context where patrimonial state relations had broken down in West Africa following the end of the cold war and the bipolar world order (Thompson, 1999). States, and their monopoly of violence, dissolved as resource flows connected to the proxy wars of the cold war dried up. Again, our purpose with introducing this body of literature is not to engage fully with it; rather we use it to illustrate the constant relationship between violence, extraction, corruption and political orders in ways that squarely position violence and resource extraction side by side with authority and legitimacy.

Finally, what Elwert's text allows us to see is the persistence of violent networks that transcend state and non-state distinctions. Arias

usefully focuses on violence and corruption in Brazilian favelas in relation to networks of actors and shows how networks of people from different layers of society are entangled. He argues that corruption and violence are interrelated in what he calls 'disruptive networks' (Arias, 2001) or 'violent social orders' (2006). These networks comprise politicians, police and criminals (mostly drug traffickers). Through corrupt and violent practices, they maintain control over poor local communities and the resources generated there (Arias, 2001). The networks operate mostly in smaller communities in the *favelas*, where they collaborate with local citizens to protect both their own criminal activities and the citizens. The individuals in the network – from inside the state and outside it – undermine normative state authority and, like the state, use violence to impose their own social order (Arias, 2006). As the disruptive networks challenge government control over violence in poor neighborhoods, use of violence and threats for both material and political gain can easily escalate (Arias, 2001). As such, Arias shows how violence and corruption are intimately linked and how violent social orders are produced. In relation to our broader argument around violent exchange he highlights the importance of the roles violence and threats play in corruption. Furthermore, his analysis reveals how the macro and micro scales are intertwined through disruptive networks of violence, suggesting that we need to focus on the relations between different actors across 'layers' of society – in and out of the state, legal and criminal – and how these relations are produced and maintained through violent and corrupt practices.

## **Domains of Violent Exchange**

In this brief and in no way exhaustive review of some of the literature on torture, corruption and their relationships, we have argued for an approach that does not reproduce normative ideas of legitimacy, torture and corruption but instead explores how authority, violence and resources are entangled in ways that are constitutive of life in (urban) poor communities rather than its antithesis. In the remainder of this introduction, we will explore different domains of violent exchange. Again, these domains are not exhaustive.

In the Kenyan case, we focus specifically on how gender animates the relationship between violence and resources. In Bangladesh, we hone in on the simultaneously accidental and deeply systematic relation between violence

and resources in ways that also reveal the intimate nature of violent exchange. In South Africa, we focus on vulnerable groups – migrants, township youth and sex workers – and how they are caught in and need to negotiate what, with Arias, we could call violent social orders. Finally, in the Philippines we move across the fault line, so to speak, and focus on how police officers legitimize their use of violence – an analysis that has become more relevant since newly elected (2016) president Rodrigo Duterte has declared war on criminals and drug dealers and nominated the police as his instrument.

Together, the four case studies provide us with insights that not only contribute to academic debates on authority, corruption and torture and how they pervade social life, but also inform policy and interventions. After introducing the domains, we return to the issue of applicability and relevance as a way of concluding this introduction.

### **‘Helping’ and Corruption: Police Perspectives in the Philippines**

In their chapter, Karl Hapal and Steffen Jensen focus on police officers in the Philippines and offer a rare insight into violent exchanges from the position and perspective of police officers. The authors explore how and to what extent police officers in the Philippines legitimize their corrupt practices. Material for this chapter is drawn from long-term field work in Bagong Silang by both authors, a household survey on victimization, interviews with police officers, personal encounters with the police, a literature review, and human rights training and documentation by Balay Rehabilitation Center in Manila.

Most analyses of police violence and police corruption point to fragile institutional frameworks and impunity coupled with low pay and low prestige. While police officers to some extent second these explanations, not least the low salaries, there is also strong emphasis on what the police officers call *tulong* or *ayuda* (help in Tagalog). These are the elements of a moral economy of corruption that pervades everyday policing as well as localized violent exchanges. In this chapter, the authors explore this moral imperative to illustrate how violence is an ever-present companion to the helping and the extortionist police officer.

This approach is novel to the Philippine policing context; however, within different knowledge domains a cursory review of the literature reveals a plethora of research about the subject. For instance, since 2012

the Philippine National Police (PNP) has conducted close to a hundred policy and performance enhancement oriented research projects, albeit unpublished, leading to the production and revision of operational manuals. Civil society organizations have likewise contributed in publishing reports about the performance of the police vis-à-vis international standards (i.e. human rights standards).

While these accounts do focus on the police, it is fair to say that policing practices and issues relating to them remained at the fringes of public and academic debates until very recently where President Duterte has used to police in his bloody war on drugs (Coronel, 2017; Reyes, 2016). Furthermore, while most studies treat police officers as objects of analysis (and also reform), this chapter seeks to treat them as subjects. By highlighting the voices of police officers, we attempt to populate corrupt encounters with the aim of shedding light on the motivations and dilemmas they face on a daily basis.

To our knowledge, this attempt to highlight the voices of police officers is novel, at least in the Philippine academic field. It would be a mistake to think this chapter serves as an apologetic presentation of the police. Rather, it serves to ‘agonize’ with police officers rather than to ‘antagonize’ as we jointly aspire for a reformed police force in the Philippines. While our analysis complements – not contradicts – an analysis of the police as corrupt, human rights organizations and academics would do well to take it seriously as it constitutes an alternative approach to violence and corruption and its possible prevention and inhibition within the police than one simply beginning with condemnation.

The chapter concludes that many corrupt practices are part of legitimate systems of adjudication, disciplining and justice where concerned authorities and people know how the system works. Therefore, rather than denouncing the practices outright, human rights organizations must attempt to understand the rationalities behind the practices and try to agonize with police officers about their practices. Since violence and corruption are closely entangled; forming a continuum of discipline and fines, suggests that to get at torture and ill-treatment it might be possible to access the problem via the road of governance and institutional reform. Addressing corruption may, in other words, be a way into addressing torture and ill-treatment as well. While, torture is a structural issue with deep historical roots, it cannot be isolated to a few periods of war or dictatorship, as it has happened in the Philippines or, indeed in South Africa where torture is often associated

with the apartheid era. Consequently, human rights organizations must align themselves with other political forces that works for similar aims and ends; justice, transparency and equality.

## **Vulnerable Groups and Violent Social Networks in South Africa**

In this chapter, Malose Langa, Hugo van der Merwe, Themba Masuku and Steffen Jensen examine the links between corruption and the threat of violence. The authors examine how law enforcement uses force or threats thereof to extort money and services from vulnerable groups and what effects this has on groups in the margins of society and on the fringes of legality.

This chapter draws on research conducted in Johannesburg city and key informants involved in protecting the rights of marginalized groups. It also draws on prior work by the Centre for the Study of Violence and Reconciliation (CSV) in South Africa over the last decade.

Moving away from the problem of torture in apartheid South Africa, where political activists were the most likely targets, the authors suggest that today torture and ill-treatment target mainly the most vulnerable members of society, such as non-nationals, unemployed young black men and sex workers, and occur with the specific purpose of extracting payments and asserting authority. From this perspective, the chapter focuses on poor and undocumented foreign nationals, specifically because research conducted by the CSV points to how the vulnerability of this group of foreign nationals increases their risk of being victims of corruption and torture by law enforcement officials. The chapter also covers torture experiences of young black men in their encounter with law enforcement officials and sex workers in the inner-city.

Their argument is twofold. Firstly, the chapter confirms that, while corruption negatively affects everyone in a society, it disproportionately affects those who occupy vulnerable positions in relation to state power. Secondly, it suggests that police and policed are in many ways entangled in what the authors identify as 'violent social orders'. They suggest that it is in these violent social orders that resources, authority and violence are intimately connected while actors are positioned differently in terms of their ability to navigate the often unstable terrain.

The authors show how young black men's failure to pay bribes, whether due to their unemployed status or disobedience of law enforcement

officials' authority, seems to increase their risk of being victims of torture and ill-treatment. This echoes the findings from the Philippines in this volume. Finally, the chapter shows how sex workers are particularly vulnerable to violent threats and torture by law enforcement officials as part of exchange relations that involve money and sex.

The chapter points to a clear relationship between torture and corruption. It shows that foreign nationals, young black men and sex workers are at particular risk, and that their precarious situation in the margins of legality is exploited by local authorities who use violence or the threat of it as a lever to extract money and sex. Victims get to a point where they see violence as something acceptable and part of the police's job. These relationships have become so institutionalized that at times victims, acting out of fear, initiate the payment of a bribe even before it is solicited. The connection between corruption and torture is often blurred and difficult to discern in practice, since threats are veiled until realized in violence. As such, the chapter illustrates the existence of what we may call 'violent social orders' in which the vulnerable groups are caught. The chapter shows how these violent social orders look different according to the context. In inner-city areas, some migrant groups have been able to monopolize certain resources and some migrants have entered into relationships with police officers. In townships, police, vigilante groups and drug dealers are part of the violent networks that the young men must negotiate, which involves (threats of) violence and extortion. Similarly, sex workers need to negotiate with organized criminal groups and the police, both of whom want a share of their earnings and their services. Finally, the authors show how important it is to recognize that, while corruption can exist in such interactions without torture, the presence of torture is almost always a clear indicator of corruption.

### **Gendered Violent Exchange in Kenya**

In this chapter Liv Gudmundsen, Line Vestergård Hansen and Steffen Jensen explore violent exchanges and monetary transactions in informal settlements in Nairobi with a focus on poor urban women. The authors question the tendency to portray men as the primary victims of violent exchange.

The chapter is based on two different sets of data. The first is an analysis of newspaper articles, reports and legal cases conducted by the Kenyan Independent Medico-Legal Unit (IMLU) on the connection between

corruption and violence. The study shows that men are statistically over-represented in cases of corruption and violence in Kenya. The second set of data was collected on the basis of the above conclusion and explores gendered violent exchanges in three case stories of urban women from an informal settlement in Nairobi, Kenya.

Poor people in informal settlements are particularly vulnerable to precarious and violent situations, and men and women alike suffer from or navigate the relationships between criminal networks and the police in equal measures. However, the specific nature of these relationships and threats are inherently gendered. The authors find that women are in a particularly precarious situation as potential targets of violence from a range of local authorities and significant others including police, criminal gangs and intimate partners. In this position the women need to be cognizant at all times, and constantly attentive to the presence and actions of local authorities and other significant actors to avoid violent exchange relationships within and beyond the settlement area. Arguing that gender is a crucial lens when trying to grasp the relation between corruption and violence, the authors investigate how gender relations animate linkages between violence and monetary transactions. They conclude that gender and gender relations play a decisive role in violent exchanges and that women's exposure to violence and extraction is produced and reproduced through patriarchal norms, precarious livelihood conditions and local authority structures.

To understand the complexity of the relations between gender, violence and monetary transactions, the authors identify three themes, which they analyze through a gender lens; relations between local police and families living in poverty, life in informality and precarity, and normalization of violence against women. The authors show how local authority structures and violent networks have similar effects on women in the settlements. While networks are important for women to feel safe, they simultaneously produce violence and conditions for violence against women. While these violent social networks are not gendered *per se*, they have gendered implications as women and men face different consequences and need to navigate differently. The authors show how their gendered position as women – easily exploited, sexualized and often on forcibly intimate footing with perpetrators from different networks – is central for their survival, as is how and what they can be forced to exchange and the risks they face.

The chapter shows that violence against women in the settlements is normalized to the extent that it takes place without interference from police or other local authorities. Violence against women is thus constantly reproduced in society and diffused into the settlements, with state and non-state actors playing key roles in the process. In this sense, the authors argue that to explore the relationship between money, resources and violence without a focus on its gendered nature would rob the analysis of a crucial layer of complexity, highlighting the wide-ranging dynamics of violent exchange.

### **Accidental and Intimate: Violent Exchange in Bangladesh**

This chapter illustrates how corruption and torture is intimately connected in the encounters between police and the policed in Bangladesh. The argument is that the violent exchanges of corruption and torture are systemic and routinized in the exercise of authority.

The chapter is based on a series of case stories from two data sets which illustrate how the conflation of state governance and party politics produce and delineate legality, legitimacy and citizenship. One data set comprises case material compiled and analysed by Odhikar, a national human rights organization. The other is cases taken from a household survey in a slum area in central Dhaka, compiled and analysed in collaboration with Dhaka University.

In the chapter, Morten Koch Andersen shows how the mundanity and routinization of the interactions between policing authorities and people essentially establish corruption and torture as an exchange relationship of bodily safety for money. It is a transactional economy between unequal participants based on the commodification of state power where impunity is granted for political alignment.

The author illustrates how corruption and torture are common, almost quotidian practices in the exercise of authority. This is linked to the judicial system's dispensation of justice and closely associated with, if not defined by, the political system of party politics, which plays an important role in negotiating and resolving conflicts. The author shows how corruption and violence are ingrained in the social fabric of an urban slum area of Dhaka. Exchange relations between local authorities and residents are more or less forceful or voluntary; often they are established by an acknowledged deliberating and determining mechanism of conflict resolution known as a *shalish* that mediates between conflicting individuals or

families. In this process, local authorities time and again use their party political induced leverage to bend the discretion of the law enforcement agents in the negotiation and resolution of conflicts often concerning land rights and property, through threats of violence and monetary transactions, on behalf of either of the conflicting parties.

The argument is that these violent exchanges have become a practice and a mentality – a pragmatic mindset enabling people to survive in a situation of constitutive uncertainty and absence of security and safety. These exchanges epitomize not only the residents' positionality within the political economy of the slum and the city – their right to be and to live there – but also the urban poor population's relationship to the state, or what the author has called an 'accidental' claim to citizenship.

The 'accidental citizen' is the incidental, the catastrophic exception to the norm; the abject counterpart to the desirable, essential and proper citizen – the safe and recognized citizen. Accidental citizenship epitomizes the precarious conditions of the poor living in insecurity and illegality at the margins of society. The author shows how the process of becoming a victim; the bodily transgressions, constitutes the production of citizenship. Hence, the 'accident' of the violent act reinforces the political machinery of networks and collusions of interests through which authority unfolds, thus constituting state and citizenship as we know it. This – the accidental – is the situated awareness of the fatal consequences of authority exercised, where those on the fringes of political recognition and legality are especially at risk.

These 'accidental' citizens forced into violent exchange relationships epitomize the positionality of the urban poor in the political economy of the city with living conditions characterised by uncertainty and illegality. This is underlined by political impunity and lack of institutional accountability and transparency. They exemplify the inbuilt disasters, abuses and violations of the political configurations of power that relies on intimate connections between violence – realized or implied – and corruption. For the victim and the victim's family, the consequences on body, economy and livelihood are serious and enduring, while justice and fair compensation remains a distant impossible dream.

As such, the accidental citizen is a fallout of exposure to violence and extortion where avenues for justice and compensation are limited constrained by position, status and economy. Therefore, the author frames

the accidental claim as a social practice – or more specifically a mechanism whereby the less powerful tries to prevent repercussions and repetitions, and to seek safety through state authorities like police and courts – a useful lens through which to examine how violent exchanges unfold in the lives of the urban poor and how citizenship is produced.

## **Future Orientations**

In this introduction, we have outlined the ways in which corruption and torture are intimately linked and relationally and reciprocally constitutive. We have shown how the current scholarly approaches to corruption and torture compartmentalize the two (normative) concepts in two distinct, separate fields of inquiry and analysis. We propose, based on experience and research, that these current state-centered and legalistic approaches somehow overlook the fact that the two are constitutively interrelated in practice, and that they are experienced by the urban poor as one social event in their encounter with public authorities. Nonetheless, whether approached independently or together, corruption and torture are part and parcel of everyday life for the urban poor in many parts of the world.

Hence, exploring and illuminating the entanglement of corruption and torture in the everyday lives of the poor, we have introduced the conceptual lens of violent exchange in order to understand policing encounters as relational and reciprocal practices of (dis)respect, monetary transactions and violence taking place between policing or local authorities and those they police. This proposition is based on our own experiences in the field of human rights work, the experiences of the organizations and individuals who work to advance human rights for the poor in challenging settings and contexts and underlined by our research.

It is our argument and our analytical position that we can approach neither corruption nor torture without addressing the other. Both concepts unfold conditioning and constraining practices with substantive, often detrimental, consequences for the lives and livelihoods of the urban poor. While the practices and consequences are contextually different, they nonetheless share two basic features. First, they cannot be avoided – the encounter is often forced upon urban poor citizens – and second, the encounter is inherently unequal in terms of power.

This change of perspective and approach is not only important for our understanding of the experiences of the urban poor. It also creates a shift

in the relevance and applicability of current approaches when it comes to changing the structures, institutions and practices through which corruption and torture unfold. We suggest that the tendency of policy discourses and programmes to compartmentalize social practices into distinct fields, and to target problems separately with specific interventions and tools, could help to explain the limited successes in combating torture and corruption on a global scale. There are of course good reasons why we compartmentalize – not least the fact that interventions are often tied to specific conventions and legal, normative frameworks, like for instance the Convention Against Torture. However, if we are careful, there are, we think, possibilities for the development of new modalities of work, situated outside the boxes of business as usual.

This is not just about changing policy; it is about thinking with and through the experiences of people in need and the human right defenders working alongside them, so that our support and assistance is relevant and applicable within their settings and contexts, thus contributing to productive and just pro-poor social change, rather than simply be guided by our predispositions and legal frameworks. This entails for instance that we do not target one field i.e. torture without paying attention to the interconnectedness of the other i.e. corruption in the social life of those we accompany and work with.

We are not arguing for a change of conventions or legal standards; they are useful tools to promote change. We are arguing for another form of applicability of theoretical praxis to promote substantial changes that are relevant to the people exposed to violence and corruption. This means that we need to be attentive to the fact that when we target corruption, we inherently or with some probability at least target violence and torture as well. And when we target violence and torture, we should not overlook the practices of corruption or the violent exchanges that mar the social life of the urban poor. Hence, there are added bonuses on surprising fronts if we just pay attention. Take for instance the Hong Kong police. It went from being inherently corrupt to relatively incorrupt through a massive investment and a concerted effort to realize the rule of law. And as an almost unnoticed by-product it also became less violent. While the Hong Kong police transformation cannot be reduced to simply a success story in anti-corruption drives (Jones and Vagg, 2007), the story is indicative of the potential – at least a call for further studies.

Regardless of policy domain, conventions and normative frameworks, 'violent exchange' is a productive, conceptual lens to understand situated practices of violence and extortion, torture and corruption, it provides the framework for identifying different and potentially contextually relevant actions that serve as basic foundations for achieving substantial changes. For human rights research and practice, we believe, it is important to make the interrelations between corruption and torture a central issue both methodically and practically, in our efforts to assist those on the margins of society. Paying attention to the collusion of oppression and extraction forces our gaze beyond the inherent compartmentalization of conventions, jurisdictions and state centred analysis and intervention, with a focus on the actual situated practices and their relations, if our ideas, approaches and work methods are to be contextually relevant and potentially transformative.

While this book has come part of the way in establishing a different conceptual framework to address corruption and torture, the account have opened up for new questions to be asked as well. Of particular interest, we think, are two terms that have emerged in our analysis. These are 'violent social orders' and 'accidental citizenship'.

Firstly, and as already introduced earlier in this Introduction, we take the concept of 'violent social orders' from Desmond Arias' interesting analysis of the entanglements between police, gangs, politicians and residents in Brazil (Arias 2006). In the chapters on South Africa but also on Kenya, it becomes clear that violence, authority and resources are inherently entangled in ways that transcend institutional frameworks. Rather, networks of money, violence and authority comprise police officers, politicians, civil society organization and residents slugging it out with other, parallel networks. This is reminiscent of Julia Hornberger's analysis of 'your police, my police' (Hornberger, 2004). The concept of violent social orders in novel ways frames the violent encounter emphasising the need to situate and contextualise the exchange practices, not just in territory, the site, but also with an eye to the power relations and configurations of gender as well as class, caste, ethnicity, culture, age, opinions and ideology etc.

Secondly, there is a need to think more concertedly about issues of citizenship. Our analysis in the chapters above suggests that citizenship – as the rights to have rights, as Arendt so evocatively put it (Arendt, 1973) – is utterly precarious. Andersen, in his analysis of Bangladesh introduces the term 'accidental citizenship' to illustrate the often haphazard

way people are made known to power and authority. If one is positioned in society with few of the resources necessary to manoeuvre and manage authorities, be they formal or informal, claiming citizenship can be catastrophic. Rather, his informants – and many around the world with them – prefer to recede, yet again, in to darkness and obscurity. The term ‘accidental’ points to these situated often contradictory processes of claim making and seeking obscurity and the arbitrary ways in which power impacts on the lives of people. The question is what this – and violent exchange more broadly – tells us about modes of belonging, recognition and survival. It seems to us that the concept of citizenship does have some pertinence but that it must be seriously considered and not only accepted as a normative framework. While not expressed in such ways we may paraphrase their fearful emotions as they enter into encounters with authority “What kind of citizen will I be today?”

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# The Morality of Corruption: a View from the Police in Philippines

By Karl Hapal and Steffen Jensen

In 2010, Maria's eight-year-old child had been picked up by the police and taken to the sub-station in Bagong Silang, a huge and poor urban neighborhood north of Metro Manila. He had allegedly been misbehaving in the streets. Slightly worried, Maria went to the police station to reclaim her son. When she arrived, the commanding officer said that he could not release the boy just yet. He generously proposed to Maria that he could discipline the child for her; something that is not unusual in the Philippines or in South Africa (Jensen, 2008). Maria, politely refusing the offer, proceeded to ask for her son. The inspector then said, "but there is also the issue of the petrol". "How much would that be?" Maria inquired. "500 pesos (USD 10)," the inspector proposed. "I don't have that kind of money," Maria said, but promised she would come back the day after with the money - a plan already forming in her mind. She waited until the inspector left the station and then returned, approaching the police officer on duty. "I agreed with [the inspector] that I could have my son for 200 pesos (USD 4)," she told him. "That was cheap," the duty officer said in surprise. "He normally asks for more." "You can just phone him if you are unsure," Maria dared the duty officer. "Then he just gave me my son back," she told us.

This case features several issues relevant to our chapter. First of all, in line with the Introduction to this volume, the exchange is only possible because of the ever-present threat of violence. The inspector was known to use violence and Maria was right to fear for her son. Bagong Silang is rife with stories of police violence and extra-judicial killings.<sup>1</sup> In a 75-re-

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<sup>1</sup> This chapter was written before the onset of the War on Drugs that, at the time of writing, allegedly has a death toll of more than 9,000 nation-wide. The death toll in Bagong Silang stands at more than 200 according to the reporting of Balay Rehabilitation Center, our collaborating partner for this chapter and our own research since the war began in June 2016. We have chosen

spondent pilot survey we conducted there in 2010 (Jensen, Hapal & Modvig, 2013) dozens of respondents rated ‘salvaging’ – the military and civilian term for extra-judicial killing – a serious threat. Hence, police killings maintain a constant presence in the minds of people, also before the war on drugs began. Furthermore, the encounter seems regulated by fairly strict rules and something approaching a price list. Maria was able to bring the price down by using what in the Philippines is referred to as her *diskarte*, or the ability to find ways in times of difficulty through her wits, making it into a negotiation or an exchange relation, as suggested in the Introduction. Finally, and perhaps slightly surprisingly, there seemed to be fairly amicable relations between the police and Maria. The suggestion to help her was in all likelihood well-intentioned. In subsequent interviews, we asked the inspector about this practice and he confirmed it as a part of his service to the community.

This suggests that despite the fairly blatant extortion racket – and there are many others like it – there is a moral position for police officers, even in the face – and sometimes because – of monetary exchanges. Hence, we ask how police officers in the Philippines legitimize their corrupt practices. Most analyses of police violence and police corruption point to fragile institutional frameworks and impunity coupled with low pay and low prestige in policing (Newburn, 1999). While police officers to some extent second these explanations, not least the low salaries, there is also strong emphasis on what the police officers call *tulong* or *ayuda* (help). This is what, with Olivier de Sardan (1999), we could call the moral economy of corruption. It is this moral imperative that we will explore in this chapter while illustrating how violence is an ever-present companion to the helping police officer.

This approach is novel to the Philippine context; indeed, with a few exceptions very little research has been published on the Philippine police in academia.<sup>2</sup> As Varona (2010) argues there is a “near absence of

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not to include direct analyses of the war in this chapter. We do so elsewhere (Warburg and Jensen, forthcoming, on the war in Bagong Silang and Jensen and Hapal, forthcoming, on the relationship between corruption and violence in the war on drugs) but we will provide commentary about the war where it is relevant for the analysis of everyday relations between police and policed. Furthermore, our analysis here helps to understand the local ramifications of the war on drugs and the important continuities from before the war.

<sup>2</sup> See for instance Campos, 1983; Sidel, 1999; Austin, 1999. The authors of this chapter have also written on policing. See Jensen and Hapal, 2014; Jensen, Hapal and Modvig, 2013.

research on policing” in the Philippines. However, a cursory review of the literature in other knowledge domains reveals a plethora of research on the subject. For instance, since 2012 the Philippine National Police (PNP) has conducted close to a hundred policy and performance enhancement oriented researches, albeit unpublished, leading to the production and revision of operational manuals. Civil society organizations have likewise contributed in publishing reports about the performance of the police vis-à-vis international standards (i.e. human rights standards).

While these accounts do focus on the police, it is fair to say that policing practices and issues relating to it remain on the fringes of public and academic debate. Furthermore, while most studies treat police officers as objects of analysis (and also reform), this chapter seeks to treat them as subjects. By highlighting voices of police officers, we attempt to populate corrupt encounters; the main aim of this is not only to expose individual officers but also to shed light on the motivations and dilemmas they face on a daily basis. Although the war on drugs has led to a number of studies focusing on the police (Coronel, 2017; Reyes, 2016), to our knowledge, this attempt to highlight the voices of police officers is a first, at least in the Philippine academic field. However, it would be a mistake to think that this chapter is an apology for the police. As our emphasis of salvaging as a precondition for relationality suggests – also borne out in the war on drugs – we are fully appreciative of the violent potential and practices of the police. Rather, our point of departure – listening to the police – serves as a way to ‘agonize’ with police officers rather than to ‘antagonize’ as we jointly aspire for a reformed police force in the Philippines (Jensen & Jefferson, 2009). While our analysis complements – rather than contradicts – an analysis of the police as corrupt and violent, human rights organizations and academics would do well to take it seriously as it constitutes an alternative approach to violence and corruption within the police, rather than one that simply begins with condemnation.

Material for this chapter is drawn from long-term field work in Bagong Silang by both authors. A victimization survey, interviews with police officers, personal encounters with the police, a literature review, and human rights training and documentation by Balay Rehabilitation Center in Manila as well as two rounds of fieldwork in Bagong Silang since the outset of the war on drugs. We organize our argument in four parts. In the section below, we relay the worrying account of Charlie, who

ended up spending a substantial portion of a 24-hour period in police detention facing extortion and harassment. In the second section, we go through some of the literature and analyses of police corruption. In the third section, we explore how police officers understand their corrupt practices, including why they are considered corrupt at all. Finally, we revisit the practices of violent exchange in the Philippines and consider some policy implications.

### Charlie's Ordeal

Charlie had just purchased cigarettes and energy drinks for his midnight work grind. He was driving in an alley a couple of kilometers from his house when a child suddenly ran out and was hit by the car. "*Shit!*" Charlie said to himself. Tension thudded in his temples as the drunken *tambays* (people hanging out in the streets) encircled the vehicle. The small but drunk mob incessantly demanded that Charlie get out of his vehicle while they carried the bloodied child. Moments later, the mother of the child hurriedly approached her child and demanded that they go to the nearest hospital. Screams of agony and threats filled the vehicle as Charlie, the mother and her child went to the hospital. While waiting for the results of the preliminary medical examinations, the mother called the police to sort out the matter. A couple of hours later, a police officer, together with a traffic enforcer, came to apprehend Charlie. Knowing that it would be counter-productive to resist, Charlie allowed himself to be taken along; being *maangas* (arrogant) could just get him more charges. The officers did not cuff Charlie and even allowed him to drive the car to the police station as they scooted through the traffic on motorcycles. The police station was small, shabby and smelled of fried fish. It was filled with old tables, filing cabinets and a detention cell the size of an airplane lavatory. What the station lacked in facilities, it made up in calendar pictures of the president, the interior minister, the police director, city mayor and other city officials. Mixed emotions enveloped Charlie as he went inside. On the one hand, the station elicited a casual feeling; off-duty officers were playing video games, browsing the internet or watching basketball on television. On the other hand, it had an intimidating atmosphere; the prospect of being detained in a dark cell was frightening.

Having had encounters with the police both professionally and in his private life, Charlie knew he had to play his cards just right to avoid being put inside the cell or getting into more trouble. He realized he needed to present himself as a person occupying some level of importance or prestige, but not push too much so as to appear *mayabang* (too proud) or insolent. Charlie told the police officer that he was sorry for what happened and was prepared to support the child with its medical expenses. When asked about his occupation, he said he worked for a human rights organization as a researcher. The officer replied: "It is unfortunate. Once our investigator arrives tomorrow morning ... do not worry, we will help you. For now, you will just need to stay here and fill in this form." Charlie obtained a small victory that night; he was not put inside a detention cell. Instead, he was relatively free to roam the police station, go outside the building, chat with other officers, watch television and observe various traffic-related complaints and the negotiations that went with them.

During the night, Charlie achieved some level of cordiality with some officers; he was also allowed to go out and make some phone calls to get support from his family or friends. As he went outside for a smoke, the traffic enforcer who had been present at the hospital happily approached him and offered some bread and coffee. Charlie shared his thoughts about the incident while the traffic enforcer shared tales of his exploits with women and how it had made him impotent. When Charlie asked the traffic enforcer about how traffic violations were settled, he said: "Traffic enforcers do not earn much and most people really don't want to suffer inconveniences like going to seminars (on traffic safety). If there is a violation, we will issue a ticket. But if the driver negotiates because of some reason, then we agree. Everybody [is] happy." Charlie's conversation with the traffic enforcer was cut short when Police Officer (PO) Edgar, who was apparently on duty at that time, arrived at the station.

PO Edgar reeked of alcohol, his speech was slurred and he was clearly wasted. The traffic enforcer greeted the officer and then scratched his head as if to express some form of futile protest. The other police officers greeted PO Edgar as he entered. Charlie was pointed out by one police officer as a case that needed some attention. As PO Edgar saw Charlie, he gestured him to go outside. At that point, any rapport or cordiality Charlie had built with the other officers seemed to vanish out of the window; he felt he was dealing with a different animal. They went to a

bridge a couple of meters from the station. When they arrived there, PO Edgar put his arm over Charlie's shoulders and said in his slurred voice: "Hitting a child with your vehicle is not a good thing to do, you know? You know what happens when you hit a child? I can have you sent to the court right now for an inquest." Charlie, in the most courteous way, protested. PO Edgar replied: "But, I believe you and I will do whatever I can to help you. Where is the child?" While at the bridge, Charlie's friend arrived. PO Edgar said to him: "I will help your friend. Come with me to the hospital. I will return and I promise to sort this out."

PO Edgar and Charlie's friend headed for the hospital in a cab. Charlie waited anxiously. Deep inside, he naively hoped that the drunken police officer could work a miracle that would set him free, at least for the time being. However, scepticism and anxiety prevailed as he said to himself, "What could a drunken officer do? He might do more harm to me than good." Hours passed before PO Edgar and Charlie's friend returned. PO Edgar said, "Well, the mother wants to press charges. I should get you to court right now. How would you like that?" Charlie said, "Sir, please..." PO Edgar laughed. The officer then lay down on an empty table and asked for the lights to be turned off. Charlie's friend left the police station at that time; he also left some money for Charlie and made sure to give it as discreetly as possible. He promised to return in morning.

Charlie stayed still and anxious. As he stared through the darkness he heard the drunk PO Edgar say, "Do not worry, I will help you. Lay down beside me." It was an impossible choice for Charlie: if he disobeyed, he might get into trouble, if he obliged, he might be violated in a number of ways. Charlie instead sat on a chair beside the table. PO Edgar said in a firm and imposing voice, "What are you doing? I told you to lie beside me. You can always sleep in the cell." Charlie replied, "Sir, please..." PO Edgar then pointed to an adjacent chair and replied, "Okay, sit there." Midway, the officer changed his mind and said, "No Charlie, lie down beside me, or else..." PO Edgar's demand and Charlie's humble but insistent protests continued for 30 minutes until the police officer succumbed to the effects of alcohol. PO Edgar was finally asleep. Charlie was relieved that somehow he had emerged unscathed. There was nothing to do but keep staring at the dark interiors of the police station, waiting anxiously for the chief police investigator who would decide on his fate in the morning.

For hours Charlie waited. Finally, the chief police investigator came in. The chief investigator mediated between Charlie and the mother of the child. The mother demanded that Charlie be sent to jail and that he pay for her lost income since she needed to attend to her child at the hospital. Charlie countered that he could only afford the medical expenses. The chief urged the mother to simply settle the case. In the end, the mother agreed that she would not press charges on condition that Charlie paid all of the medical expenses. Charlie thought to himself, "It is a good thing, especially for me, that the chief is a practical man. After all, he does not want to bother himself with the litigation process." When the case was resolved, the chief asked the mother to leave the station momentarily.

When the mother stepped out, the chief said to Charlie, "Well, you have a lot here. Reckless driving, reckless imprudence resulting in slight physical injuries. You also have not brought your registration and vehicle insurance with you. You could face jail time if not for the settlement, but you will still have to answer for your traffic violations. You can attend 10 hours of lectures and pay a fine of PhP 2 500 (roughly USD 55), but I can help you." He then referred Charlie to another police officer as he drafted a police report. The police officer said, "Well, you'll just have to pay PhP 150 (USD 3) for our photocopying services and ... you know it already." Charlie naively asked, "Do you know how much?" The officer said, "It is up to you. Just put it inside the folder." Charlie slipped PhP 1 000 (USD 20) into the folder. The officer opened the drawer, put the folder with the money inside and said, "That's it. Thank you. Don't do it again, okay? Be safe." Charlie expressed his gratitude to the police officers around. PO Edgar was nowhere to be found. Charlie finally asked the chief, "Will, I have a record, sir?" The chief replied, "Well, you will have no record for now. But we will keep these documents in case." By now Charlie was exhausted but, more importantly, relieved that he had been able to wriggle out of a difficult situation. He thought that it would be unwise to make PO Edgar accountable for his drunken state and appalling arbitrariness. Charlie thought that honouring the settlement with the mother and keeping the peace with the police would be best for all; otherwise, he might face negative consequences. It was midday when he stepped out of the police station. Charlie felt remorseful about his situation and that of the child, but not about the transaction he made with the police. He drove away from the police station as fast as possible.

In this rather detailed case description several themes emerge that are important for our analysis. Firstly, help seems to be present at every turn. However, it is never straightforward. The appearance of PO Edgar changes everything and leaves Charlie back at square one – even behind square one, if the mood among the other officers was an indication. The case study also illustrates the importance of class and money in the sense that there was no doubt that Charlie should pay, regardless of whether he had done anything wrong, and in the sense that he was offered special treatment and privileges once inside the police station. Charlie also knew the game and was anxious to find someone to pay in order to get out. This is what proved most difficult. Finally, there seems to be at least two different renditions of the police present in the case: PO Edgar and the police chief investigator. Whereas the latter plays the part of the savior of Charlie, the former is his bane – unpredictable, drunk, extortionist and the incarnation of ultimate forms of violence. While it would be easy to claim that the first rendition is what ought to be and the second the horrible aberration, we think it is more useful to think of the two renditions as contiguous and entangled. Both encounters were corrupt, but the one with the police investigator was predictable, almost orderly, whereas the encounter with PO Edgar revealed the possible, unpredictable, unmanageable violence at the hands of the police.

## **Policing and Corruption**

Charlie's case is illustrative of an encounter between the police and the policed which concluded in a corrupt transaction – one of countless illicit engagements and countless actually or potentially violent outcomes. In other words, the corruption is utterly unsurprising. Corruption permeates the political, economic, private and everyday lives of Filipinos (Quimpo, 2009; Abinales and Amoroso, 2005). This is common knowledge. There is consensus as to what it looks like. According to Transparency International and the Asian Development Bank, corruption may be defined as the abuse of power for private gain.<sup>3</sup> However, corruption is not limited to state officials. While generally viewed as transgressions of public officials and state agents, private individuals and organizations may also

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<sup>3</sup> For Transparency International see <http://www.transparency.org/what-is-corruption/#define>. For Asian Development Bank see <http://dirp3.pids.gov.ph/ris/dps/pidsdps1013.pdf>.

have vested interests in engaging in such practices (Balboa & Takenaka, 2010).<sup>4</sup> In 2015, Transparency International gave the Philippines a score of 35 out of 100 points, putting the country's public sector as the 75<sup>th</sup> (out of 167) most corrupt government on the globe. Balboa and Takenak (2010: 4) claim that corruption has devastating effects on the economy with "as much as half a percentage point in terms of gross domestic product (GDP) per year, and five percent in terms of aggregate investment".

Despite the negative impact of corruption, there appears to be an implicit subscription to the practice to the extent that it has become routinized in the daily operations of the government. According to a government study, around 1 out of 10 Filipinos who have transacted with a government office offered money, gifts or favors to facilitate the delivery of service (Philippine Statistics Authority, 2013).

Despite President Benigno Aquino III's efforts to clean the government through his *daang matuwid* (straight path) campaign (2010 to 2016), the administration, as well as hundreds of legislators, were implicated in a number of high-profile corruption scandals.<sup>5</sup> But despite the general distrust of and disgust for government officials, civil servants and political parties, according to annual studies conducted by Transparency International (2006; 2007; 2013), it was the police department that was consistently perceived as the most corrupt institution in the Philippines.

In 2013, Transparency International reported that more than two thirds of Filipinos believed that the police were either corrupt or extremely corrupt. In public opinion studies conducted in 1999, 2009 and 2011, Pulse Asia Research (2011) also indicated that Filipinos saw the police as one of the most corrupt government agencies in the country. In 1999, the Philippine National Police (PNP) was seen as the fourth most corrupt agency in the government while in 2009 and 2011, the institution occupied second place.

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4 <http://dirp3.pids.gov.ph/ris/dps/pidsdps1013.pdf>

5 Among these scandals was the Disbursement Acceleration Program (DAP). DAP is a discretionary fund drawn from unutilized budgets of various government agencies. The allocation of funds is controlled by the Department of Budget and Management (DBM) and is ultimately approved by the President. Given its discretionary nature, DAP was criticized as a "creative" replacement for the outlawed Priority Development Assistance Fund (PDAF) of legislators. The Aquino administration was accused of using the DAP as a replacement of the PDAF and for maintaining its political capital in Congress. Other issues included the alleged mismanagement of domestic and international donations/grants for the victims of the Super Typhoon Yolanda and anomalous maintenance contracts of the Metro Rail Transit 3 (MRT 3).

## Institutionalization of Corruption: Historical Foundations, Legacies and Reform

The popular perception is that corruption has reduced the department to an inept, crippled and struggling institution, and that this has been the case for some time. In this section, we argue that the negative image of the police is founded on the Philippines' colonial past and decades of authoritarian rule. In particular, we argue that this history has resulted in a highly politicized institution which, in turn, led to its corruptibility, as different political configurations have used the police to maintain the status quo or change it at various points in history. Control over the police is maintained through money and patron-client relationships with politicians or patrons within the force – important connections in terms of accessing resources and promotions or gaining status. Corruption is rampant within, and the police force is incapable of curbing violence in its ranks. Decades of institutional neglect, despite various reform initiatives, have resulted in poor policing practices. Low salaries and status contributes to an inherently challenging and dilemma-filled policing function, which increases the susceptibility of the police to illicit activities and to performing informal adjudicating and bureaucratic services as measure to exact accountability and justice.

The Philippines was colonised twice.<sup>6</sup> Both these rounds of colonialism left deep scars in the society, and a number of analysts, most notably Al McCoy (2009), agree that they were central in structuring the relations between policing and politics. Part of the problem emanates from the way the colonial social structure and its connections between power, money and policing were propelled into post-independence law enforcement (Sidel, 1999). During the colonial periods, policing vis-à-vis politics was mainly concerned with pacification and criminalization of revolutionaries and other millenarian organizations (Ileto, 1979; Bankoff, 1996). During the Spanish period, as the colonial state encountered still fiercer opposition, it established municipal and provincial police forces (the *Cuadrilleros* and the *Tercio de Policia*) under the direction of local *principalia* (Philippine landed elite) and local colonial authorities (Bankoff, 1996). This continued into independence. As John Sidel notes (1999), the entrenched interests of local *principalia* families were given a national stage where to exert their power

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<sup>6</sup> The Spanish period lasted around 300 years (1521-1898) and the American one some 50 years (1898-1935).

through the electoral, representative system of the Americans, which was uncontrolled due to a very small state bureaucracy. This created a political system that was enormously localized and based on powerful families using the national state coffers to boost their own power and perpetuate their electoral success, and consequently political oversight was more concerned with maintaining power than with controlling state agencies.

In 1935, the US allowed the Philippines a measure of autonomy that lasted until the Japanese invasion in 1942. During the late American period (called commonwealth) and into independence after the Second World War the main emphasis of policing continued to be the assertion and preservation of the power of the landed elite (Sidel, 1999; McCoy, 1993 ; 2009). As the landed elite encountered the revolutionary challenge from an increasingly angry peasantry after the Second World War, the police force was further militarized through Executive Order No. 308 s.1950 by then President Elpidio Quirino, and used to quash the Huk rebellion in Central Luzon in the mid to late 1950s.

During most of the 20<sup>th</sup> century, the Philippine Constabulary (PC) was a central law enforcement agency. It was formed with the “special duty to suppress and prevent brigandage, insurrection, unlawful assembly and breaches of the peace” (Campos, 1983: 134). Until it was integrated in the Philippine National Police in 1991, its task remained largely unchanged. When then President Ferdinand Marcos declared martial law in 1972, policing became increasingly about the suppression of political enemies inside the elite as well as the suppression of the increasingly discontented populace. In 1975 Marcos issued Executive Order 765, which integrated local policing structures at municipal and city levels with the PC forming the Philippine Constabulary-Integrated National Police (PC-INP). Through this order, Marcos centralized both policing and military structures under the Armed Forces of the Philippines, which were directly under his control as commander-in-chief. Under Marcos, the PC-INP was known for its brutality against those perceived as enemies of the state; it was responsible for thousands of deaths, tortures and disappearances. The challenge posed by the Maoist New People’s Army (NPA) and the Islamic secessionist movements in Mindanao caused a violent politicization and militarization of policing in the form of a counter-insurgency culture that continued after the fall of Marcos in 1986.

The post-Marcos reform of the police aimed first and foremost at de-

militarizing the police; the imperative was to put it under some level of civilian control, as well as to rid the police of the extreme forms of violence perpetuated during the Marcos regime (Quimpo, 2009). In order to achieve this, the Republic Act 6975 of 1991 created one national police force, the Philippine National Police (PNP). The PNP was put under a reconfigured Department of the Interior and Local Government (DILG). Furthermore, in order to make the police accountable, its command structures were decentralized so that the police would answer to the authority of the municipal mayor (Gutang, 1991). While the left wing and human rights circles lamented the creation of yet another militarized monster through integrating the Constabulary with the police, the Constabulary saw the act as a betrayal and a denigration of the service they had rendered to the nation. However, as Sidel (1999) points out – and more importantly for our purpose – the law first and foremost rehabilitated political control and returned oversight of the police to the local political families and strongmen interested in maintaining their own political control, rather than, controlling the police.

Together with the continued politicization of law enforcement inherent in, for instance, counter-insurgency, the localized focus of policing has been a central and enduring trend in Philippine policing. This includes the use of police and private armies to quell resistance. While the intention of the post-Marcos regime was ostensibly to institute civilian control over the police, in many municipalities and provinces the police came to serve a reconstituted cacique democracy (Anderson, 1983; Sidel, 1999); that is, a democracy in which (landed) elites competed for control but where it was always the same kind of people who managed to secure their hold on state power through electoral processes. Law enforcement agencies play a central role in this, and the municipal mayor has authority over the PNP.

By 1991, through RA 6975, the INP had been completely merged with the PC to form the PNP.<sup>7</sup> This law marks the first time that the

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<sup>7</sup> Today, the main functions of the PNP include law enforcement; maintenance of peace and order; prevention and investigation of crime; arrest and detention of criminal suspects; regulation of firearms and explosives; and supervision, training and control of private security agencies. Administrative control over the PNP is delegated to the Department of Interior and Local Government through the National Police Commission. On the other hand, daily operations, supervision as well as the appointment of city or municipal police chiefs are delegated to the city or municipal mayor. In situations of emergency or counterinsurgency, the operational control over the PNP is transferred to the Armed Forces of the Philippines.

police were placed under civilian authority, although it was a return to a decentralized model of policing structures. Until 1991, the operational control of the INP and PC were under the military. Despite this attempt to put the police under civilian control and professionalize the force, the history of the PNP indicates a deeply politicized institution (Varona, 2010) with legacies that reverberate into the present. Since its conception, the PNP and its predecessors have actively participated in politics, or at least been instrumental in achieving political ends (i.e. maintenance of elite power). In recent history, the participation of the PNP (or its predecessors) has contributed to two regime changes (Ferdinand Marcos to Corazon Aquino in 1986 and Joseph Ejercito-Estrada to Gloria Macapagal-Arroyo in January 2001). Likewise, the non-participation of the PNP in the popular revolt of April 2001 known as EDSA III contributed to the survival of the new Macapagal-Arroyo regime.

The legacies of the Philippines' political past continue to impact on the image and performance of the police. Its politicization, together with a general image of ineptness and corruption, contribute to the low level of esteem it is held in. The image of the police was further tarnished during the presidency of Macapagal-Arroyo (2001-2010) as the repressive nature of policing during her administration raised echoes of the martial law era under Marcos during most of the 1970s.

In 2013, the PNP launched its long-term reform plan to reinvigorate public confidence and improve its performance. In its document, 'Peace and Order Agenda for Transformation and Upholding the Rule of Law Plan 2030' (PATROL Plan 2030), it states the aim of producing a "highly capable, effective and credible police service working in partnership with a responsive community towards the attainment of a safer place to live, work and do business". The police sought to realize this reform agenda through its 'PNP Strategic Focus CODE-P: 2013 and Beyond', which outlines the route to "enhancing the competence of each and every policeman, redefining and reforming the organization, instilling discipline, realizing excellence and instituting professionalism at all levels of the organization" (Philippine National Police, 2013). Efforts to reform the police force were matched by increased budgetary allocations from the national government enabling the PNP to recruit more police officers and procure firearms and other logistical equipment. From 2010 to 2014 the PNP's budget increased incrementally from PhP 48.89 billion to PhP 70.80 billion (USD 1 billion

to USD 1.4 billion). In 2011, the PNP staff complement was 117 252 officers and officials (National Statistics Authority, 2011). With an estimated population of 95 million people, this put the police-to-citizen ratio at 1 officer to 817 citizens or around 122 officers per 100 000 (National Statistics Authority, 2011). Since then the government has considerably increased the budget of the PNP to meet the ideal ratio of 1 to 500. By 2015 the PNP had increased its force to 150 590 officers, though it was still 23 820 short of the 174 410 troop ceiling.<sup>8</sup> However, despite the increase in the number of police officers in the Philippines, crime rates had risen dramatically from 2012 to 2014 while efficiency in solving cases had dipped (Philippine Statistics Authority, 2015). Apart from poor performance, in recent years the PNP has been debilitated by successive waves of corruption scandals at various levels of the agency.

In 2015 Police Director Alan Purisima was suspended and dismissed together with nine other officials amid a graft scandal. While suspended, the former director was also discovered to have had significant involvement in a disastrous operation of the PNP's Special Action Force (SAF) at Mamasapano municipality in Maguindanao province in January 2015. The operation – designed to arrest or kill suspected international terrorist Marwan, who was believed to be under cover in the area – instead ended in the death of 44 SAF operatives, 17 members of the Moro Islamic Liberation Front (MILF) and seven civilians. Other scandals include the so-called *wheel of torture* discovered in 2014;<sup>9</sup> the EDSA *hulidap* case (where eight active officers and one former one allegedly kidnapped two civilians and extorted around PHP 2 million);<sup>10</sup> and the arrest of former Philippine Drug Enforcement Agency (PDEA) Chief Ferdinand Marcelino in a major anti-drug operation in 2016.<sup>11</sup>

These scandals contribute to the image of a crippled police force. In this view, police are hamstrung by lack of institutional support and manpower, as well as by historically intimate entanglements with politics,

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8 [https://www.senate.gov.ph/press\\_release/2015/0903\\_escudero1.asp](https://www.senate.gov.ph/press_release/2015/0903_escudero1.asp)

9 <http://www.theguardian.com/world/2014/jan/28/philippines-police-wheel-of-torture-game>

10 <http://newsinfo.inquirer.net/689189/3-cop-officers-in-edsa-hulidap-case-suspended-stripped-of-benefits>

11 <http://cnnphilippines.com/news/2016/01/22/Former-PDEA-agent-busted-in-drug-raid.html>

from carrying out their mandate. It is also seen to be crippled by poor resource management, corruption (connected to politics and patronage networks) and poor public image. As Abinales and Amoroso (2005) observes, “[today], everyone wants law and order, but no one trusts the police” (Ibid: 2). Such perceptions of a politicized, inept and corrupt police force contribute to constant calls for institutional resuscitation. Internal and external institutional reforms, along with increased budgetary allocations, have provided some form of support to the struggling agency. The PNP’s ‘CODE-P: 2013 and Beyond’ plan also suggests a stronger emphasis on professionalizing the force, including sticking strictly within its peacekeeping and law enforcement functions, in other words staying outside the realm of politics.

The plan aims to do this by streamlining the organization (i.e. removing task forces supervised by elected officials) and reinforcing its control and measures for accountability over its personnel. However, the efforts of the PNP appear to have been dampened as its *padrinos* or political patrons remained unwilling to relinquish control. For instance, controversy enveloped the agency amid rumours that most of the important positions in the PNP leadership went to President Aquino’s buddies. A notable example was the 2012 appointment of the abovementioned Alan Purisima as police director. In the late 1980s, under Aquino’s mother Corazon’s presidency, Purisima had been part of the Presidential Security Group guarding his family, so the loyalty ties went deep. Hence, in the moment of institutional reform to achieve the government’s anti-corruption agenda, political clientelism prevailed.<sup>12</sup>

In a commentary in the Manila Times, columnist, lawyer and self-proclaimed anti-crime advocate Dodo Dulay (2014) wrote: “There are criminal syndicates within the Philippine National Police. That is an undeniable fact. The involvement of low-level to high-ranking policemen ... merely confirms what many ordinary Filipinos have known all along.” While controversial, Dulay’s allegation resonates with the suspicions of some Filipinos that criminal forms of corruption are embedded in the practices of the police. Why then are police corrupt in the Philippines? The subject of police corruption as a general phenomenon has been inter-

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12 The tendency of presidents appointing friends and allies as Chief of Police has continued into the present where President Duterte has appointed his old protegee Ronald dela Rosa as Chief of the national police to run the war on drugs.

rogated by a number of scholars. For instance, criminologist Tim Newburn (1999) explains the police's propensity for corruption by pointing to high levels of discretion and low managerial visibility, low public visibility, peer and managerial secrecy, status problems, and association with law breakers or contact with temptation.

As we have indicated above, the police, now and in the past, have been instrumental in protecting and promoting particular interests or maintaining the status quo. The ruling elite's practice of using the police as an instrument of social control is largely made possible by the peculiar position of the police within the governance system in the Philippines and its intimate relationship with politics. According to Varona (2010), "under the Philippine administrative system, police forces at all levels, from the national to the local, are under some form of political control" (2010: 105). Key national positions are at the discretion of the president, while operational control, logistical support, and the appointment and supervision of municipal or city police chiefs are in the hands of city or municipal executives.

On the one hand the PNP leadership, as appointees, are expected to be loyal to the President; on the other, local police chiefs are, in effect, accountable to both PNP's chain of command and the local mayor. The police's ties to elected officials, which Varona (2010) argues are characterized by patronage, pose particular challenges when it comes to administering the law and policing (Jensen & Hapal, 2015).

However, patronage politics is not present only between the police and politicians; it also permeates the agency internally. According to Varona (2010): "The same patronage networks that permeate police-government relations have parallel networks within the police service. Low ranking officers have to seek patrons among higher ranking superiors to obtain favors" (Ibid: 109). Favors may come in the form of promotions, access to equipment, or assignments in exchange for loyalty. An officer mentioned during an informal conversation: "Sometimes you will be surprised that a certain police [officer] was suddenly promoted ... then you learn that he is the *bata* (protégé, literal translation: child) of someone senior." This *padrino* (patronage or nepotism) system is such common practice that the former Interior Secretary Mar Roxas acknowledged its weight in getting placements in the force. According to a news report (Gutierrez, 2013): "[Roxas

said], the *padrino* system instills a sense of corruption early on among cops. Because the recruit needs to bribe *padrinos* in order to even get in, the first thing new police will do is find a way to earn back the money they spent on bribes.” As PO Ramon succinctly put it in an interview; “They start out early”.<sup>13</sup>

Vertical relationships of patronage are not the only institutional contributors to corruption; it is also commonly associated with low salaries. While police officers earn more than, for instance, teachers, their salaries are perceived by police officers as way out of sync with the demands of the job. Police officers interviewed for this study shared some insights about corruption and its association with their meagre salaries.

PO Ramon told us: “Police officers want to uplift their conditions. Police officers have meagre salaries. Consider that you have a family to feed and children to send to school. They need the extra money.” On ways to curb police corruption, PO Franco suggests: “The issue of corruption among the police officers can be addressed by raising the salary ... the government should also know our needs in order for us to do our jobs better.”<sup>14</sup> He continued: “We do not earn much ... other police might be engaging in corrupt activities because the pay is so small.” When asked about his salary, PO Franco said: “We earn around PhP 15 000 (roughly USD 300) per month.” In the minds of police officers, their salaries are incommensurate with the risk associated with their duties. PO Gerry said:<sup>15</sup> “Our lives are in constant danger ... I think we deserve some additional compensation.” Along with the perceived low salaries is demoralization through association with seniors involved in various corruption scandals. According to PO Gerry, it gives the impression to regular police

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13 PO Ramon is a former anti-kidnapping operative of the PNP. He was incarcerated for 10 years as he was convicted of murdering alleged kidnapers. He was acquitted later by the Court of Appeals due to insufficient evidence. By the time of the interview, PO Ramon was the ‘talk of the town’ as his release was full of intrigues. Rumour had it that he had taken the fall for a senior officer in exchange for money and legal aid circulated within their community. If this were true, it would explain his mysterious wealth and his ability to build a house despite being in prison.

14 PO Franco is part of the Quezon City Police Force. He became part of the police force several years ago. His motivation for this stems from his father, who was also a police officer. Now with two children, PO Franco struggles to make ends meet based on his meagre salary (gross monthly income of PhP 17 730, about USD 360).

15 PO Gerry is part of the Navotas City Police Force. He used to be assigned in Bagong Silang, Caloocan City. However due to security issues, PO Gerry opted to be reassigned elsewhere. PO Gerry is a prominent and respected figure in the community. His wife is an appointed official in the *barangay*.

officers that corruption is okay since high ranking officials are also engaged in it.

The PNP, while apologetic about corruption in its ranks, has dismissed the accusation that it is systemic. Instead, the PNP explains incidents of corruption, abuse and violence as a few bad apples – individual police officers who severely lack moral standards tarnishing the reputation of the whole institution. Former PNP Human Rights Office (PNP-HRO) Director Antonio Viernes treats the issue as a need for capacity building, continued training, unlearning of bad habits and an incentive system. It is no wonder that, according to the PNP's (Philippine National Police, 2013; 2014; 2015) annual accomplishment reports, the issue of corruption was dealt with by conducting various forms of training and the reiteration of moral and ethical standards.

### **'Tulong' – the Morality of Corruption**

While patronage and politicization of the police force provide robust explanations when examining individual acts of corruption, our data suggests other forms of legitimization that shift the meaning and moral connotations of corruption more generally. Without invalidating the salary explanation, eminent criminologist Tim Newburn (1999), for instance, argues that providing higher salaries to police officers does not necessarily solve the issue of corruption. Hence, in this section we interrogate corrupt practices through the eyes of police officers. We argue that, along with the more structural explanations presented above, police officers are engaged in constant debates and deliberations with themselves and each other about what is right and wrong. For instance, PO Ramon distinguishes between what he and his colleagues do and what he terms *ganid* or 'shameless greed' – corrupt practices on the part of his colleagues that are simply 'too much'. We begin by looking at PO Carol<sup>16</sup> and PO Gerry's case to elucidate their role within the criminal justice system and the challenges and dilemmas they face, and follow this with an exploration of their coping strategies with the problems at hand. We conclude that

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<sup>16</sup> PO Carol is the focal police officer in charge of matters regarding women and children. By the time of the interview, she had been in the post for about a decade. In performing her duties, PO Carol was instrumental in the institution of a women's desk in the precinct. Likewise she contributed and actively lobbied for the creation of the women and children's desk in the *barangay* (local government) office.

at least some corrupt acts by the police, in light of an inefficient criminal justice system, form part of a parallel – albeit informal – means of administering justice and punishment that is to the advantage of the citizens they police, not the opposite. To explore corruption from this angle in no way exonerates the police or explains away a great many practices that PO Ramon may (or may not) class as *ganid*. Our analysis simply points to practices that respond to the beat of a drum other than mere greed. In this way, they complement the image of the police as simply *linta* (leaches) or *burwaya* (crocodiles), names the police have more than earned through decades of corruption.

PO Carol was the officer in charge (OIC) of the Women and Children's Desk (WCD) in Bagong Silang. When asked about her duties and responsibilities, she pointed us to a flowchart that illustrated processes involved in reporting and filing cases. Explaining the functions of the WCD, PO Carol said: "Our work is clearly defined by the law; we just follow it." When asked about the difficulties they faced in policing Bagong Silang, PO Carol said they had 75 police officers on duty at any given time, assigned to a population of 250,000 individuals. This puts the police to citizen ratio at 1:3 333; almost four times above the national average. According to her, the difficulty comes from the huge number of cases of domestic violence. PO Carol said that much as they wanted to prosecute all the cases, it was impossible due to lack of resources and time – and in addition, prosecution was not necessarily what a victim wanted. She said complainants often came to the station to make a report, which would prompt an arrest. However, most would not follow through and file a case. The fact was, complainants only wanted the perpetrators arrested to teach them a lesson.<sup>17</sup>

In order to achieve some form of resolution, PO Carol counsels couples to try to salvage their relationship and avoid a lengthy and costly judicial process. According to PO Carol, if they were to prosecute all of the cases in Bagong Silang, especially cases of domestic violence, the city jails and courts would overflow. She also said that counselling is better than detaining husbands. Incarcerating fathers destroys families by depriving them of the breadwinner. PO Carol was proud of this form of 'assistance' and claimed it as one of the achievements of their office. However, her

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17 For similar processes in South Africa and Mozambique, see Jensen (2008) and Kyed (2009).

mood changed when asked about her relationship with the local government. One welfare officer had accused her and all her colleagues of being *magnanakaw* (thieves). Offended, she responded by saying, “Aren’t we all *magnanakaw* here?” During the interview, PO Carol hinted that in some instances they ask for *piyansa* (unofficial bail)<sup>18</sup> from the accused, especially if the case was problematic or if the accused was uncooperative. Nonetheless, she rationalizes her effort as a legitimate form of assistance and says that the money is only an added incentive for going beyond the call of duty. This may explain why PO Carol was offended when she was accused of being a *magnanakaw*. For PO Carol, the money gained from the *piyansa* was a legitimate and reasonable part of the transaction and the sum of the exchange was dependent on the demeanor of the suspect.

PO Carol’s account is illustrative of the problems the police face in their respective communities. While the lack of personnel, equipment and resources are apparent, the problems in the community require her to be more than a police officer; she also needs to be a social worker of sorts. As PO Carol becomes the counsellor, she transforms from an agent of the law to an administrator of both service and justice. The prevalence of informal practices in policing work may be partly explained by citizens’ subscription to the practice. In the face of an ineffective and inaccessible justice system people participate because results are swift and decisive. It is common knowledge in the Philippines that going to court is costly, time-consuming and potentially dangerous. For women who sought the help of PO Carol, having one’s husband arrested, undergoing counselling and hearing an expression of remorse is a more appealing prospect than indefinite periods of detention and a protracted judicial process. PO Carol, in this case, was more than willing to oblige as it resulted in swift resolution of cases, less paperwork and a bit of money. At the end of the day, PO Carol is proud of her work and is satisfied because of the ‘help’ she extended. She feels she has fulfilled the true meaning of her role as a public servant.

A similar willingness to engage in informal practices was observed in

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18 During the war on drugs the practice of asking for *piyansa* has been formalized as a highly profitable practice referred to as ‘Tokhang for ransom’. Tokhang is the Filipino term for the war on drugs and police officers are known to extort large sums of money from people they arrest. See Jensen and Hapal, forthcoming and news reporting, for instance <http://newsinfo.inquirer.net/863309/tokhang-for-ransom-cop-funded-by-group-that-wants-to-sabotage-pnp>.

other police officers. PO Gerry repeatedly emphasized the importance of following the rules. According to him; “we follow procedures ... we follow the process ... we investigate to ensure that justice is served to the victims.” Asked about practices of corruption among his fellow police officers, PO Gerry said: “I heard that people pay the police so that the police would not file a case against them. I do not agree with it because they did something that is against the law and they should face the consequences of their actions.” This is clearly the standard language of corruption in the police and PO Gerry has learnt it well. However, he shifted as he said: “For first-time offenders, I believe that they are not naturally bad, like some children who rob and steal. I try to help them as much as possible.” He continued: “I do not accept [bribes]. However, in minor cases, I try to help the accused too. If they give me money for snacks or gasoline, then I take it as a bonus.”

While PO Carol rationalizes her informal function as a form of help or public service, these actions are part of an exchange negotiated by the parties involved. While these exchanges are negotiated, the different positionalities and power differentials between the police, complainant and suspect dictate the process and outcome of the transaction. As an agent of the law, PO Carol is in a position to dictate the terms and influence the direction of the case. She could choose to implement the full punitive force of the law against the abusive husband. The wife – who simply wants to teach the husband a lesson by having him detained for a few days or hours – would be quite powerless to counter-negotiate. The position of power occupied by PO Carol and her ability to arbitrarily determine the trajectory of the case makes the wife and the abusive husband’s fate unpredictable.

The moment PO Carol offers to *help* the beaten wife, the relationship between parties is transformed. It opens the table for negotiations about the outcome of the case and for punishment to be given to the abusive husband. At this point, PO Carol assumes a function beyond her policing duties. Nonetheless, she continues to wield, albeit expanded, authority from her uniform. In this scenario PO Carol discerns the merits of the case, the guilt or innocence of the parties, the punishment due and its potential implications. In that sense, she becomes the judge, jury and executioner. The outcome is legitimized by the recognition of the wife and the husband of PO Carol as the embodiment of authority. The wife, the

complainant, subscribes to this informal mechanism as it delivers results that are consistent with her subjective sense of resolution and justice. The abusive husband, on the other hand, is punished in the form of a *piyansa* and a lecture on women's rights and good marriage practices. The abusive husband is bound to honour the agreements made or risk experiencing the full punitive force of the law or, in some instances, violence.

The opportunity structure for this type of exchange does not emanate from the *ganid* or moral ineptitude of PO Carol. Instead, it rests on the failures of the criminal justice system in the Philippines. Going through the judicial process, for both complainants and suspects, is punishing. Elsewhere, we have shown that around half the individuals who experienced some form of violence did not even report it, let alone pursue cases in court, because they believed that nothing would come of it; instead, most sought to resolve the cases amicably with the assistance of a person in authority (Jensen, Hapal and Modvig, 2013). For complainants, the appeal of engaging in the informal mechanism stems not only from the swift resolution of cases, but in the ability of parties to manoeuvre, negotiate and manage the situation. In one case of beating in Bagong Silang that we followed, the police were brought in to compel the suspect to pay for the medical bills of the complainant. They initially wanted to bring the case to court, but lost interest as it was too difficult. They called the police to resolve the matter but at a cost: they had to pay for the police's gasoline, *mirienda* (snacks), and *kape* (coffee). The suspect, apart from paying the medical bills, also gave money for his *piyansa* to avoid detention. Hence, when PO Gerry receives money for gasoline, it forms part of the *fee* to administer some form of justice. Likewise, when PO Carol receives money from *piyansa* it serves as the *fine* for committing an offence and, to some extent, for her counselling services.

This suggests that what would qualify as corruption (or thievery) in many ways forms part of a moral economy in a parallel but informal bureaucracy administering services, justice and punishment.<sup>19</sup> In this way, corrupt practices are transformed into fines and fees as part of transactions to facilitate something to the benefit of all parties. These informal and corrupt mechanisms are so deeply embedded in policing practices

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<sup>19</sup> We are indebted to Kaloy Anasarias, former executive director of Balay Rehabilitation, for this insight.

that, as Jimenez (2010) observes, in the streets they have developed their own symbols, languages, and rules. To add to Jimenez's observation, informal mechanisms also appear to reflect a system of moral hierarchy. For instance PO Ramon, commenting on corrupt practices, said: "I am angry at this system of shamelessness. If the person has a long record of crime [including police officers], up to the point of shamelessness, all will be better off without him." However, PO Ramon appears to employ an alternative sense of morality when judging his own acts as corrupt or not. According to him: "It is just right to get [dirty] money. It was illegally earned anyway." The police hierarchy, which we described above as partly governed by relationships of patronage, appears to also be at play in these informal mechanisms. PO Ramon continued: "Sometimes the chief would give us his blessing. In some cases, we act on our own judgment and let the chief know afterward."

### **Looking Back at Charlie: Connections to Violence**

Thus far, we have attempted to explain police corruption by looking at its connection with politics, exploring patron-client relationships within and outside the institution, and examining the salaries and status of police officers. We have also demonstrated how policing practices form part of an informal, albeit corrupt, judicial-legal mechanism. While violence has taken a back seat in our analysis, violence, in fact, plays a constitutive, albeit sometimes implicit, part in all the cases. In this regard, it is useful to return to Charlie in the police station. Charlie's case demonstrated how the police acted as facilitators of service and administrators of justice. In both instances, it warranted a *fee* to release the service and a *fine* to atone for his offence. In these encounters, the police invoked their official function to establish a vertical relationship and provide a semblance of legitimacy to the informal settlements throughout the negotiation process. But just below the surface, in Charlie's fears of PO Edgar and the cells, we sense the presence of violence as a lubricant and possible outcome of unpredictable negotiations with the police. This also emerges in many interviews with victims of torture.

In viewing the connections between corruption and torture, the most significant part of Charlie's story is his encounter with PO Edgar. Their encounter demonstrates the potential for corruption and violence. On one hand, how PO Edgar dealt with Charlie as he was falling asleep was

illustrative of his violent potentialities; the officer, especially in his drunken state, could have violated Charlie in a number of ways. Arguably, what saved Charlie from experiencing violence was the car as a symbol of class status. Hence, for PO Edgar, it would be best to *help* Charlie rather than *discipline* him. This prompted PO Edgar's initiative to negotiate with the mother on his behalf in an attempt to facilitate some form of resolution that could potentially warrant some remuneration from Charlie. Without the car, Charlie would have been faceless; a person with no status or bargaining chip. More importantly, he would become a mere offender that needed to face the full punitive force of the law or be punished in some other way. In understanding the connection between corruption and torture, it is important to point out that both may be constituent parts of an informal justice mechanism. The imposition of fees, fines and violence forms part of the police's response to criminality drawn from an acute, albeit subjective, sense of justice and morality. In that sense, PO Edgar would be right in disciplining Charlie violently had he been as 'victimizable' as so many other poor, indigent people of the metropolis are, especially in relation to the war on drugs where thousands of young, indigent men have fallen casualty to Duterte's national disciplining policy.

While PO Edgar seemed singular, we expect his deliberations to be shared by others. According to PO Ramon: "[We beat] those who are *maangas* [or boastful], resist arrest and are very disrespectful. If they go quietly, don't make a fuss and look decent, we don't beat them up." PO Ramon continued: "If we know the person is good-for-nothing, we really beat them up. The case is different when the police really just like to beat up people. If they are set free, they are likely to do crime again. How many families will they kill? If they are repeatedly arrested and are seen as having no chance of leading a good life, then that is the time we must kill them."

PO Gerry, on the other hand, said: "I cannot blame some police officers if they torture some criminals because some criminals never learn their lessons. It is their way of disciplining these criminals so that they will not do it again." He continued: "I am angry at the criminals who rob and kill people. I also hate those who rape women. Sometimes I want to kill them but I know that we have to follow certain processes. The problem with these criminals is that they do not think of the families of

the people that they are going to kill.” Drawing from PO Ramon and PO Gerry’s perspective, violence as a form of discipline and punishment is visited on particular individuals. What is more, most residents in the Philippines would agree. They are tired of what they see as a criminal scourge to the extent that they voted in a president whose fame is based on killing criminals in death squads.<sup>20</sup>

To illustrate the use of violence, torture and killing as a means of discipline and punishment to achieve justice within the informal mechanism, we look into the encounter of Kokoy, Dennis and Vilma with the police. The case illustrates how the police deal with what they call *scum*, and how they discipline offenders to address and prevent criminality. Vilma and Dennis were hanging around Kokoy’s house when the police stormed in. The officers were looking for the people involved in stealing a motorcycle. Dennis, Vilma and Kokoy, though denying the allegations, were brought to the station. The police insisted they were responsible for stealing the motorcycle. Dennis recalled: “They were provoking us during the interrogation, forcefully tapping our chests and slapping us in the face. They covered our heads with plastic bags. They even threatened to kill us. We denied their accusations.”

Dennis, who was arrested with his 14-year-old brother, was beaten up that afternoon. According to him, it was Kokoy whom the police were targeting. Vilma, on the other hand, was not hurt. People knew that his brother was a police officer in a province outside of Metro Manila. Nonetheless, Vilma suffered from threats and insults. He recalled: “I was not hurt. They just shouted at me and threw insults about my looks. I was just unfortunate to be there during the apprehension. While the others were being beaten up, I stayed at the police station and cried. I pleaded with the police to stop and told them that we had nothing to do with the theft. But they insulted me, telling me I was a beast – a *rare species* – and that they should use me as an asset because I look really intimidating.” Dennis and Vilma feared for Kokoy’s life as he was notorious in the community.

However, Kokoy was also known to be closely affiliated to a human rights organization in Bagong Silang. Immediately after their arrest, a number of Kokoy’s neighbors set up a picket outside of the police station.

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20 See <https://www.theguardian.com/world/2016/may/16/duterte-vows-to-kill-criminals-and-reintroduce-hanging-in-philippines>

Eventually, Dennis, his brother, Vilma and Kokoy were released. According to them, the police did not ask for money but they were threatened that they would be killed or at least charged with possessing prohibited drugs. A week after the incident, Kokoy left Bagong Silang and settled in a distant province.

This was not the first time Kokoy had been arrested with a clear threat to his life. More than once, the police had asked for PhP 5 000 (USD 100) for his *piyansa* when they detained him. However, in 2014, he was arrested by several officers, loaded in a van and told that they would be going for a *biyabe* (on a journey). In police lingo, a person being sent for a *biyabe* suggests that the person will be executed. *Biyabe* or CODE 00 is similar to the term *salvaging*. Elsewhere (Jensen & Hapal, 2014), we discuss the term ‘salvaging’ as part of the counter-insurgency efforts of the state; saving the nation from the threat of communism by killing its proponents. In the post-democratization context, salvaging commonly refers to killing people who are seen as *salot sa lipunan* (the scum of society).

The police consider recidivists and people who rape, rob, kill and push illegal drugs to be *salot*. The treatment of Kokoy may be attributed largely to the police’s efforts to get rid of a perceived *salot*. What saved Kokoy were his connections with the human rights organization and the actions taken by the people from his neighborhood. Dennis and Vilma, on the other hand, did not have the same reputation as Kokoy. Nonetheless, their connection with Kokoy warranted violent disciplining. In the case of Vilma, the disciplining measures were constrained by the fact that his brother was a police officer. However, he was still subjected to the discriminatory tendencies of the police against transgenders. Dennis and his brother, who claimed to be simply in the wrong place at the wrong time, got the worst treatment as they did not enjoy the connections Vilma had.

## **Conclusion and Implications for Human Rights Work**

While the incident was clearly in contravention of several laws, including those prohibiting torture, locally it had not contravened the norms of policing. Rather, it was part of locally sanctioned (by police officers and residents alike) practices of justice administration in which fees, fines and disciplines are all part of a continuum that sometimes, sometimes not, involves violence as both ill-treatment and torture. Let us conclude

by considering a few of the implications for human rights work that arise from this analysis.

Firstly, it seems evident that many of the corrupt practices are part of legitimate systems of adjudication, disciplining and justice to the extent that human rights training may not be a simple solution. Effective training is based on trainees not knowing how the system works. Our data suggests that they know all too well how the system works and that their practices are part of dealing with the system as it is rather than how it should be. When asked directly about torture they even indicate their support for it. Hence, rather than denouncing the practices outright, human rights organizations must attempt to understand the rationalities behind the practices and try to agonize with police officers about their practices.

Secondly, the data indicates that torture and corruption are seldom far apart; instead they are part of a continuum of discipline and fines. This suggests that to get at torture and ill-treatment it might be possible to access the problem via the road of governance and institutional reform. Furthermore, states are much more likely to prosecute their own people on corruption charges than on torture charges. Addressing corruption may, in other words, be a way into addressing torture and ill-treatment as well.

Thirdly, torture and corruption are entangled in intricate ways. Our case studies have shown that power, politics and money are entangled with torture and ill-treatment, as is corruption. Hence, torture is a structural issue with deep historical roots, not to be isolated to a few periods of war or dictatorship. To address torture in this context is to align the fight against torture with a much more mundane politics; it becomes a different struggle. Thus we argue that the opposition between torture and corruption that president Duterte suggests is false, because corruption and torture are entangled and cannot easily be separated. Hence, human rights organizations must align themselves with other political forces that fight corruption – because in the final moment, those two fights are inseparable.

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# Torture and Corruption: Violent Exchanges in Marginalized South African Communities

By Malose Langa, Hugo van der Merwe, Themba Masuku and Steffen Jensen

According to the 2015 Corruption Perceptions Index, South Africa ranked 44th (unchanged since 2014) out of 168 countries surveyed for perceived levels of public sector corruption. These findings show that perceived levels of corruption appear to be a major concern for many South Africans. Corruption Watch (a national non-governmental anti-corruption organization) recorded a steady increase in perceptions of corruption in its first few years: 1227 in 2012, 1312 in 2013, 2714 in 2014 and 2382 in 2015. (Despite the perceived 2015 decrease, the national Auditor-General's report on national and provincial audit outcomes for the 2015-2016 year, released in November 2016, indicates that irregular expenditure had increased by 80% from the year before ).<sup>1</sup> Common categories are abuse of government resources, procurement corruption, bribery, and corruption in employment (Corruption Watch, 2015). Given all these, the dominant public view is that corruption is becoming normalized; that it is a way of life in which those who need services must pay bribes in order to access certain privileges.

In his study 'Law for Sale', David Bruce (2012) shows how law enforcement agencies such as metro police in Johannesburg have become synonymous with corruption due to the regular practice of demanding bribes from motorists. Bruce (2012, 2014) found that these acts of corruption are not limited to metro police officials but are common across various government entities, where people are expected to pay bribes in exchange for certain favors. What emerges from Bruce's (and others)

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1 <http://mg.co.za/article/2016-11-16-government-state-owned-entities-topple-billions-in-irregular-expenditure>

analysis is that it is an exchange between those who have power and those who do not; those who wield legitimate violence in the name of the state and those that are subjected to it. It is this issue we examine below: what are the links between torture and ill-treatment<sup>2</sup> on the one hand and corruption on the other?<sup>3</sup>

The problem of torture in post-apartheid South Africa must be understood within its historical context. Under apartheid, political activists were the most likely target of torture (Cawthra, 1993; Brogden and Shearing, 1993). However, this appears to have changed since 1994. Today torture and ill-treatment seem aimed mainly at the most vulnerable members of society: non-nationals (particularly undocumented ones), unemployed young black men and sex workers (Jensen, 2014). While police ill-treatment, which sometimes amounts to torture, happens for different reasons, much of it happens with the specific purpose of extracting payments and asserting authority.

In this chapter, we examine the link between corrupt activities and the threat of ill-treatment or torture. We examine how law enforcement uses force or threats thereof to extort money and services from vulnerable groups and what effects this has. Our argument is twofold: firstly, along the lines of existing research (UN Report, 2014: 17), our analysis confirms that, while corruption is detrimental to everyone in a society, it disproportionately affects those who occupy vulnerable positions in relation to state power. Secondly, our analysis suggests that on the ground the police and policed are entangled in many ways in what, building on the Introduction to this volume, we refer to as 'violent social orders'. In these violent social orders resources, authority and violence are intimately connected while actors are positioned differently in terms of their abil-

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2 The Convention against Torture and Cruel, Inhuman and Degrading Treatment does distinguish between torture on the one hand and cruel, inhuman and degrading treatment – what we refer to as ill-treatment – on the other. Without going into detail (see Dissel, Jensen and Roberts (2009) for elaboration) torture requires a higher level of severity and clearer purpose and intent than ill-treatment. However, both torture and ill-treatment are covered by the Convention Against Torture. Hence, in this chapter, we use the term torture and ill-treatment and we only distinguish when it is important to understand the example.

3 For the purpose of this chapter, corruption is defined as abuse of public position or power for private gain. The UN Report on Corruption differentiates between grand corruption and petty corruption. 'Grand corruption' refers to the abuse of a position of power by senior government officials that may include large sums of money or other benefits, while 'petty corruption' is about people's experiences with corrupt public officials when using public services, and generally involves modest sums of money or other favors (UN Report, 2014, p.16).

ity to navigate the often unstable terrain, as Henrik Vigh (2006; 2009) would suggest.

This chapter draws on research conducted in the Johannesburg inner city and in peri-urban townships on its margins, along with evidence from other research sites and key informants involved in protecting the rights of marginalized groups. It also draws on prior analyses conducted in relation to the work of the Centre for the Study of Violence and Reconciliation (CSVR) in South Africa over the past decade (Harris, 2001; Dissel, Jensen and Roberts, 2009; Bruce, 2010; Langa, 2012; 2013; Thomas and Langa, 2015). The chapter focuses primarily on foreign nationals, specifically because research conducted by the CSVR points to how the vulnerability of foreign nationals increases their risk of being victims of corruption and torture by law enforcement officials.

The chapter also covers torture experiences of young black men in their encounters with law enforcement officials. It appears that young black men's failure to pay bribes due to their unemployed status or defiance of law enforcement officials' authority increases this risk. This echoes the findings from the Philippines in this volume. Lastly, the chapter engages with the experiences of sex workers – a group who are particularly vulnerable to being threatened and tortured by law enforcement officials as part of exchange relations of money and sex. All these cases point to a clear relationship between torture and corruption. The findings in this chapter show that poor foreign nationals, young black men and sex workers are all at risk of torture, and that law enforcers exploit this vulnerability by extorting bribes. It may at first be difficult to observe a direct connection between corruption and torture. However, it is important to recognize that, while corruption can exist in these interactions without torture, the presence of torture is almost always a clear indicator of corruption.

We organize our argument in five sections. First we address the patterns and links of torture, ill-treatment and corruption in South Africa. This provides the context for the subsequent three sections in which we explore how the above three vulnerable groups experience and cope with the links between authority, violence and money – or what in the Introduction to this volume we call violent exchange. In the first section, we explore how inner-city migrants constantly strive to evade and cope with the extortionist practices of the police. In the second empirical section, we turn our attention to the townships as a radically different social con-

text. In spite of the differences, criminalized young men also have to deal with links between violence, authority and money. In this section, we also develop the argument of violent social orders, showing how the young men are caught in struggles between different violent networks where money and resources are never far away. In the third empirical section, we explore how sex workers cope with the extortionist relationship to the police and how they are caught between often indistinguishable criminal networks and the police. In the final section, we provide some concluding remarks and relate the findings to some possible policy implications.

## **The Persistence of Torture and Corruption: Patterns and Links**

There are a number of international conventions and charters prohibiting torture and ill-treatment, including the Universal Declaration of Human Rights, the Geneva Conventions, the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples' Rights. These conventions and charters stipulate that no one should be subjected to torture or ill-treatment. The United Nations Convention against Torture (UNCAT) is one of the most referenced conventions when it comes to the prohibition of torture worldwide. As part of its transition and in an attempt to distance itself from the apartheid legacy, the new South African government signed many of these conventions to prevent and eradicate torture and ill-treatment within its territories.

The prohibition of torture was also directly incorporated into the new South African constitution, which states that every person has the right to be free from torture and ill-treatment. Section 12 of the Bill of Rights states that everyone has a right not to be tortured in any way and not to be treated or punished in a cruel, inhuman or degrading way. Section 35 (subsection 1) states that everyone who is arrested for allegedly committing an offence has the right not to be compelled to make a confession or admission that could be used in evidence against them. Furthermore, subsection 5 of Section 35 states that evidence obtained in a manner that violates any right in the Bill of Rights must be excluded if it would render a trial unfair or otherwise be detrimental to the administration of justice (South African Constitution, 1996).

In June 2013, the Prevention and Combating of Torture of Persons Act 13 of 2013 was finally promulgated and published as the law that

criminalized torture in South Africa. The new torture Act adopts word for word the UNCAT definition of torture as:

Any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him[/her] or a third person information or a confession, punishing him[/her] for an act he[/she] or a third person has committed or is suspected of having committed, or intimidating or coercing him[/her] or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in, or incidental to, lawful sanctions. (Republic of South Africa (2013))

In this chapter, the term ‘torture’ is used not restrictively but expansively, to include Cruel, Inhumane and Degrading Treatment (CIDT). Article 16 of UNCAT obliges all countries in the world to prevent acts of CIDT<sup>4</sup> even if they do not amount to torture as defined by Article 1 of UNCAT.

UNCAT recognizes the need for a multifaceted approach to combat torture by combining prevention, education, accountability and victim rehabilitation. As a result of this multifaceted approach, the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) was adopted in 2002, which the South African government also ratified to prevent torture in places of detention such as prisons and police cells, and in military and immigration detention centers (Streater, 2008).

However, despite all these conventions and laws, torture and ill-treatment still continue to be a common human rights violation in post-apartheid South Africa. Over the past few years, allegations of assault and torture against the police have continued to rise. For the period 2012-2013 the Independent Police Investigative Directorate (IPID) recorded 4 131 cases of assault and 50 cases of torture. The 2013-2014 report recorded

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4 In terms of Article 16 of UNCAT states are required to extend the prohibition of torture to include CIDT, as follows: “Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in Article 1, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.”

3 916 cases of assault and 78 cases of torture, which increased to 145 cases of torture in 2014-2015. The Judicial Inspectorate of Correctional Services (JICS) has recorded a similar increase in torture and assault in prisons: in 2012-2013, 3 370 cases of assault and 83 of torture, rising to 4 203 cases of assault and 191 of torture for 2013-2014. These findings resonate with much of the research carried out by CSVR over the past decade (Dissel, Jensen and Roberts, 2009; Bruce, 2010; Langa, 2012, 2013; Thomas and Langa, 2015). These reports and studies show that in spite of the constitutional reforms introduced after the legislative end of apartheid in 1994, torture has not been eradicated, but rather continues to characterize policing practices in the present.

If torture and ill-treatment continues to constitute a huge challenge in the security forces, so does corruption. IPID's 2014 report recorded 84 cases of corruption, 12 cases of systematic corruption and 23 cases of misconduct against the police. The JICS reported 1 048 cases of corruption for 2013-2014. Both reports recognize that the fight against corruption remains a challenge, and both give the majority of incidents as cases of extortion or solicitation of bribes.

While IPID and JICS refer to torture and corruption in the same reports, they are not explored together but rather as separate issues relating to human rights and governance respectively. However, through the work of CSVR and its partners across the world, a clear link has become apparent in the course of a number of studies (Langa, 2012, 2013; Thomas & Langa, 2015). It emerged clearly in these studies that law enforcement officials often used their sovereign power and authority to demand specific favors and those who were policed were being persuaded to respond in a particular way in order to avoid violence, including torture. There is an implicit language which was well captured in Hornberger's (2004, 2011) work that foreign nationals know that they continuously need to pay bribes to law enforcement officials to avoid being harassed, arrested or possibly tortured. Paying bribes (*tjo-tjo*) to law enforcement officials was mentioned as something common by many South Africans who participated in the National Crime Victim Survey. It is reported in this survey that seven percent of the South African population indicates that they have been victims of police corruption on the streets (Bruce, 2012). About half a million people in Gauteng and Johannesburg had been asked to pay bribes in relation to traffic incidents (Bruce, 2012, pp.

23-26). In this study, Bruce details how paying bribes to metro police officials is so normalized that many motorists know once they are stopped they immediately need think about 'cold drink' (lingo for bribe money), even if they have not violated any traffic rule.

While seldom directly expressed, violence is never far away. In his book 'The Thin Blue Line', Jonny Steinberg (2008) suggests that corruption forms part of the 'unwritten rules' of what constitutes respectful behavior between those who police and those who are policed. According to Steinberg, failure to comply with these unwritten rules may lead to violence or 'street justice', as Van Maanen (1978) calls it. This is the fear that many motorists shared with Bruce in his study: refusal to pay *tjo tjo* may escalate to violence. The case study discussed below of a young black man who refused to pay a bribe illustrates this well. The youth was so severely assaulted that he needed seven operations and remained hospitalized for months. It is through this case study, and many others documented in this chapter, that torture and corruption are shown to be intimately linked. Although this link is not obvious in each individual incident, it emerges through an extensive analysis of how power and authority work in shaping these interactions.

The position of power that law enforcement officials occupy gives them both the authority and the opportunity to use force, whether legally or illegally. The authoritative position of law enforcement officials often leaves vulnerable groups in a 'victimizable' position. Law enforcement officials rely on their position of authority to justify their violent acts. In this way, individuals (and whole groups) are rendered powerless, with their only escape being to pay the bribe.

## **Policing of Foreign Nationals in the Inner City of Johannesburg**

Despite South Africa's progressive legislation regarding torture, law enforcement officials violate non-nationals' human rights on a daily basis. A few years into the transition, law enforcement officials began to identify and arrest non-nationals as the 'other' on the basis of their cultural and physical features, including hairstyles, accents, vaccination scars and dress style (Harris, 2002; Adjai and Lazaridis, 2014).

Already then, these features were seen as markers or signifiers of difference. This has only grown more pronounced in recent years. The xenophobic violence across South Africa since 2008 has highlighted the role

of symbolic and other social markers in the identification and stigmatization of and discrimination against non-nationals by law enforcement officials and the public in general.

Altbeker (2005) found that police officials are often resentful towards non-nationals. They see non-nationals as a burden and as adding to their workload. In addition, police face pressure from the public to do 'more' to deal with non-nationals, who are stereotypically seen as committing crimes and engaging in other illicit activities, such as selling drugs. It is claimed that non-nationals are arrested in large numbers during police raids and patrols in order to boost and manipulate crime prevention statistics, as well as to demonstrate to the public that they are doing something about non-nationals (Vigneswaran & Hornberger, 2009). Vigneswaran and Hornberger (2009) see these kinds of practices as a form of surrogate policing or public performance policing in which easy targets, such as non-nationals, are used as a substitute for 'real' criminals.

The use of violence against these vulnerable groups is *informally* seen as part of the job (Matshedisho, 2011). Furthermore, many studies indicate that police elicit bribes from arrested non-nationals in exchange for freedom (see for example, Altbeker, 2005; Faul, 2010; Landau et al., 2005; Polzer, 2005; Steinberg, 2008). For example, one police officer was quoted in Faul's (2010, p. 208) study saying, "we would go to this location around Sebokeng and would say to the illegal immigrants, you must pay fee or we are taking you in". It is asserted in many studies that it is common for South African police to demand that illegal immigrants pay *tjo-tjo* not to be arrested (Altbeker, 2005; Steinberg, 2008; Vigneswaran & Hornberger, 2009). Indeed, one police officer described non-nationals as "walking ATMs (automatic teller machines)" (Faul, 2010, p. 208) due to the fact that many carry cash in their pockets as they do not have access to banking facilities in South Africa. Faul (2010) found that some law enforcement officers use force against non-nationals who do not have money or refuse to pay a bribe. This was also confirmed in the studies that CSVr conducted over the last few years (Langa, 2012, 2013; Thomas and Langa, 2015). In the latest CSVr study (Thomas and Langa, 2015), participants (mainly Somalis) shared stories of metropolitan police<sup>5</sup> com-

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<sup>5</sup> South African police are composed of national police (South African Police Service) and metropolitan police who are responsible mainly for traffic law enforcement.

ing to Mayfair (an area in Johannesburg where so many Somalis live that it is known as Little Mogadishu) and impounding their cars:

**Male Somali Participant 1:** Metro police ... they took four cars. And some of them have given bribe and they have taken back their cars. And some who never paid, they are going to pay R2 400 (USD 170).

**Male Somali Participant 2:** They tow the car, if you want to bribe, you bribe, and then they give you back. It's R2 000 (USD 140), maybe they take R500 (USD 35). They release your car. Sometimes they demand R1 000 (USD 70), because they will tell you, "for sure you will need to pay R2 000, so better pay half". And instead of paying R2 000, they'll say "why you don't pay R1 000". So that is what normally happens. Okay. It is like every day – what I have is metro police – they are harassing us and threaten to cancel our driver licences if we don't pay bribes.

In this study, two Somali interviewees shared accounts of metro police officials becoming violent and aggressive if they refused to pay bribes. Many Somalis narrated that they had no choice but to pay these bribes for their own economic survival. They spoke about feeling helpless and powerless in that situation, as the perpetrators are law enforcement officials who should be protecting rather than abusing them.

It also emerged in the study that it was not only metro police officials who target Somalis but also the national police. The participants narrated how police often come to Mayfair and demand that they pay bribes as they accuse them of selling stolen goods:

**Male Somali Participant 2:** Normally what happens is – it's supposed to be metro police who are around. So if it's the police who came on the scene they just leave. So the other day the police are here and they see they are [bringing] tickets and whatever the metro – they just leave.

**Researcher:** So they take turns?

**Male Somali Participant 2:** They take turns. It's like that. So that's what I told you, when metro are here, police won't come. They always compete about who comes first to Mayfair, but sometimes they come together.

Similarly, Bruce (2012) found that metro police officials and members of SAPS collude in committing acts of corruption. It is evident from the CSVR study that metro police officials and the police see bribery as the norm. According to Amir, the chairperson of the Somali Association in South Africa, based in Johannesburg, foreign migrants who are arrested and are unable to pay bribes to the police are subjected to violence and are often sent to Lindela detention center. According to Amir, Somali migrants are less likely to find themselves in Lindela than migrants from other countries because “they have the money to pay their way out” of police custody. He stated that Malawians were often beaten because they did not have money to give to the police (Thomas and Langa, 2015). He said many Somalis are businessmen and would not want to spend a night in jail as this may cost them financially. It is common for them to pay bribes in order to avoid imprisonment: “We tell them not to pay bribes”, he stated, “but they feel they do not have choice but just to pay” (Thomas and Langa, 2015).

The CSVR study concludes that the relative powerlessness of non-nationals leaves them vulnerable to corruption in their dealings with law enforcement officials. Non-nationals described paying bribes as a daily routine done for their own survival and to prevent being harassed or mistreated by law enforcement officials. This appears to be different with how law enforcement officials treat young black men in the townships. With regard to young black men, the motive is also usually corruption. But an additional impetus seems to be the need to instil fear and assert authority, especially in situations where law enforcement officials may have felt disrespected when young black men defy their authority. Violence is therefore used to assert and reinforce power and status relations, rather than simply to illicit bribery, as with foreign nationals.

### **Criminalization of Young Black Men: The Reproduction of a Violent Social Order**

Crime statistics and crime victim surveys confirm that townships and informal settlements are characterized by high levels of violent crime, especially armed street robberies. Many people in these communities do not report cases of crime to the police as they feel police are not doing much to arrest suspects (Jensen, Naidoo and Polatin, 2011) and that police are also corrupt in working with drug dealers (Jensen, 2008). For the period of 2012 to 2015, CSVR undertook a study in the township

of Kagiso, west of Johannesburg, to explore how police treat young black men on its street corners. The fieldwork involved hanging out on street corners and talking to young men about their violent encounters with the police. It was evident in this study that young black males were exposed to regular abuse and harassment at the hands of the police. Gender, class and race play a role in how police chose potential targets of torture and ill-treatment (Langa and Merafe, 2012). Similarly, Jensen (2008), in his ethnographic work on gangs and violence in Heideveld, Cape Town, also found that *skollies* were at high risk of being harassed and abused by the police. He describes the stereotypical *skollie* as: “A young coloured male who refuses to work for a living and more often is involved in criminal activities. He has tattoos and is more often untidy as he is always high on drugs” (pp. 5-6). According to Barker (2005) and Jensen’s research, being ‘young, male and black’ puts one at risk of police harassment and abuse. It seems that police, relying on stereotypes of race, gender and class, categorize all young black males in townships as being *hypersexual, sexist, aggressive, unruly and violent* (Barker, 2005; Jensen, 2008; Langa & Merafe, 2012). To put it more aptly, one station commander was quoted in Jensen’s study as saying:

Your average law-abiding citizen lives in specific middle-class areas, whereas the problematic groups lived in the townships; you can say most people in the townships are gangsters. (Jensen, 2008: 128)

Jensen argues that policing of low-income communities such as Heideveld in Cape Town is characterized by violence and antagonistic attitudes towards the police. Police see their use of violence as a means of instilling discipline among ‘*skollies*’ while community members see police as abusing their authority and also as being corrupt in taking bribes from ‘real’ criminals and drug lords. However, there are mixed views about police violence against the street corner boys who are perceived as being responsible for crime in their neighborhoods. On one hand, community members condemn the police’s use of violence but on other hand, the same community members feel that police are not doing enough to deal with crime or criminals (Jensen, 2014). Reacting to high levels of violent crime in South Africa, many people seem to believe that it is acceptable for police to use violence when interrogating suspected criminals (Horn-

berger, 2013). The dominant public view is that criminals have many more rights than their victims.

High levels of crime are also used by the police in their efforts to legitimize and justify their violence against suspected criminals: such rationalization is embodied in the infamous ‘shoot to kill’ statement made by the former commissioner of police, Bheki Cele. Another former police commissioner, Riah Phiyega, in her address delivered in the immediate aftermath of the August 2012 Marikana massacre, described the brutal killings that took place there as “the best of responsible policing” (Bruce, 2013). There is little public sympathy for criminal suspects, which can also be seen in the rise of vigilantism, where criminal suspects are harassed and in some cases beaten to death by community members (Harris, 2001; Baroslky, 2015; Buur, 2005; Jensen, 2005). Muntingh (2011) argues that because today many victims of torture are criminal suspects, “this does not evoke the same moral condemnation like when victims were political activists under apartheid” (Ibid: 45).

Given these public perceptions, the young black men interviewed in the CSVr study expressed feelings of powerlessness and helplessness as there was no recourse for them in relation to the violations suffered at the hands of law enforcement officials. Many mentioned that it was common for police to randomly stop and search them for no apparent reason. Many asserted that ‘they are used to being harassed by the police, that to them it is no longer a human rights issue but a way of life’. One participant put it succinctly when he said: “It [police harassment] happens every day and we are all used to it. You will say thank you if they don’t arrest and take you to the police station, but only harass or call you all kinds of names and not use any violence.” Many participants in the group interviews echoed this view that “police harassment and violence happen all the time”. Some participants shared narratives of being routinely harassed and arrested by the same police officers for no apparent reason. It was argued that walking or standing in a group always attracted the attention of the police, who would often stop and ask what participants described as ‘silly’ questions.

Furthermore, participants also reported that police violence commonly happens on weekends as the police often arrest them for public drinking. All the participants mentioned that they had been arrested for public drinking. As a result of all these experiences of being harassed, manhan-

dled, or verbally abused by the police, many participants questioned the police's effectiveness in dealing with crime. Their argument was that police were wasting state resources driving around and looking for drunken people to arrest or demand bribes from. Some participants narrated stories of being driven in police vans and left stranded in remote neighborhoods or even towns, or being asked to pay a R150 (USD 10) fine for drinking in public. Participants reported paying bribes of R30 or R50 (USD 2 or USD 3.60) to the police so as not to be arrested or assaulted. This was mentioned as a common practice through which police officers demanded bribes.

Some participants also shared experiences of violence in which they were not so lucky in their encounters with the police, especially when they refused to pay bribes. One participant shared an experience of being severely assaulted by the police for drinking in public. This participant refused to buy police 'cool drink' (pay bribe) for him not to be arrested. Police interpreted his refusal as an act of defiance of their authority or a refusal to comply with the 'unwritten rules' (Steinberg, 2008). He was therefore assaulted and left unconscious in the street. He showed us bruises on his ribs during the interview.

In another incident, a participant and his friends were stopped by the police during a roadblock. The participant was on the passenger side when the police demanded that the driver pay a bribe for the fact that they had liquor in the car. As they were neither drinking nor drunk, and were in fact on their way to a Christmas function, the participant openly told his friend not to pay any money as they had not broken any law. While he was clearly in the right, this turned out to be a serious mistake, as the following excerpt from our interview illustrates. It began with the police demanding "Why is the driver not answering?"

I said "I don't know why the driver is not answering". So this one police officer slapped me. Then everything just started there. Another one kicked me in my private parts. Then out of anger I said: "You don't have to beat me up." So I said to them: "You are not going to get a bribe because you have beaten me up." And that's what made things worse. That is when they pepper-sprayed me in my eyes. Another policeman hit me with a fist in the stomach and they threw me into a police van. The other policemen saw everything but they did nothing. They said they wanted to deal with

me because I was talking too much or thought I was clever. They took me to the police station and took the other guys to another cell. They kept me in this room at the police station. They then undressed me, and now the beating got serious because when I went out there I was feeling like I did not have ribs. My hands were fucked up. My ribs were seriously damaged. After they beat me, they took me to the cell where other guys were kept. They took my clothes and I was left naked. I fainted in the cell. The other guys tried to pour me with water and I could hear them saying, "this guy is dying". My stomach was also painful because they badly kicked me on the stomach. My girlfriend came to the police station the day after my arrest and paid a bail of R900 (USD 70) for me to be released. I immediately went to the hospital. I was admitted and the doctor told me that I had major internal injuries. I was operated. Since then I have had seven to eight operations. I have spent so many months at the hospital. I still bleed now and then. I'm really fucked. I can't run, I just walk but not run. I feel pains all over my body. I'm also fucked up psychologically. For example, I have been to the hospital about 10 to 15 times this year alone. I have exceeded my sick leave at work. I cannot work. I cannot carry heavy things. My right side of the rib is painful. I was working as an operator with heavy machinery before I got all these injuries, but now I cannot work with that machine. I lost my job. Another doctor told me that I had serious internal bleeding. That's why they made a hole and inserted pipes in my private parts. I struggle to urinate now. I had been with my girlfriend for more than 10 years, but she decided to leave me. I was not able to support her because I'm no longer working. We were also not able to have sex because I could not maintain erection.

These two case examples clearly demonstrate the link between corruption and torture. The two participants were severely tortured for refusing to pay bribes or play by the rules of engagement between those who police and those who are policed. In the two cases, police thought their authority was being challenged. In his seminal work on how police categorize different people, John Van Maanen (1978) defines this form of violence as part of 'street justice', meaning police officers often use violence to discipline and assert their power over young males who seem to be challenging their authority. Van Maanen argues that police officers refer to young males who defy their authority as 'assholes'. He contends that

'assholes' are more likely to be the recipients of what police call 'street justice'- a physical attack designed to rectify what police take as a personal insult or challenge to their authority. Furthermore, Van Maanen (1978) argues that 'assholes' are the most vulnerable group to street justice, "since they, as their title implies, are not granted status as worthy human beings" (Ibid: 10-17). It seems that being defiant undermines the police officers' sense of what they consider to be their authority. This was confirmed by two participants' cautionary observations:

Never tell police about human rights because they will hit (the) shit out of you.

Never speak English with police because they will (think) you are arrogant and start beating you up. You must just keep quiet and listen to them and show respect.

Elsewhere (Jensen, 2008) we suggest that police officers often use force as way of obtaining cooperation, but also to assert authority. One police officer said: "You have to be violent to do this job. Believe me, I hate myself for having to act in that violent manner but if you don't, you will not (be) able to do the job" (Ibid: 135). It appears that the use of excessive force against young black men is often used to demonstrate who has power over the other. Many participants narrated their experience of being harassed by the police as a form of emasculation rather than confirmation of their hegemonic masculinity. This affirms Whitehead's (2005) argument that the male person who is assaulted by another male person in the context of torture is rendered unmanly or emasculated. This sense of emasculation emerged vividly in the following narrative in which the officers beating the participant included women. In his narrative, the participant said: "I am angry. I feel useless because I was beaten by a woman and men who looked my age." For this participant, the most distressing part was not only being beaten up by the police, but that some of the officers were women. This seemed to have affected his sense of manhood as he was quite emotional when relating the experience in the interview.

In the two cases presented above, to some extent the police and the victims of the cruel, inhuman and degrading attacks appear to belong to different social worlds. However, townships are an intimate social world

where young men and individual officers often know each other quite well or have a history of encounters. Furthermore, young men and police officers are far from the only important actors in relation to violent encounters. Our previous research carried out in Cape Town (Jensen, 2008) suggests that young men are caught between at least three violent networks: the police, the vigilante or neighborhood watch groups, and the drug dealers. While it is tempting to distinguish between criminal networks, civil society groups and the state, our data suggests that these groups are often enmeshed in different ways.

This is confirmed in a remarkable study carried out in a Gauteng township by Katja Koch.<sup>6</sup> She describes the complicated negotiations that young, drug-abusing men must engage in to survive. In one interview a young man describes how if he is caught by the police carrying drugs he must either pay the officer or point out the dealer who sold him the drugs. If he picked the latter option, the officer would get money from the dealer and the youth would later have to contend with the wrath of the dealer. The same young man describes how one of his friends was killed by a mob after he was caught stealing. Furthermore, as Koch notes, many police officers live in the neighborhood, and they cannot ignore the other violent networks.

What we gauge from Koch's work and our own research is the existence of what, drawing on the Introduction to this volume, we can identify as violent social orders in the townships where entangled relationships – often impossible to admit to the existence of – structure the constellation between violence, money (or resources) and authority. This came out clearly in a meeting organized as part of CSV's work in Kagiso. In the meeting, the local station commander implored the community to come forward, because, as he suggested: "We can do nothing without the community. It is you, the community, who know who the criminals are." While this suggests, implicitly, collusion of community members in criminal activities or knowledge through networks of the criminals, the assertion, repeated in many similar meetings, also exonerates police of knowledge of criminal activities, let alone involvement in such activities. The police frame themselves as outsiders to criminal activities. However,

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<sup>6</sup> Katja Koch conducted fieldwork in relation to her Master's thesis. Her field work was partly funded by Dignity: Danish Institute against Torture (then RCT) and co-supervised by Steffen Jensen, who also assisted her in gaining access.

a young man who had been at the receiving end of police brutality and later became involved in CSVR work, would not let the station commander get away with this. He stood up and shouted: “You are the one who knows the criminals. You are always sitting drinking with them.” He was pointing out that in townships it is very hard to be a successful drug dealer or criminal if one does not have relations with the police. As we have shown elsewhere (Jensen, 2008) certain drug dealers often have long-standing relationships with certain police officers. On top of this, townships are often dominated by local political factions that work with the police, sometimes with the local gangs and often through the use of violence. This produces a complex web of entangled allegiances that cannot be reduced to binaries like state-non-state or legal-illegal and which are inherently complex to negotiate or manoeuvre. Katja Koch shows in her thesis work just how young men, like the one who spoke up in the meeting, are caught in these complex webs that produce what Henrik Vigh (2006) usefully calls ‘slippery terrain’.

While these violent social orders are more visible in the townships due to the intimate relationships there, they are arguably also a feature in the inner-city communities described above. They are surely also a critical element in relation to sex workers, which is where we turn now.

## **Sex Workers as Easy Target of Police Violence and Corruption**

Although the number of sex workers in South Africa is not known, the first survey that was conducted by South African National Aids Council (SANAC) in collaboration with SWEAT (Sex Workers Education and Advocacy Training) and Sonke Gender Justice estimates that currently approximately 153 000 people are engaged in sex work (SANAC, 2013: 4). The study shows that the highest number of sex workers in South Africa is concentrated in border towns and large urban centers. The study by SWEAT (2012) showed that violence against sex workers at the hands of the police was frequent. This finding was confirmed in the studies conducted by CSVR with sex workers in Hillbrow and representatives of lobby groups for the rights of sex workers in 2012 and 2014 respectively (Langa, 2012; Thomas and Langa, 2015). Below are excerpts from the interviews that CSVR conducted with sex workers about their violent encounters with the police:

**Researcher:** And is it common for police to be harassing you?

**Sex worker 1:** Yes. Long time ago it was difficult, but it is better now because we are working from the rooms. But that time I was working from President Street. So I used to get arrested by police almost every Friday. I'd pay R300 (USD 22) every Friday. It was in 2010, I was new in the streets. So people were running away and I didn't know where to run. The gate would get locked when the police came. If you were in you were in, and if you were out you were out. So the van came from this side and I was running the other side. There was a taxi parked and I hid next to it, but they saw me. One policeman took out a sjambok (a rubber whip) and hit me.

**Sex worker 2:** The police would come here and arrest us. Like, they would come to the rooms. They came to the room and found my roommate and me. They peeped through the keyhole and we refused to open. We eventually unlocked the door and they arrested us. They then took us to Faraday [Street] and then we bribed them with R200 (USD 15) each.

Sex workers in the CSVR study complained about having to pay bribes to the police to avoid being arrested and assaulted. They also spoke about being sexually abused by the police.

**Researcher:** And in terms of abuse, are there cases where police even harass you sexually?

**Sex worker 1:** Yeah, some will say for you to be released a police officer would go and have sex with you if he [desires you]. It has happened to me.

**Sex worker 2:** It happens a lot of times [having sex with police].

Sex workers in this study feel helpless and hopeless about getting any assistance as prostitution is illegal in South Africa and police take advantage of this:

**Sex worker 2:** Even some other girls end up dating those policemen so that they can get them out. If they are not the ones that just want to have

a good time and then let you go. Some end up having relationships with them and you didn't even love him, so that he could get you out. Sleep your way out.

**Researcher:** Do you report all these incidents of being sexually abused by the police?

**Sex worker 2:** No, I don't, because where will I go? I just become happy that I'm out of jail or I have not been arrested.

The participants have sex with police for survival reasons, and to avoid going to jail or paying a fine at the magistrate's court. Some asserted that these experiences were traumatic. The participants were emotional when sharing some of these stories of sexual abuse at the hands of the police.

It is against this backdrop that Fulton (2013) argues that recognizing sexual abuse as a form of torture, especially when it is committed by state officials such as police officers, has important legal consequences. Fulton maintains that such recognition of sexual abuse as a form of torture "may be useful for rape survivors at a broader policy level. This jurisprudence can also be drawn on in public interest litigation at the domestic level, for example in administrative law or constitutional challenges to the practice of state officials in their response to rape" (Fulton, 2013: 25). Nowak (2006), then the UN special Rapporteur on Torture, affirms this view and argues that "classifying an act as 'torture' carries a considerable additional stigma for the state and reinforces legal implications, which include the strong obligation to criminalize acts of torture, to bring perpetrators to justice and to provide reparation to victims". The legal implications of defining rape as torture when it occurs in the context of police detention or authority are of critical importance to challenging the impunity with which the crime is now practiced (Thomas and Langa, 2015). Currently, in terms of IPID annual reports, several police officers found guilty of rape were not tried in criminal courts but were disciplined internally through SAPS processes. The IPID has raised concerns that some of the serious cases of sexual abuse were treated trivially by the SAPS disciplinary structures. Some officers accused of rape were given 'final written warnings' or dismissed without any thorough investigation. It is alleged that some internal SAPS disciplinary inquiries are also corrupt (Thomas

and Langa, 2015). Both disobeying the law and failure to ensure that justice is done in cases against the police have wide-ranging consequences, including intensifying the feelings of helplessness and powerlessness experienced by victims of police violence.

In the case of sex workers the fact that their means of survival is considered illegal by the state renders them vulnerable to ongoing abuse by the police. Sex workers are policed to maintain a specific moral order. The police know that sex work is illegal and as a result act as moral 'guardians' while at the same time violating sex workers' rights by demanding sexual favours. Given the threats of violence, sex workers are left feeling powerless and helpless as there is no legal recourse for them to get any assistance. All the sex workers in the CSVN study asserted that they often do not bother to report their cases to the police. Many sex workers wish to remain anonymous by not reporting their cases. They reported that the police do not take their reported cases seriously. In fact, police further harass them when they go and report their cases of abuses. The only strategy that sex workers have is to try and remain invisible to reduce their risks and demand for bribes by trading in places that are not accessible to the police.

However, sex workers not only have to negotiate their relationship with the police. They also need to negotiate relationships with male clients who abuse them, as well as their pimps, who simultaneously protect and abuse them. All these abuses occur due to the illegal nature of sex work which renders them vulnerable and victimizable by law enforcement officials, clients and pimps alike. While we have not conducted specific research on this matter, this testifies, again, to the existence of violent social networks that cut across state and non-state in the protection and exploitation of economic activities constituted by sex work and with the sex workers at the short end of the stick.

## **Conclusion and Policy Implications**

Findings in this chapter show clearly that the indelible links and entanglement between torture, ill-treatment and corruption constitute a major human rights problem in post-apartheid South Africa. In many cases in this chapter, bribes were paid to avoid being subjected to violence, or excessive force was used to punish lack of payment. Foreign nationals, young black men and sex workers are constantly arrested, harassed

and subjected to multiple forms of violence due to their vulnerable status. Despite – or exactly because of – this vulnerability police violence is viewed as legitimate, primarily by police but also by broader society. All the groups continue to be at risk of abuse by the police because of xenophobia, stereotyping and marginalization of outgroups, and criminalization of sex as work in South Africa. Some forms of torture and ill-treatment in the chapter were linked to corrupt activities and to abuse of power and authority by police. The police also used other techniques that amounted to mental torture, such as threatening foreign nationals that they would be taken to a repatriation camp and deported, as a way of instilling fear to extort bribes.

In some cases, torture and ill-treatment occurred with no expectation of getting money from the victim (Thomas and Langa, 2015). In these cases, police were using violence as a way of asserting their authority over a person and reinforcing their status in a community. This is particularly the case with young black men in the townships. The reaction of many foreign nationals and sex workers is to avoid becoming a victim by playing by the unwritten rules. This is how the relationship between the police and those they routinely victimize is pervaded by the normalization of police violence and extortion (Thomas and Langa, 2015). Victims get to a point where they see violence as something acceptable and part of the police's job. These relationships have become so institutionalized that at times victims, acting out of fear, initiate the payment of a bribe even before it is solicited.

Readers may legitimately ask whether these three vulnerable groups stand out in relation to corruption. As one reader of this chapter noted: "Every time I have been stopped by the police (whether I have done something wrong or not) I have either paid a bribe or done whatever they have told me to do without questioning it (even though I know it may be illegal) – not only because that is just the norm but because I am scared of them, scared of what they will do. I certainly don't expect them to follow the law but rather I anticipate that they will do something dodgy – whether that involves some form of violence or not." However, the chapter has shown that vulnerable groups are exposed to severe forms of violence or threats of violence. While violence is a constant undercurrent in David Bruce's analysis of traffic corruption (Bruce, 2012), the violence is seldom actualized. Not so in the case of the three vulnerable

groups explored above, where violence is a constant element and where their vulnerability is the very reason they are exposed. Young men in the townships *will* be beaten up; sex workers *will* be abused sexually, and foreign nationals *will* be hit for money. And because they are not always able to pay, incidents seem to more often end in violence when an exchange interaction goes wrong.

However, the chapter also indicates the existence of what we may call 'violent social orders', in which the vulnerable groups are caught. These violent social orders may look different according to the context. In the inner-city areas, some migrant groups have been able to monopolize certain resources and some migrants have entered into specific relationships with certain police officers. In the townships, police, vigilante groups and drug dealers are part of different violent networks between which the young men (often criminalized due to drug abuse) must negotiate. Sometimes they are able to pay but most often they become the victims of violence because they cannot pay or because they are forced to name (rat on) specific individuals. Finally, sex workers also need to negotiate between organized criminal groups and the police, both of whom want a share of both their earnings and their services.

What, then, are the implications of this analysis in terms of intervention? As the links between torture, ill-treatment and corruption are still underexplored, it is important that future research studies are initiated. However, based on what we already know, it is possible to suggest some avenues for further action.

Firstly, while corruption is endemic and pervasive (Groebler, 2014) it is arguably less difficult for the state to admit than torture. Thousands of cases against corrupt police officers are brought to the courts and to disciplinary boards across the country. Indeed, a police chief has been tried and jailed for corruption (Basson, 2010) while in contrast, torture and ill-treatment are difficult for the state to admit, as material from Britain indicates (Kelly, 2012). Hence, if the links between torture, ill-treatment and corruption are indeed as strong as our material suggests, then fighting corruption might constitute a different, frequently travelled but less direct avenue to address torture and ill-treatment.

Secondly, the victimizability of vulnerable groups often hinges on their precarious and often illicit survival practices. Sex workers, young township men and migrants transgress rules and norms that render them easy

prey to police sanctioning: sex work, drugs and illegal presence. While these are hugely different domains, the overarching policies guiding them have tended to focus on strict policing control. Hence, it is worth considering that lowering the criminalization of these domains would provide police with less bargaining power in their violent exchanges with the vulnerable groups. This could involve decriminalizing sex work and *dagga* – or short of decriminalizing them, imagine a more ‘peaceful’ war on drugs, illegal migration and sex work. Apart from the good such relaxation might bring it could also significantly lower the possibilities for violent exchanges and reduce the torture and ill-treatment so prevalent in post-apartheid South Africa.

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# Gendered Violence in Informal Settlements in Kenya

By Liv Gudmundsen, Line Vestergård Hansen and Steffen Jensen

In this chapter, we explore the relation between corruption and torture and ill-treatment from a gender perspective. When we survey the literature on corruption and torture, remarkably little attention is paid to issues of gender. Against the grain of these gender-neutral analyses, our ethnographic work in two Nairobi informal settlements suggests that gender is an integral part of the relationship between violence and money and across the blurred boundary of state and non-state, and that men and women simply experience and act upon this relationship differently. By focusing on women, we are able to explore how women engage in violent relations (including state-perpetrated ill-treatment) and extortionist practices with a host of violent actors, including police, criminal gangs, and intimate partners. Women in the informal settlements need to be cognizant at all times and navigate to avoid violence and extortionate practices. We ask: how do women in informal settlements encounter and cope with related practices of violence and extortion, and what does that tell us about the gendered nature of violent exchange?

In relation to the overarching theme of the present book, we explore gender as central for understanding the relationship between money and violence. We understand gender as something people do, perform and construct socially, and that gender intersects with other markers like age, ethnic group and urban-rural location. Hence, gender, social acts and relations are mutually constitutive and rendering gender inseparable from social life (Butler, 1990; Ortner, 2006). We understand the meaning of violence as well depends on the gendered relationships in which it is embedded. These relationships are contextual and used (by men and even women) to explain, naturalize and justify violence (Merry, 2009). Our main argument is that gender is a crucial lens when trying to grasp the relations between violence

and money. In this way, the main conceptual contribution is to locate gender as a central and animating force in the relationship between violence and money as it plays itself out in urban settlements in Nairobi.

The Introduction to this volume explores the relation between violence and corruption within the conceptual frame of violent exchange in more general terms. In this regard our focus on gender, at least in the context of Nairobi, has been fruitful. The larger project of violent exchange, hosted by Dignity<sup>7</sup>, began working in Nairobi in partnership with a local human rights NGO, IMLU (The Independent Medical and Legal Unit). The first sub-project explored media and grey literature reports to understand the relationship between torture and corruption (IMLU, 2015). The media analysis suggests that there indeed exists an intimate relationship between torture, ill-treatment and corruption. It also indicates that corruption and torture impact men more than women. This raised questions in the team about how men and women experience corruption and torture differently. In the fall 2015 Line Vestergård Hansen and Liv Gudmundsen conducted ethnographic fieldwork exploring gendered violent exchanges among female residents from two informal settlements in Nairobi. Hence this chapter is both build on media study, victimization survey and ethnographic data.

We organize our argument in three sections. In the first two sections we situate our analysis in the larger landscape of Nairobi and briefly introduce the findings from the media and grey paper analysis. The third and main section comprises an analysis of three cases in which gender, violence, money and resources are entangled in the production of particular gendered threats to livelihood and limb of women in precarious informal settings. These cases build on 6 months participation in household chores and women's everyday life. In the first case, we explore the relation between the local police and families living in poverty. We do this by looking at women living without men and how they engage in particular relationships with the police. It illustrates how women perceived as single mothers and sexual objects face particular forms of threat from the police. The second case explores how the relationship between money and violence is animat-

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<sup>7</sup> The project was funded by grants from Dignity, as well as from the Danish Council for Social Science research and the British Economic and Social Research Council in conjunction with Dfid in relation to the research project on Documenting Torture and Ill-Treatment in Low Income Countries, run by Tobias Kelly at the University of Edinburgh.

ed by informality. While both men and women experience risks of violence and extortion, we explore female risks by looking at the relationship from a married woman's perspective. This illustrates how informality, or what Guy Standing has recently called precarity (Standing, 2011), puts people at specific risk *and* that these risks take on a specific outlook for women. The form that their informality assumes simply puts them in specific kinds of risk situations. Thirdly we explore how the informal legitimization of violence against women is reproduced by violent networks through examining the case of a murdered woman. By tracing the case, we are able to gauge the presence of and competition between what we, in the Introduction to this volume call violent social networks encompassing police as well as criminal and political networks. Criminal networks and the police are intimately intertwined and this has specific, although not unique, consequences for women and their vulnerability to violence.

These three cases demonstrate that we cannot and should not reduce gendered implications to a mere question of women. Rather, we need to pay attention to gender issues not least in relation to violence, as feminists have argued for decades (Stoler, 1995; Sideris, 2007).

### **Situating Violence and Corruption in Nairobi's Settlements**

The sun is burning and there is not a single cloud in the sky. The air is full of dust and smoke. Small houses made of metal sheets and mud are densely packed, and many residents have added a rickety upper floor. Standing on the top of the tallest building in the informal settlement, it looks like a rust-coloured maze, with narrow dirt paths running between the clusters of houses that make up the settlement. The small pathways are always crammed with laundry, small fireplaces and people sitting in the shade. Children and chicken run around everywhere. It feels like walking in a small village yet it is Nairobi, the fifth largest city in Africa.

We are just a few kilometers from Nairobi's city center in the two informal settlements, Kinyago and Kanuku, located in the Kamukunji constituency of Eastleigh. The settlements are the homes of approximately 20 000 residents, and the area measures around 200 x 200 meters. The residents are a mix of most Kenyan tribes, and they all live in a setting marked by high levels of poverty, unemployment, and high levels of violence and crime.

Kenyan settlements have generally been described as localized matri-

focal societies functioning within the context of a wider framework of patriarchy that is still pervasive in Kenya (see Spronk, 2012). Patriarchal values permeate notions about ideal life for both men and women, which prescribe that men should be head of households and hold authority over women and children. This affects the power balance between and status of men and women and prescribes how both must act. Social, economic, and political changes, such as unemployment, urbanization, poverty and social inequality, have generated changes in the way men and women relate to each other. These socio-economic transformations have caused changes in marriage relations as men leave to find migrant work often with the consequence that men are absent in families' everyday lives.

This leaves room for constant negotiation about gender relations by both men and women. These negotiations are most often shaped by patriarchal norms that both men and women struggle to fulfil (Van Stapele 2015). For men it is difficult to be financial providers due to high levels of unemployment, and for women it is difficult to take care of the house while they do casual work in other places. Margrethe Silberschmidt (2005) reached similar conclusions in her study on masculinities in East Africa. The prevailing gender norms, along with a putative crisis of masculinity, produce a challenging terrain for women to negotiate. Violence and extortion are never far off in their endeavours to survive.

Dignity, along with the Independent Medical & Legal Unit and the University of Edinburgh, carried out a quantitative survey on experience and perceptions of violence in the settlements during 2013 and 2014.<sup>8</sup> The survey showed that 24.8% of the respondents had been direct victims of violence and half of these victims say that the violence had economic consequences (Kiama et al., 2016). When conducting follow-up interviews some of the victims narrated how police would ask for a bribe, and if the requirements were not met, they would be arrested for a crime they had not committed. The consequences would often be a night in jail and a court appearance the next day, meaning they would miss work. Furthermore, the survey results suggested that the majority of perpetrators of violence in the area are family members (43.4%) followed by the police

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<sup>8</sup> The survey forms part of the research project 'Documentation of Torture and Ill-Treatment in Low-Income Countries', funded by the ESRC.

(25.5%) (ibid). Therefore it is not surprising that corruption and violence are frequent topics of conversation in the settlements. Kenya has suffered from widespread corruption since independence. This is evidenced in most sectors of public life. Petty corruption, bribery, embezzlement, and electoral irregularities are some of the main corruption challenges Kenya faces today (TI, 2016). In 2015 the Transparency International corruption perception index ranked Kenya 139 out of 168 countries, putting Kenya among the 30 most corrupt countries in the world (TI, 2015).

In terms of violence Kenya also stands out. The proportion of people who reported violent experiences in the survey is shockingly high at 41%. Of these, more than 50% of victims were women (Kiama et al., 2016:28). Other studies confirm these findings. Studies done by USAID shows that 45% of women between 15 and 49 years old have experienced physical or sexual violence in Kenya, and the percentage rises in areas with low socioeconomic status (USAID, 2016). These high rates of corruption and violence not only permeate everyday social life in informal settlements, but also get significant media attention.

## **Media Representation of Violence and Corruption**

Kenyan media, researchers and human rights organizations devote considerable energy to documenting both corruption and violence. Questions such as how to decrease corrupt transactions and how to document the violent and corrupt practices that take place are often asked. This political and media attention was the background for a brief media study of the connection between corruption and violence, which was carried out by IMLU and Dignity as part of the larger research programme on violent exchange (IMLU, 2015). The study is one of the first attempts to examine the link between corruption and violence. In Kenya, as elsewhere (see Introduction to this volume) corruption and violence are usually examined as separate phenomena. The media study comprises a content analysis of 392 documented sources, divided into three categories: Newspaper stories, books and reports, and case files from IMLU. The contents of these are analyzed and presented in quantitative form. We focus here on the conclusions relevant to our focus on gender, violence and money.

The analysis concludes: “As a category ‘male’ scored higher than ‘female’, signaling the fact that men are more vulnerable to the kind of human rights abuses reported than females” (IMLU, 2015). However, in

the books and reports surveyed, the general category of ‘both male and female’ scores highly, and a significant number of newspaper stories do not bring out the gender differentiation. The report urges more in-depth treatment of the question of vulnerability, particularly from a gender perspective, a call, which we attempt to heed in this chapter. The reviewed sources fail to give sufficient explanation as to why men appear to be more vulnerable than women (IMLU, 2015). The analysis shows that casual workers, farmers, small business owners and students are some of the groups most exposed to violence and corruption. In Kenya the term casual worker often refers to unskilled day-to-day labor. The files show that casual worker is by far the most frequently mentioned group of victims (36%), with students in second place some way behind (14.2%) (IMLU, 2015). Additionally, literature on violence and corruption shows that people with low socioeconomic status are often victims of violence (Arias 2001, Haugen & Boutros, 2014). Poor people have few economic alternatives, and where corruption is the norm, they are even more vulnerable to exploitation (Hasty 2005; De Sardan 1999).

Finally, the content analysis illustrates that the regular police force is a key perpetrator of both violence and corruption. However, other units are involved as well, including criminal gangs, prison wardens, guards and political leaders. In sum, the content analysis illustrates how both state and non-state actors are involved in cases of violence and corruption, and concludes that it is important to investigate in what way these actors are involved (IMLU, 2015). We address this in the next three sub-sections.

### **“Men Just Want Our Bodies”**

Carefully, we walk down Kinyago’s narrow main street, eyes down to make sure we do not slip in the mud or step in the trash lying scattered around. We take a left at the second dirt path running downwards towards Nairobi River. Small streams of water run from the soaked clothes hanging between the small tin houses. Four young women that we have come to know quite well are sitting on the edge of the open sewer, laughing and joking with each other as they take a break from the laundry. In their own account they are all single mothers who do informal work to get by. Much of the talk is about men, and how they only use women for sex. They often all talk at once and make exaggerated gestures. They are called ‘the single mothers’ by other people in the settlements. They strug-

gle to pay school fees for their children and to put food on the table. They live together, and if one of them finds a way to earn money, she will buy food for all of them to share.

The oldest of the single mothers, Mary,<sup>9</sup> is a tough woman in her mid-30s. She often keeps silent when the other women talk and joke around, but almost always with a smile on her round face. She grew up in the settlement with her mom and dad and seven siblings. She dropped out of class 5, when she was 11 years old, because the family did not have enough money to pay school fees. She started to help her mother as a street vendor. After a couple of years her mother got a steady job cleaning for the government, and she saved up enough money to buy the home where she lives today. It is a fairly large house relative to the other houses in the settlement. It consists of one big room, and the women can only afford to live in the house because they do not have to pay rent, since her mother bought it a long time ago.

When Mary was 20 years old she had her first son with a man from Tanzania, who also lived in the settlement. Such cohabiting is locally referred to as 'come-we-stay marriage'. This is an informal and unstable but socially recognized form of marriage. Four years later she gave birth to their second son, but the relationship began to deteriorate. Over more than four years she suffered physical and psychological partner violence. She experienced severe beatings, and she and her sons were starved and locked inside the house for several days. When her boys were eight and four years old, the man left and she went to live with her parents. "Since then I have raised them alone without his help," she says with pride in her voice referring to her sons. The same year of the separation, Mary's dad died and her mother took very ill and died a couple of years after. After the parents' death, she lost touch with most of her family. According to Mary, the lack of contact is due to her being poor and living in an informal settlement. The other single mothers have also experienced severe partner violence, which is why, in their own account, they now live without men.

However, living without men comes with a price. With no men to provide for them, they have to work, and during casual work they have to

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<sup>9</sup> All names in the ethnographic cases are pseudonyms.

put up with sexual harassment every day. They tell us that if they are hired to clean, men will often grope them while they are working or refuse to pay for the work if they do not have sex with them. As a result they leave the job with no payment. They have all considered selling their bodies to provide food for their children. "These are just the conditions, but even though we need the money it is not worth it. Then it's better to starve," the women explain, laughing as they imitate men who grope women.

Mary's oldest son, David, is 14 years old and has finished school when we meet the family. He is looking for casual work. He explains that it is very tough to be a young man without a job in the settlement. "If the police see you on the street they might shoot you."

David and his best friend Max are often arrested by the police. Max is an orphan and is also part of Mary's household. The police often frame them with drugs or weapons and detain them in custody. During our fieldwork these arrests became more and more frequent. According to Mary this was because Christmas was drawing nearer and the police need extra money to buy presents for their families. Demanding bribes to release the boys is an alternative income source.

The day before Christmas Mary received a call informing her that David and Max had once again been arrested. She told us that they were being beaten and kept naked in a cell at the police station. Her phone rang many times. The police were asking for 10 000 Kenyan Shillings (about USD 100) to release the boys. In her efforts to solve the problem Mary left the house several times, and she ended up pawning their DVD player and begged her neighbors for money to get them released. When going to the station, Mary would bring the other single mothers, so as not to have to be alone with the police, which scared her. She is very scared of them. She explains:

The police are very intimidating and always make sexual comments, and they often ask for sex instead of money. First, we beg the police to let the boys go, we beg and we beg. Then the police ask us to go outside and wait, and we wait and wait. Then they call us in, and we keep begging and begging, and then we pay whatever we can.

They often go back and forth many times, trying to negotiate the price of the bribe. It was rare that the women had all the money the police

asked for, but after a while the police become impatient and settle for the amount the women can provide.

The case illustrates a number of points relevant to our understanding of how gender relations animate the relationship between violence and money. Firstly, as suggested by Veena Das (2008), it is crucial to include gender in the study of violence. Das argues that violence is internalized and embodied in gender. Thus men and women experience and are exposed to violence differently. Secondly, we need to pay attention to social relations, not least those between young men and their mothers, as this is pivotal in understanding police violence (Salo, 2003). Thirdly, historical trajectories have shaped the present production of knowledge about gender and sexuality, including patriarchal norms, in Nairobi, as Rachel Spronk (2009) has argued. This suggests that patriarchy influences particularly single women's vulnerability, including in relation to the state and the police.

When David and Max were arrested the relationship between gender, money and violence is clearly articulated. The policemen use physical violence against the boys as a means to get to the women's money. It was an exchange in which the police force the women to hand over money in return for them to stop violating the boys and setting them free. This relates crucially to the way young men figure in the public imagination as threats and as legitimate targets for disciplining and retributive violence. Hence, in Kenyan media and public discourse they are blamed for the high level of violence and crime in the country and are seen as irresponsible lazy drunks (cf. Wamucii & Idwasi, 2011; Van Stapele, 2015). Young men in informal settlements are not only 'othered' as ghetto boys and non-citizens, but are also increasingly seen as a risk to society (cf. Were, 2008). To bring down the violent crime rate the Kenyan government introduced the 'shoot to kill' policy in 2002. As a result, more than 8 000 extra-judicial killings by Kenyan police have taken place, targeting primarily young men in Nairobi's informal settlements (Van Stapele, 2015). This policy causes grave insecurities and worries among young men and their families, as the above case shows.

These stereotypes animate crucially how Mary goes about protecting her sons. She makes sure that David and Max always have their student ID on them, even though they are not in school anymore. According to Mary, this is one way to minimize the number of arrests, since it helps

convince the police that they are going to school and thus should not be seen as criminals. This does not always work, at which point a new situation ensues. When the victims, like David or Max, are young and dependent on their parents, their family members are often implicated in settling the case, largely through paying bribes to let the boys out unharmed. Thus, in addition to the constant fear of losing their boys, the threats and violence from the police also constitute a major economic challenge for the women. According to Mary, she pays between 700 and 5.000 Kenyan shillings (7 to 50 US dollars) to get the boys out of custody each time. This constitutes a hefty toll on the family's income, which amounts to around 600 Kenyan shillings (6 US dollars) a week. They have to consider all possible options to access the demanded funds, and sometimes the boys ask Mary to sell their phones so they can raise the money. The arrest described above is not an isolated incident. According to Mary, the boys are arrested every month. If Mary is not busy trying to get the boys out of detention, she is worried about when they will be arrested again. This insecurity is a big part of her everyday life and much of her energy is used to ensure that the boys are not in danger. Every day she worries that they will be arrested and wonders what she can do to keep them safe. In this way, violence is not an extraordinary event but part of ordinary life, as Veena Das (2007) would argue.

While the boys are clearly victims, our focus on women reveals the extent to which women are affected too, both as mothers and as sexual objects. Police access women through their sons, both as able and willing to pay a ransom and as sexual objects. As Mary and the single mothers say: "Because we are women, men just want our bodies." Sexual violence is by no means a rarity in their lives. The women all recount terrible stories of how they were often raped by their partners. They fear getting raped when going to the police station and while doing casual work. The police often threaten them with violence and sexual assault when they are negotiating the bribe and begging for the boys to be let out. Thus women face a specific type of violence – sexual harassment, rape and fear of rape – due to their gender.

Their predicament is more pronounced because the single mothers live together without men. When we ask Mary if she ever miss having a man in her life, she is adamant that she is much better off without a man. He would not be able to provide for her and her children, and

he would try to control her and make her work for him, she explains. This is despite the fact that living with a male authority is the norm in the settlements. None of our interlocutors, who live with a man in the household, experience the same harassments as single women nor are their children arrested by the police. Since before colonial rule, Kenya households have been characterized by male authority as well as ideas of manhood that define men as heads of households and main breadwinners for, and protectors of, women and children, which are still prevalent today (see also Silberschmidt, 2004, 2001; Hunter, 2006; Lindsay and Miescher, 2003; Hornsby, 2012). These patriarchal norms affect Mary's everyday life. Living without a husband in a place where the presence of a man gives respect and status to a family makes her more exposed. Both the police and other residents in the settlements know that they are single mothers, turning them into easier targets than women with husbands (World Bank, 2011). Mary has to go to the police station and negotiate the bribe – a responsibility that, according to Mary and many other women in the settlements, is a man's duty. Living without men means doing men's work, including leaving home to go negotiate with the police, exposing themselves to threats and harassment in the public space of the police station.

The prominence of men in the public and political sphere and women relegated to the private sphere constitutes an internalized gender division central to perceptions of an ideal life in the settlements (Hornsby, 2012). Living without husbands while subscribing to the ideal gender division illustrates the ambivalent relationship single women have with the dominant patriarchal norms in their society. Arjun Appadurai describes this as generally characteristic of people living in poverty. He argues that poor people are not obviously hostile to the dominating norms of society, but they will often show distance and irony about these norms (Appadurai, 2004; Salo et al., 2010). This is clearly true for the single mothers. Nonetheless, their life as singletons comes with the price of added threats to their lives, their livelihoods, their bodies and their children in ways that are specifically gendered.

### **Gendered Violence and Precarious Survival**

It is morning and as usual the settlements appear peaceful. Many have already left for work and the rest are just waking up. Joyce, who is 42 years old,

has just finished sweeping the floor and washing the dishes from yesterday's dinner. She does not do the dishes right after dinner, since it is too dangerous to leave the house to get water after dark. After finishing her daily chores, she sits on her green couch decorating small brown pieces of leather with beads. She sells these to shoe makers at the Kariokor market very early in the morning. They will be used as decorations on flip flops and sandals. Joyce is far from the only one making these small decorations; she has to get to the market before sunrise and her competition. Her income supplements her husband's income and enables them to feed their five children and pay for school fees. Her husband is also a casual worker and spends most of his time on the street looking for jobs. Joyce has struggled all her life to earn enough money to get by. She grew up on her parents' small farm in western Kenya. When she was 13 years old her parents could no longer pay her school fees, and she started helping her mother as a street vendor. Since then Joyce has had countless informal jobs. When she was 19 she met her husband. In the beginning they moved around in search of work. They ended up in Nairobi. At one time Joyce had a permanent job at a medicine manufacturer but the work was bad for her lungs, and when she got pregnant her supervisor told her to quit for the sake of the baby.

Sitting on the green couch, she explains that she cannot just sit at home doing nothing when she knows that her husband is struggling. This is why she decorates these small leather pieces to sell. Then at least she can buy food for the children. While she does not always earn anything, she likes this job, because she only has to go to the market a couple of times each week. This allows her to look after their children and do her chores in the house. When she had other jobs her husband would complain, because she did not have enough time to cook for him and the children and clean the home, which according to both of them is the woman's duty. For Joyce it is important to fulfill a wife's obligations in the family and at the same time supplement her husband's income.

However, the job is not without risks. While Joyce works with her beads, she explains that on her way to the market she has to pass a deserted military air base. This is one of the most dangerous places in the settlements. There are no streetlights and no houses, and it is a hangout for criminals and local gangs. Joyce describes how one particular morning on her way to the market she was approached by a group of young boys from the settlement:

They told me to give them my money. From other women I have heard that they take a big wooden stick and put it on your neck. They will do it so hard that you fall down to your knees. I was very afraid that they would do that to me as well. I told them that I did not have any money, since I was on my way to work. Then the boys asked for my phone. I handed it to them, but when they saw it was an old phone, they got upset.

Joyce shows us her broken old grey Nokia phone and continues explaining that it is not something the boys can resell. They want smartphones. Due to her fear of getting beaten as badly as some of the other women in the settlements, Joyce promised the boys that she would save the money she earned and buy them a new phone. Joyce tells us that she was very relieved when the boys decided to let her go, but she also knew that she could not walk that route anymore, since she would never be able to get enough money to buy a smartphone. She explains that after the encounter with the boys, she started to take the bus in the morning, although it is a big expense. Still, she is very scared when it is dark. She explains:

It is not safe for women when it is dark. I am scared that I will be robbed, assaulted or kidnapped. It is much more unsafe for women because they are weak. If someone tries to steal a phone from a man, he can fight back where a woman cannot. I pray to God that nothing will happen.

Joyce's case illustrates at least two points relevant to our main argument. Firstly, her story illustrates how gender and socioeconomic position are intimately related. Poverty and a precarious social position are actualized in a manner that puts women at particular forms of risk. Put differently, gender and informality produce particular forms of danger. Secondly, in a context of informality, resource exchanges do not always include money but can work through the exchange of material objects and bodies. Let us consider each of the two points in turn.

In recent years, precarity and precarious livelihoods have taken on prominence in much scholarly literature. Guy Standing's account of precarity (Standing, 2011), for instance, has propelled the concept to the top of many policy agendas. However, as Jan Breman correctly states in his critique of Standing's work (Breman, 2013), what Standing identifies as a global transformation of class into increasing degrees of informality is

nothing new; it has in fact dominated life in many parts of the Global South for centuries. Like the rest of Africa, Kenya's economy is linked to global capitalism. This has produced a largely mobile population of what James Ferguson, working in South Africa, has called surplus people (Ferguson, 2013).

In many ways, the struggles of Joyce and her husband illustrate this point as they have occupied and tried to escape precarious living conditions for their entire life, moving between the countryside and the city in search of a stable life. Again, in this they have been joined by millions who have migrated to the big cities (Chant & McIlwaine, 2016). These endeavors have all been characterized by a large degree of informality interspersed with a few stable stints in the formal labor market – which at times have turned out even more strenuous than informal employment (Silberschmidt, 2001, 2004).

Furthermore, Joyce has to compete with others working in the informal economy. In several ways, this puts her at risk. As Yolett Etienne argues, competition weakens crucial self-help networks, since Joyce and her peers enter a relation of competition rather than of cooperation (Etienne in Davis, 2006). Furthermore, her precarious position in the urban economy puts her physically at risk of being violated by gangs as she has to move through spaces during times that increase risks. Her choice is then to revert to public transport, which increases her economic vulnerability and the consequent worries of not being able to put food on the table. While these risks are not unique to women, they take on a specific quality in relation to women. A recent report by the UN's Economic Division for Africa concludes that around 80% of women in Kenya are casual workers in the informal sector, with the majority living in informal settlements (UN, 2015). Joyce states that she feels more vulnerable to violent threats like robbery and assault because of being a woman.

This echoes the first case with the single mothers, who are also exposed to sexual harassment and sometimes denied their pay for casual work because of their gender. In this way, the relationship between violence and precarious socioeconomic positions is thoroughly gendered.

The second point relates to how informality leads to other forms of exchange than purely monetary ones. In the cases of both Joyce and Mary we note that money is not the only item exchanged. Joyce did not have the money required by the youths, so they demanded her phone. David

Miller argues that things have social meaning and can become important cultural elements; they can contribute to defining social relationships and create or reproduce social hierarchies (Miller 2005). Joyce's phone becomes a means of negation of the power relations in play, even though the phone did not live up to the perpetrators' expectations. The youths perform their authority on the future as well as the present, and Joyce shows a submissiveness that ensures she does not get beaten up, either that day or on subsequent days. While it might appear naïve on the part of the youth group to wait for payment at the risk that Joyce will dodge them, it seems clear that the debt incurred on the part of Joyce has effects. She has to pay elsewhere (for public transport) and entire parts of the informal settlement become inaccessible.

In Mary's case too, money does not absolve her as demands are made on her body. In this way, the female body becomes a means of negotiation, when the police ask the women for sex as an alternative to a monetary bribe. Accepting sex as a currency is not a new phenomenon. In Kenyan society before British colonization, according to Luise White, sex for money was seen as a way for a daughter to pay her father's debts, a way for her to add value to the economy, and a way to be independent and responsible for her own income (White, 1990). Hereby, White addresses some of the patriarchal norms structuring a daughter's obligation to pay her father's debt, but at the same time she challenges these norms by concluding that sexual payments render a woman more independent. We also identified sex as a common form of payment for some women during our fieldwork. Here, it functions as an alternative way of paying either gangs or policemen in the absence of other resources. Contrary to White's interlocutors, all the women we spoke with felt autonomous not when having sex, but rather when saying no to this form of payment. This illustrates the intimate relationship between the body, violence and resources.

Examining the relation between gender, violence, and money in the light of precarity and informality reveals that, when living in economic uncertainty, women often do not have sufficient resources to 'pay' what the perpetrators demand right away. This means that non-monetary payments come into play. In Mary's case she has to pawn her DVD player and beg her neighbors for money to get the boys out of custody. In Joyce's case, because she is unable to buy a smartphone she has to take another

route to the market. In both situations threats of violence function as a way for the perpetrators to get what they demand. Hence, focusing on the intersection between gender, informality and violence reveals that exchanges are not necessarily monetary; they take different forms (sex, domination through violence or threats, or material objects).

## **Violent Networks and the Legitimacy of Domestic Homicide**

We walk down the muddy main street in the settlements and we immediately become aware that something is afoot. Small groups of people are standing on corners whispering and gossiping. We soon learn that Lucy has been brutally murdered by her ex-boyfriend, a tall man called the Captain. Lucy was a casual worker selling chicken heads on the main street of the settlements. As a casual worker her income was small and unsteady, so when the Captain told her that he had some firewood she could have, she did not hesitate but went with him into his house. The Captain was notorious in the settlements and people were scared of him. He is said to carry weapons and is a known former gang member. What happened after Lucy entered his house is unclear.

There are a number of different versions, but all in the settlements agree that Lucy was brutally killed and subsequently raped by the Captain, who also inserted different objects into her body. She was five months pregnant with her new boyfriend. Some people speculated that this was the reason the Captain cut her stomach up and threw the fetus into the river running through the settlements. Finally, the Captain buried her not far from his house in the settlement. Living in houses where neighbors share thin walls of metal sheets and mud, you can hear practically everything that happens next door. This might be part of the reason why the Captain after having murdered her went around to the neighbors and threatened them if they dared to tell the police anything.

Esther, our field assistant, told us that we had met the Captain only a few weeks before during an interview with some women living near his house. The Captain, she says, used to be a leader of a local criminal gang. He has a long criminal history and has previously molested young girls. However, he has never been convicted. This, according to Esther, is because his sister has a good position in the police force. While the Captain was detained by the police the day after the murder, within a few hours he

was released with his sister's help. The official reason was lack of evidence. While no one would testify against him, Esther and other people in the settlements speculated that there must be enough physical evidence as he had done nothing to cover his tracks. Esther sees this lack of police action as caused by the absence of a particular police officer, Johnson. He has a reputation of being trustworthy among the residents in the settlements. He has often helped Mary when her boys got arrested. Esther explains:

I am sure that the Captain knew that Johnson was away. That is why he did it now. He saw his chance to take revenge against his ex-girlfriend. Nobody has any protection when Johnson is not here. The other policemen do not give any protection, rather the opposite.

There are at least two points that are important for our argument here: the normalization of intimate partner violence and the gendered nature of violent networks. Let us begin with the former. For Esther this forms part of a pattern of intimate partner violence. In her account and our observations, most women in the settlements experience domestic violence, especially intimate partner violence. When we ask our interlocutors why couples use physical violence, both men and women explain that it is often due to disagreements about money, especially not having enough money. The woman keep asking the man for money, and after some time he beats her to shut her up. Esther explains that there is never anyone who interferes when couples are fighting, even though everyone can hear what happens through the thin walls. What happens in the home is a private matter between the man and the woman. However, Esther has frequently called for an ambulance or helped female neighbors to the hospital after they were severely beaten up by their husbands. Hence, intimate partner violence has been normalized. In this context, what happened to Lucy is not unheard of or even extraordinary, apart from the brutality of the attack.

Beside intimate partner violence, the case shows the gendered connection between different actors; that is, the relationship between the Captain and the police – or rather parts of the police. Let's begin to explore this by looking at formal protective measures. While Kenya's first legislation to specifically address issues of domestic violence was enacted in 2015, the legal system does not protect women from violence in practice

(PADV, 2015). The conditions of precarity and the common view that domestic violence is a private matter, as Esther states, together mean that this legislation has little effect. This is far from being only a Kenyan issue. In his analysis of sexual violence in South Africa, Jensen (2015) illustrates just how hard it is to stabilize sexual violence as a legal offense. In Susan Estrich's path-breaking analysis on 'real rape', she similarly illustrates how partner violence often does not even make it to court, let alone lead to a guilty verdict (Estrich, 1988). This suggests that gender-based violence within the home is an area in which many states have historically limited their own jurisdiction or claimed that they have no effective influence. Much research shows that while gender-based violence remains extremely high, it is also ignored by state security forces. Attempts by female victims to access justice or safety are often met with state paralysis (Pearce and McGee, 2011). This is also the case among our interlocutors. Many explain that if they had the resources they would take legal action against their husbands. However, this is almost never acted upon in practice, since they cannot afford to pay for the procedure, or risk not earning money while using time on a potential case. If they do take legal action against their husbands, they will afterward lack their husband's income, and it will increase their physical and economic insecurity even more. The fact that our interlocutors rarely take legal actions against their husbands; do not interfere when they can hear their neighbour women get beaten by their husbands, nor interfered when Lucy was murdered illuminate how women's actions, or rather lack of action, form part of reproducing patriarchal norms in the settlement. Such legitimization of domestic violence is further reinforced when legislation has little effect.

The case with Lucy suggests a more complicated picture in which it hardly makes sense to talk of *the* state. The presence of *some* police officers (the sister) and not others (Johnson) allegedly made the difference in how the state would react. Some police officers have connections with some parts of the community, including the criminal underworld; others have connections with different parts of the community. A useful way to address these entangled relations is through Enrique Arias' concept of violent social networks (Arias, 2006). In this analysis, high levels of violence do not result from state failure, but from networks that bring criminals together with police and political leaders.

Hence, more productive than seeing the state as separate from the

community might be to explore how violence contributes to establishing and reproducing particular networks of authority. As much as it was an act of private and intimate violence, the murder of Lucy can be read as a way of producing authority. In other words, the Captain uses violence as a mediator to maintain his position of power in the settlements (Armao, 2016), not only against women but in general, to signal that he is untouchable. Hence, we cannot think of the success of the Captain without understanding his relationship with the state.

Arias describes a connection between state and non-state actors as a network consisting of voluntary reciprocal exchanges in pursuit of mutual interests. These networks are often involved in competition with other parallel networks in which other actors engage in mutually beneficial collaboration across the state-non-state, formal-informal and legal-illegal divides. As Jensen (2008) and Buur (2005) argue based on their material from South Africa, as does Arias on Brazil, the ability of one faction to dominate locally will often determine the peacefulness – not to be confused with state-imposed order – of the community. In our Kenyan case, the transfer of Johnson to another station apparently changed the balance of power in the settlements, rendering the women more vulnerable.

Clearly, trouble with navigating complex violent networks is not unique to women. However, this and the other two cases illustrate the specifically gendered nature of the violent social networks. Both Esther and Mary had a positive relation with Johnson and feel safer when he was around. We might argue that he takes on a specific, gendered role as protector, whereas the Captain incarnates a no less gendered threat to life and limb. For Mary her connection with Johnson is especially important, since she does not have a male authority in her household. For the Captain the connection to the police is also especially important, since they cover up his illegal activities. Hence, there are different levels of connection in the settlements, both between state actors such as Johnson and individuals like Mary, but also on a larger scale between the police force and the Captain's criminal gang, which support particular forms of male dominance in the settlements. While these connections are different, the ways in which violence and money/resources relate to one another is inherently gendered.

## Conclusion

In this chapter, we have explored the relationship between money/resources and violence through a gendered lens. In the literature, as well as in public discourses (as the media analysis suggested), the relationship between money and violence is seldom discussed as gendered. Poor people in informal settlements are particularly vulnerable to precarious and violent situations, and men and women alike suffer from or navigate the relationship between criminal networks and the police in equal measure. However, the specific nature of these relationships and threats are inherently gendered. Said differently, while we cannot explain the violent exchanges that we have explored as caused by gender divisions between men and women, the exchanges are informed or animated by gender.

In the first case, we showed how women's position as single mothers animate their relationship with the state as they are simply more at risk of facing extortionate practices because they have no men to protect them. Their status as women without men impact on their relationship with the police in at least two ways. Firstly, they become quintessentially sexualized bodies and are constantly faced with sexual harassment, and the police repeatedly demand sexual favors in return for them not to be physically hurt or financially shaken down. Secondly, their sons, perceived as inherently criminal through strong gendered stereotypes of young men, become a means to reach the pockets of these women. While this is clearly a threat faced by all residents in the settlements, it takes on a specific nature for the women without men due to strong patriarchal gender norms.

The second case illustrates how informality and violence are intrinsically related to each other. Poor people in the settlements are simply at risk of violence from criminal gangs and the police because of their poverty. Furthermore, exchange relations take on a different form as resources other than money are exchanged. This includes phones and, crucially for women, their bodies. This again illustrates the inherently gendered nature of exchange relations. The way Joyce experiences extortionate threats is conditional on her gender, as are the consequences for her livelihood. To cope with these threats she adapts her way of maneuvering in and outside the settlements.

In the final case, we explored the existence of what, inspired by Arias (2006), we call violent social networks through the murder of Lucy. The

Captain is a notorious local gang leader and longtime abuser of women. He was released due to his ties with the police. In this way he became almost untouchable, especially once Johnson, another cop, was transferred to another settlement. The presence of these two characters in the urban landscape is suggestive of the existence of different, and competing, violent social networks. While these violent social networks are not gendered per se, they have gendered implications as women and men face different consequences and need to navigate differently. From the women's point of view, their position as women – easily exploited, sexualized and often on forcibly intimate footing with perpetrators from different networks – is central for their survival, as is how and what they can be forced to exchange and the risks they face. In this sense and by way of conclusion, we argue that to explore the relationship between money, resources and violence without a focus on its gendered nature would rob the analysis of a crucial layer of complexity in the dynamics of violent exchange.

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# Accidental Victimhood and Citizenship: Violent Exchanges in Dhaka

By Morten Koch Andersen

This chapter focuses on the linkages between corruption and torture in Dhaka, Bangladesh. It takes its point of departure in two studies completed in 2015. The two studies investigate the connection between corruption and torture from different perspectives, with different methodologies and on different levels, and they include different people. However, what they have in common is that they take their point of departure in narratives of violent encounters between authorities and people, be they formal law enforcement agents such as police, or figures of informal local power such as *mastaans* – gangsters or crime lords who serve the interests of powerful people or the ruling party in the area they rule. Presented here is an accumulation of victim stories of exposure to violence and suffering, collected on the one hand by a national non-governmental organization named Odhikar as part of their human rights documentation project, and on the other hand by Dhaka University, as part of a research project on the relationship between service provision and violence in a slum area of Dhaka, the capital of Bangladesh.

As such, the two sets of narratives expose two sets of experiences in peoples dealings with the consequences of the violent encounter. On one hand, we have the personal stories of people who have chosen to come forward and have their story documented as a human rights case. On the other hand, we have the personal stories of people who only agreed to tell their story when they were approached by researchers, not to seek justice or for any form of remedy other than to tell their story. As such, they encompass two different political trajectories and temporalities, which together illustrate the dynamics of torture and corruption as they unfold on an everyday basis. Despite the variety of narratives, what the experi-

ences of violence and suffering have in common is the mundanity and routinization of the interactions between policing authorities (state) and policed people (citizen) that essentially establish corruption and torture as an exchange relationship of bodily safety for money. What emerges is a transactional economy between parties with inequitable leverage based on a commodification of state power as transgressional impunity, on the one hand, and the safety and sovereignty of citizens' bodies on the other hand.

The chapter shows how corruption and torture are intimately related in and through the encounter as exchange relationships between the police and the policed. A series of case stories illustrate how state governance and party politics as exercises of authority (formal and informal) produce and circumscribe legality, legitimacy and citizenship. This is closely linked to the ways in which the judicial system works in the dispensation of justice and closely associated with, if not defined by, the political system of party politics.

The argument is that the connection between corruption and torture is systemic and routinized into law enforcement and judicial institutions; they have established practices of extortion, threats and violence as normal under an umbrella of impunity to the point that it is expected by both police and policed. It has become a practice and a mentality – a mindset and practical worldview – enabling people to survive in a situation of constitutive uncertainty and absence of security and safety.

Exchange relations between local authorities and residents are more or less forceful or voluntary; often they are established by an acknowledged deliberating and determining mechanism known as *shalish* that mediates between conflicting individuals or families. This process is commonly in the hands of party political configurations of local authorities that with impunity bend the discretion of the law enforcement agents in the negotiation and resolution of conflicts – often connected to social status, land rights and property – mainly through threats of violence and monetary transactions, on behalf of either of the conflicting adversaries.

These exchanges do not only epitomize the positionality of the residents in the political economy of the slum and the city, and their living conditions of uncertainty and illegality. They also illustrate their relationship to the state and what I have called their 'accidental' claim to citizenship.

This chapter offers a reflective gaze into Bangladesh's criminal justice system, violent encounters between people and different forms of authority, and the ways in which people maneuver such dramatic events to ensure the safety and livelihoods of themselves and their families. It opens with a presentation of 'accidental citizenship'. The conceptual point of departure is Paul Virilio's (2007) figurative account of the ship and its constitutive opposite, the shipwreck, employed to examine encounters between people and authorities.

I further develop on the relationship between corruption and torture, their legacies in policy and implications for application, in an analysis of practices, exchanges and encounters, initiated in the introduction. I argue that a certain rigidity in the foundation of the concepts and their systematic applicability, as well as the technical and compartmentalizing nature of them, are somewhat of a mismatch with the historical contingency of social and political life in a place like Bangladesh. Based on this notion, I illustrate state-citizenship relations through a series of studies on peoples' perceptions of corruption, trust and service delivery within the police. I show that the police service is amongst the least trusted government agencies in the country; it is immensely politicized, and is; responsible for deaths, disappearances, widespread extortion and violence, not only among the poor but middle-class citizens as well. Through a collection of human rights cases compiled by Odhikar, as well as a population survey conducted by Dhaka University, I illustrate how victims of violence use a number of avenues seeking mediation of the conflict and escape from further repercussions from the perpetrator and other influential actors, or in the vague hope of monetary compensation. Lastly, I show how 'accidental citizenship' is produced and unfolds in the violent exchanges between authorities and people, in the setting of Korail, the largest illegal settlement in Dhaka.

### **The Accidental Citizen**

'Accidental' is defined by Merriam Webster as "arising from extrinsic causes, occurring unexpectedly or by chance and happening without intent or through carelessness and often with unfortunate results"<sup>10</sup>. As

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10 <http://www.merriam-webster.com/dictionary/accidental>, accessed 15/6 2016.

such, the accidental is something that is not foreseeable and which exerts definitional power over the life and livelihood of the exposed, and it is often detrimental to social status and position in the form of violent exposure and unexpected threats of extraction. In sum, the accident is an unexpected, contingent, and surprising event. It lends itself to an Aristotelian tradition where the accident reveals the substance of a thing that is absolute and necessary, even while the accident itself is peripheral (Nyers, 2006: 23). This view has been challenged by Paul Virilio, who theorizes that technologies and their accidents are immanent to one another (1993, 2007).

Inspired by Virilio's perspectives, as well as Peter Nyers' (2006) analysis of citizenship, I shift focus to the political realms of victimhood and violent exposure. I use Virilio's accident theory as a framework to explore violent exchanges and the making of political subjects.

If, as Virilio argues, the shipwreck is the futurist invention of the ship (Virilio, 2007: 5), then victimhood is the invention of human rights abuses and perpetration, such as torture, and of citizenship. The claim to citizenship is inadvertently brought to life through violence in the forced transgression of the body. In other words, it is the violation that transforms the individual into both victim and citizen through past injuries and losses, as well as future attempts at justice, mediation or escape. This citizen is a political subject; 'political' because it instigated obligation to the self and other, and 'subject' because it made itself appear in the world, to put it in Isin's terms (2012: 564). Such relational conduct of self to self – and of self to other – is based on particular sets of experiences, practices and bodies of knowledge, which together make and shape the individual citizen into victim and sufferer. This intimate transformation is not only within the sphere of individual subjectification, but also a site for ordering populations (Oswin and Olund, 2010: 62).

Such accidents are engineered into the system, integral to the everyday practices which make and shape state-citizen relations in the localized exercise of authority – even while, paradoxically, these practices are criminal from a system of law perspective, as Charles Tilly teaches us in 'War Making and State Making as Organized Crime' (1985). In other words, accidents are not confined to a Weberian state monopoly on violence, but are also distributed through a sharing of violent power. The accidental claim is a direct consequence of being exposed to violence; it is a mechanism

whereby the victim attempts to secure non-repetition of the violence and to seek safety through state systems and state agents e.g. police and courts. As we argue in the introduction, violent exchanges are always already underpinned by a threat that may or may not materialize into violence. While, Virilio asserts that when things become automatic or routinized and predictable, “consciousness only survives as awareness of accidents and if nothing functions except outside consciousness, the loss of consciousness about disasters would not only amount to unconsciousness but to madness – the madness of deliberate blindness to the fatal consequences of our actions and inventions” (Virilio, 2007: 6). I argue, we can approach violence as the exposition of consciousness of threats of violence, the not-yet; as the blindness or madness of our inventions, including the localized organization of the exercise of authority, formalized or not.

An accident of violence implies a relationship with risk and danger. It is something to be avoided. As a way of (not) being political, the ‘accidental citizen’ is considered incidental, non-essential, a potentially catastrophic exception to the norm (that desirable citizen of substance). ‘Accidental citizenship is nominal (not necessary), ephemeral (not essential), and dangerous (not desirable)’, as Nyers states (Nyers, 2006: 24), epitomizing the poor living in precarious conditions of insecurity and illegality. “The opposition becomes not one of citizen vs. non-citizen, but between those citizens who are deemed essential and necessary and those who are dismissed as accidental and dispensable. The ‘accidental citizen’ is best understood as the abject counterpart to the essential citizen” (Nyers, 2006: 23).

These accidents are accentuated and exacerbated by the close domesticity of the spatial and socioeconomic living conditions of the poor in the slums, where the topography and proximity of the slum espouses the intimacy of the violent exchange. The demands, the threats and the violence are never far away, even familiar, and the suffering real and enduring, as I will show below.

I illuminate accidental citizenship with a focus on practical encounters between citizens and authorities of irregular and uneven service delivery and assistance that involve violence, implied and realised, and corrupt monetised transactions.<sup>11</sup>

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11 I do not discuss issues of police discretion or culture though they have been a core issue since the early writings on police practices including misuse of authority, abuse of monopoly of violence and corruption (see Punch 2009).

## Corruption and Torture: Concepts and Policy

As the Introduction to this volume asserts, most academic and policy literature explores torture and corruption as legal transgressions and institutional deficiencies belonging to radically different domains. Whereas torture and ill-treatment are violations of the body taking place in dark dungeons, corruption constitutes a transgression of the market and the functioning of the state. However, this distinction does not matter to those exposed to either or both every day. As such, violence and corruption are both of the social and political order and must be addressed in their complexity, in the practical and mundane field between state (as well as non-state) authority and citizen. I do this below through the concept of violent exchange. Corruption and torture are without doubt policy terms: terms which are associated with particular discourses, practices and bodies of knowledge, and which contain inherent similarities, yet in effect divide and compartmentalize social reality, life conditions and lived experiences into two distinct domains.

First of all, both terms closely intersect with international policy frames and institutions, especially the UN system. The International Covenant on Civil and Political Rights, the Convention Against Corruption and, notably, the Convention against Torture are powerful political frames and practical tools for policy developments, reform practices and resource allocation, outlining the work we do – within the global community of academics and reformers with a sincere interest in pro-poor change – and the ways we do it.

Secondly, the two terms are similarly challenging to explore, document and understand as phenomena by using a top-down approach or a normative notion of state, since by definition they shun public scrutiny; they are clandestine, secretive practices. The state is seen as a pre-existing ideal and political order, with a sense of unity and cohesiveness, harmed or destroyed by malign influences and interests. In other words, it is something good made evil. We inherit from this conception that politics works (Philp, 2015: 20). This is based on an inherent reliance on and bias towards an almost universal legality as the rectifying and ordering tool, even though we know that rules change over time, and that they are situated and context-specific, as legal anthropology has shown (see e.g. Moore, 1973, 2001).

Thirdly, both terms are based on dichotomies of action: victim/per-

petrator and bribe giver/ bribe taker. Thus, processes of interactions and encounters are reduced to a singular moment – the event or the act where people exchange something, be it material such as violence or money, or symbolic in the form of stigma, respect or status. While I see these dichotomies as heuristic devices, not analytical categories or concepts, they nonetheless in effect simplify complex situations to something which does not mirror people’s social realities. Further, our insights are based mainly on the receiving end of the exchange – the survivor or bribe taker. However, none of the categories – victim and perpetrator, bribe giver and bribe taker – are stable; they interact and merge as they unfold. Corruption and violence take different forms in different situations and social contexts (Beare, 1997). And the public perception of what constitutes legal, moral and political transgressions differs over space and time. This brings us to Bangladesh.

## **What We Know about Torture and Corruption**

Torture and corruption are familiar practices amongst law enforcement agencies and legal institutions in Bangladesh. Numerous studies have highlighted both phenomena, based on case material on human rights abuses and large-scale public opinion surveys (ICG, 2016; Islam, 2013a; TIB, 2010, 2012, 2014, 2015; Saferworld, 2010; NHRC, 2011; Ahmed, 2013; IRI, 2015; GoB, 2015). All these studies show a general lack of trust in the police service by the public and widespread institutionalized impunity, as well as political interference in police work and the dispensation of justice. And all of this takes place against a backdrop of political division, antagonism and competition in Bangladesh.

National politics have for decades been characterized by a confrontational divide between two parties: the Awami League (AL) and the Bangladesh National Party (BNP). They have competed for government power since democracy was reinstated in 1991 after 16 years of military rule (Jahan, 2015; Lewis, 2011; Moniruzzaman, 2009; Schendel, 2009).<sup>12</sup>

The divide permeates all corners and levels of society, bureaucracy and governance (Osman, 2010; Islam, 2013b). Successive governments have

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<sup>12</sup> Bangladesh is a constitutional parliamentary democracy based on the Westminster model.

blatantly used the parliament to benefit themselves and their allies. The two parties have continuously used, amended and ignored the legal system for their own ends, creating a society based on rule through law, not rule of law. A change of government is not just a change of parliamentary decision-making power but a complete transformation of institutions, agencies and administration. These are practices that ensure control of the state and establish an opportunity structure for the exchange of favors, distribution of benefits, allocation of rewards and nomination of positions (Andersen, 2016). The political networks intersect with the exercise of authority and service delivery, even in the slums of Dhaka.

### **Perceptions of the Corrupt**

In 2010 a Transparency International study showed that 79.9% of households reported corruption in service delivery by law enforcement agencies and 88% in the judiciary. Bribery was the most common corrupt practice with 68.1% households reporting instances in law enforcement agencies, 67% in land administration and 59.6% in the judiciary (TIB, 2010: 8). Two years later, a similar survey (2012) showed that corruption was highest in labor migration at 77%. Law enforcement agencies were at 75.8% and land administration services at 59% (TIB, 2012: 11-12).<sup>13</sup> In 2015 the survey identified the most corrupt sectors to be passport administration at 77.7%, law enforcement agencies 74.6%, education 60.8%, judicial services at 48.2% and health 37.5%. More than two thirds of all respondents – 71% – said that bribes were necessary to get services (TIB, 2015: 14). The burden of corruption is higher on low-income households than better-off ones, especially those on the fringes of legality with very limited means and options, or opportunities to bargain and negotiate. However, corruption within law enforcement and the police is not as straightforward as one would expect.

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<sup>13</sup> In 2015 the average amount paid was BDT 4 538 (USD 57). Average for law enforcement was BDT 7 067 (USD 90) and for the judiciary BDT 9 686 (USD 122). The survey also shows that those households with monthly income and expenditure below BDT 16 000 (USD 200) paid annual bribes accounting for 2.16% of their income and 2.20% of expenditure. Those households with monthly income and expenditure of over BDT 63 000 (USD 800) paid annual bribes accounting to 0.03% and 0.002% of their annual income and expenditure respectively (TIB 2015: 16).

A 2015 government study showed that 58% of respondents trusted the police a bit or completely, while 38% did not really trust them. The main reasons given were that the police were corrupt and required payment for their services. Police were perceived as representing the interests of the rich and police harassment and violence was feared (GoB, 2015: 14). A full 37% of respondents said police services were too expensive.

Other surveys asked whether the respondents approved or disapproved of the job being done by the police. In one survey 53% disapproved. Corruption was seen most important problem in the country, 11% had paid a bribe to get a government service (International Republican Institute, 2015: 4, 14-17). A 2010 Saferworld survey supported the findings above. Just 14% think that the police are free from corruption. While 59% describe the police as 'sometimes honest, sometimes corrupt', another 27% see the police as corrupt or very corrupt, most likely citing incidents of bribe-taking from victims of crime and others in order to supplement low incomes or because of assumed impunity. In addition, 58% state that there was political interference in the work of the security services (Saferworld, 2010: 3-4).

### Seeking Assistance

The 2015 government study asked people where they would report a crime. More than half (59%) said they were likely to report crimes to a traditional *shalish* (informal adjudication structure of community leaders) for mediation and deliberation (often involving settlement of compensation). Trailing far behind, 21% would turn to a *shalish* by elected local officials, 8% would report to the police as a third option and only 1% would go directly to courts. The report states: "This is partly attributable to the fact that people would prefer the compensation that a *shalish* might order rather than imprisonment or a fine for the perpetrator, especially in minor criminal cases. But it is quite possible that people face barriers when trying to use the formal system" (GoB, 2015: 11). When people who had actually used the formal system are asked the same question, the numbers change in its favor: 46% chose traditional *shalish*, 17% an 'official' *shalish*, 28% went to the police and 28% went directly to courts.

In this survey, 58% of the respondents mentioned corruption as the biggest barrier to calling the police and 37% mentioned it was too ex-

pensive<sup>14</sup>. In the later statement, people might refer to bribes that have to be paid by suspects to avoid charges being brought against them and by victims to investigate their complaints (GoB, 2015: 14). Slightly more than half (53%) of users who had reported crime to the police were either very or quite satisfied with how they were treated by the police, while a little less than half (45%) were either not at all satisfied or not very satisfied. A quarter of those who had been arrested (25%) reported some type of torture or abuse by the police – the most being beatings or rough behavior (GoB, 2015: 15).

The 2010 Saferworld survey showed that 78% would go to police if threatened with violence but only 23% said there was a police presence in their union. Ten percent believed it was easy to get help from the police but only 28% of those who had experienced a crime in the last two years reported it to the police. Thirty percent would not even know how to contact the police if they had to.

In 2011, when the National Human Rights Commission survey asked about the use of the formal justice system, almost three quarters – 73.8% – said the main reason they did not use the formal justice system was the cost involved. Listing other significant barriers to accessing services, about one fifth said corruption and another one fifth harassment by lawyers (22.1% and 19.5%). Another 15.7% found the process complicated and the system intimidating (NHRC, 2011: 13). When asked about the informal system, 99.9% of respondents had heard about traditional *shalish*. (About 53.3% thought the service had improved, though 22.1% said it had declined.) In sharp contrast, 61% did not know that a NGO-led *shalish* service was available and 64.9% did not know of NGO-based legal aid. Just over two thirds – 67% – said the major reasons for poor quality of services within the informal sector was corruption, 33.5% said politicization and 15% arrogance or bad behavior of *shalish* members (NHRC, 2011: 14).

In 2013, a study on the public satisfaction with Dhaka Metropolitan Police showed that less than 3% would visit a police station for personal

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14 Access to district courts, in pursuit of justice and compensation, was perceived too expensive by 33%, primarily referring to transportation and lawyers; 31% saw the barrier as being corruption, 23% a need for lawyers, 12% saw it as too formalistic and 11% cited discrimination or unfair treatment (GoB 2015: 19).

or family security reasons or conflict resolution. Thirty-six percent had visited a police station to register an incident in the General Diary, while 16% had visited to meet a prisoner. Six percent visited police stations for advice or to follow up on an investigation (Ahmed, 2013: 31). It showed that 45% had to pay 'speed money' – money to initiate or process services – to the police. Of those paying, 66% did it unwillingly and 34% willingly (Ibid: 41). The study shows that before visiting police stations only 11% of the respondents perceived the police as honest and 54% as dishonest. However, after visiting the station 34% of the respondents found them honest, 32% found them moderately honest while the perception of dishonesty is 33% (Ibid: 70).

### Perceptions of Rights

The National Human Rights Commission survey further showed that only half (50.2%) of the respondents had heard about human rights. Of those, 18% could not explain what the term meant. Those who did were much more likely to be from urban areas, male, educated and/or amongst the least poor (NHRC, 2011: 10). When asked what they would do if the government violated their rights, 16.9% said they would do nothing but over 80% said they would take some individual or collective action. Of these, 40.7% would protest, 31.5% would not vote for the government in future elections, 24.6% would demand the government step down and 8.7% would try to influence public opinion to protest. Only 1.1% would report to police and even fewer to a lawyer or the NHRC (NHRC, 2011: 11).

All of the above studies show that police-citizen encounters in Bangladesh are largely predisposed as untrusting; in other words the expectation is transactions containing threats of violence, actual violence and money. Few people trust the police and most fear contact and attention because of routinized demands of payment for services, in other words they seek safety from harm and abuse by avoiding police. They refrain from contacting the police for services when in need of assistance because of the uncertainty of the relation; and this uncertainty is based either in previous experience of dishonesty and danger or fear of it.

The studies point out that it is most likely that people chose more than one avenue for conflict resolution in times of trouble, police being a less favored option and *shalish* the most popular one. A clear majority of all

studies express the *shalish* as a viable option to achieve some form and extent of justice and compensation. This tendency of trying several different avenues for justice and compensation, not just one option, is referred to as forum shopping (Kyed, 2009). However, the numbers do not tell us much about the processes of seeking legal redress through the judicial system – whether by the victim or by an organization or state institution such as the national human rights commission on their behalf – or about the processes of conflict mitigation in and through a variety of possible avenues.

## **Finding a Relationship**

The studies above indicate an intimate exchange relationship between corruption and torture, in other words, between monetary transactions and violence or threats of it. To explore this relationship further and give substance to the perceptions and experiences mentioned above, I present data from two empirical studies carried out in Bangladesh in 2015. Combined with the picture that has so far emerged, they provide a privileged insight into the processes of violent encounters, exchanges and conflict mitigation that will enable deeper understanding of corruption and torture in Bangladesh.

The first study is based on a collection of human rights cases compiled by Odhikar, a national human rights organization in Bangladesh. The other is a population survey conducted by Dhaka University's Peace and Conflict Department, from which I selected two stories of violent encounters in a Dhaka slum.

Odhikar's study is an in-depth scrutiny of human rights cases selected from its archive of hundreds of human rights cases documented in the past 10 years, on the basis of an identification of corruption in the case material. The study was carried out by Dr. Saira Khan, Professor of Law at BRAC University, as part of the research programme.

The second study is a large-scale population survey on exposure to violence and service provision, conducted in the largest slum in Dhaka, Bangladesh. It was conducted by Dr. Zahid Choudhury, Associate Professor in the Peace and Conflict Department at Dhaka University. The survey produced 994 household respondents, of which 73 were victims of violence involving some form of authority, formal or non-formal.<sup>15</sup>

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<sup>15</sup> Domestic violence was excluded from the study design.

From these victims and victim families, 23 were selected for in-depth semi-structured interviews on violent exposure and its consequences for family life and livelihood (Choudhury et al. 2017).

## **Rights and Exchanges**

Odhikar is one of few respected human rights organization in Bangladesh. It has been active for more than 20 years, documenting human rights violations and advocating for victims' rights as well as legislative and institutional reforms. The data used is from 24 of its fact-finding files of human rights cases, documented during the five-year period 2009-13. The files were chosen on the basis that a request or demand for money to the victim or a family member by the police/law enforcement agency was specifically mentioned in the report.

Many reports did not contain this information for two reasons. First, the reports focus on human rights violations and violence as the main reason for documentation and subsequent legal efforts to achieve justice, compensation and redress. Eventual monetary transactions are not prioritized in the fact-finding reports. Secondly, many victims did not want to disclose or have this information recorded in the reports, out of fear of reprisals and insecurity. However, according to the organization's researchers, attempts at corruption, often in the form of extortion, are present in almost all of their cases, whatever the degree of success. They are not necessarily included in the reports because the aim of documentation is legal redress for human rights violations, not the criminal activity of (attempting) extortion. The exception to this rule, where corruption rarely happens, is the politicized cases. In these, arrests and violence become part of political conflicts and are often commissioned by political interests, on the part of influential and powerful third party actors.

The reports show that most victims can be categorized as 'lower middle class', such as petty tradesmen. Their ages range from 22 to 47 years. The amounts of money demanded ranged from BDT 10 000 to as little as BDT 250 (USD 126 to USD 3). Of the 24 victims, eight died of their injuries. Eight paid the police. Two of those who paid still died. Nineteen of the 24 were threatened with criminal charges or implicated in criminal cases as suspects in serious lawbreaking activities – including theft, abduction, murder and illegal arms possession or trade – by the police, either on their own motivation or on behalf of third parties. In four cases,

no reason was given for the arrest and subsequent torture but monetary extortion. One case began as part of an ongoing *hartal* (general strike) and open political strife in public.

In 12 of the 24 cases, the victims were sent to jail. In 10 of those incidents, the victims were later released on bail but only one was acquitted of the criminal charges. This means that in 75% of the cases the criminal charge was upheld and possible legal action simply left pending in court. In other words, the victims could potentially be arrested again or jailed by the court at any time. Conversely, any ramifications for the perpetrating police, whether internal disciplinary proceedings or via the criminal justice system, were limited. Two police officers were transferred to other police stations, three were jailed, and one perpetrator fled the country. One was dismissed and one police officer is on trial for murder. One perpetrator mediated himself out of legal trouble and one victim was threatened and told to withdraw the case. In the remaining cases no action was taken to hold the perpetrators to account.

In all of the cases the perpetrator is known, including the name of the police station; in most cases even the names of the police personnel are known. Nonetheless, only two of 24 cases – the murder in public of a businessman by plainclothes police and the murder of a MBA student that reached the headlines – ended with legal punishment of the perpetrators. The cases show that regardless of the reason for the opening encounter between police and individual citizens – in other words whether initiated as criminal investigations, random arrests or part of ongoing personal conflicts – threats, violence and extortion are integral to the relationship and the negotiations for ending abuses and ensuring freedom.

The predicament of the victims is quite obvious. Forced into a relationship with perpetrators and a perpetrating institution with almost complete impunity defined by lack of scrutiny, accountability and oversight; having limited resources to ensure their own safety and protection; deprived of access to legal procedures of impartiality and justice, with the police being the principal and lawful gatekeeper,<sup>16</sup> they are easy prey to extortion and abuse – a situation and a relation the victims and their families had tried in many ways to avoid, negotiate and escape. How-

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<sup>16</sup> Individuals can approach courts directly, and the Torture and Custodial Act of 2013 emphasises this opportunity in cases of police violations. However, lack of knowledge and trust in the legal system amongst the population apparently obstructs this avenue, see Sharma and Andersen, 2017.

ever, the processes and dynamics of these violent encounters are not as straightforward as they might seem at first. The cases are complex and take many turns and diversions as they unfold. I illustrate this below with two stories, one about Siddique and the other about Tanvir, two slum residents in Dhaka.

### **A Case of Violent Exposure**

The cases of Siddique and Tanvir are drawn from Dr Choudhury's structured perception survey (a cluster design) of 994 individuals representing randomly selected households in the Korail slum. The survey pursued two purposes: first, to assess the perceived state of violence or torture and its correlates, such as governance and exclusion, in the slum; and second, to identify victims of violence in the preceding two years. From this pool of 73 victims (just over 7% of the 994) identified, 23 respondents were selected for further in-depth interviews, including Siddique and Tanvir. The aim was to interview half of the victims (i.e. at least 36) but fear and reluctance to speak of their experiences prevented this.

Korail, the largest and longest-standing informal settlement in Dhaka, is located in the center of the city, on the fringes of the high-class zone. In a city of 12 million people it houses some 200 000 of them. The land, owned by the government, is adjacent to the Bangladesh Telegraph and Telephone Board residential area known as the T&T colony, and plans have been developed to turn the area into an IT communication park, which has given rise to fears of evictions in the future.

### **Siddique's Story**

Siddique was 18 at the time of the interview. He had been living in the slum for about 16 years. He lived in a rented house with his parents and a younger brother. He worked on the staff of a water business (water line at Kaj Kori), his father was a rickshaw puller, mother worked as a maidservant in the Gulshan area and the younger brother was studying in school. The family was from Barishal city about 120 km south of Dhaka. They often visited there, where they had a house and relatives.

The violent incident happened when Siddique was 16. He fell in love with a girl living in the slum. At that stage, everybody knew about their romance. However, this did not go well with the girl's family. "Once, while talking with the girl in the street, her elder brother's friend rec-

ognized me, and told her brother. He then informed their father.” After some days, the elder brother called Siddique to their house. Not knowing what was going to happen, he went to the girl’s home, to meet the family. However, when he entered the house, the father and the elder brother closed the door and beat him up with plastic piping. He cried out for help, but as the door was locked, nobody came to rescue him. The incident happened in front of the girl, she did not say anything. “They also beat the girl for 10 to 15 minutes before they hit me.”

The attack was not impulsive. The girl was studying at Gulshan Commerce College. Siddique had only completed primary school. Before this incident, the father had warned him three times not to communicate with his daughter. He had told the girl about her father’s threats. After that they did not meet in public, but secretly. Siddique was quite aware that the girl’s family did not think that he was good enough for the girl (*Oi meyer sahe amar ‘matching’ boy na*). But he did not imagine they would attack him, despite the three warnings.

The girl’s family had warm ties with the president of the local Awami League (AL) chapter. The girl’s father had been a member of the local AL committee since 2008, when BNP lost the national election to the AL. Her elder brother was not involved in politics. “In spite of knowing everything, I fell in love with the girl.” From the beginning there was the possibility of physical violence. However, he did not think that both families would become involved so soon.

The girl’s father filed an incident in the General Diary at the police station the same day. The beating took place in the morning, and he went to the police station – with his daughter in school uniform – at noon. The complaint he lodged was eve-teasing (sexual harassment). That evening, people from the local AL club office called Siddique up and asked him to come by. Together with his mother and his boss and landlord, he arrived at the club.

The committee members, including the girl’s father, were present. Siddique was accused of doing wrong things to the girl, damaging her reputation. He told them: “I am not only responsible for the affair. You please call the girl here.” But they refused, saying: “Don’t you think that we should protect her dignity?”

Nobody wanted to resolve the issue. The members blamed Siddique for the affair. Eventually, the father called the police and Siddique was arrested and taken to a police car. His landlord secured his release by

bribing the police with BDT 4 000 (USD 50). “I saw the police take the bribe. Police generally accept bribes from anyone. You need not have power – if you have the money you can save your man,” he said.

Nobody paid attention to Siddique’s words. Only the landlord supported him. Then, the father and other party club members accused Siddique and the landlord of being active in BNP politics. This changed the nature of the incident from being a disagreement over the appropriateness of behavior to political antagonism. It was true that the landlord had sway in the slum, and that when the BNP was in power he had been the president of the local BNP committee. It was also true that Siddique worked for his landlord and was an activist in the BNP. They were also *pattis* – they shared the same hometown, Barishal, which constituted close ties in the slum (regional ties are an important parameter in political alliances, as is patrimony in Bangladesh politics, see Khan et al., 2008).

Because of his past political influence in the slum, people still respected the landlord and his word. He was financially solvent and used his resources to manage problems and people. Even the AL leaders had good relations with him. Siddique and the landlord was keeping a low profile, but should the BNP return to power, the two of them would both definitely be active in BNP politics again. As Siddique said, “if the BNP was in power, nobody would dare to harm him”.

Siddique believes the absence of justice or even fair deliberation was because of his activism for the BNP.

“Even if I tried my best I couldn’t avoid the incident. Police take bribes and I could not give money to the club members.” Now the AL activists call him to join their demonstrations and programmes but he avoids them. One year ago, everything was settled. Siddique tried to contact the girl, but she told her father and the father informed the landlord. The landlord warned him not to make further contact with the girl, and since then they have had no contact. Sometimes he sees her, her father or her brother passing in the street but they do not talk.

### **Tanvir’s Story**

Tanvir is 35. He came to Dhaka 18 years ago and secured a piece of land in the slum. He got married and built a house. To build his house, he had to give a small amount to the people organizing land distribution at that time. Today all the land around there is taken. Two storage build-

ings are being erected in the most popular areas, near to transportation routes, and one can buy a room for around BDT 34 000 (USD 428). If a resident wants to repair or expand his house, s/he has to give money to a police informer, the police and local *mastaans*, or other people connected to resourceful national networks of politicians and government officials. Networks which connects the very local with the national (Ruud, 2014; Suykens, 2015). As such, the establishment of relationships between authority and resident is incidental, a part of everyday dealings within the slum. This also makes it accidental, in the sense that it is an incident for the individual but not an uncommon event. Somewhat like a traffic accident in traffic, it is a fact of life, random and unforeseeable, yet occurring within a larger context.

In the slum, political party supporters are organized in so-called clubs, or party branches, which monitor residents' private and business activities, both legal and illegal; grant permits for existing or new activities; control, allocate and distribute land and other resources, including electricity and water; and mediate in conflicts between residents and business people, and between people and, state and municipal authorities. In this capacity, they are the de facto authority and work in close collusion with the formal authorities. The slum, the slum area and the resources within the slum are highly organized and controlled by a range of actors that decide on who gets access to what and when, including plots of land, rooms and residence etc. It is a politicized money economy where all activities and dealings within the slum appear to be connected, willingly or unwillingly. This organizing structure connects and activates a variety of authorities at different times in situations of conflict, negotiation and mediation, as the following stories show.

At the time of this story, Tanvir was running his own tea stall in the slum. Before that, he worked as a helper on a bus and before that in a garment factory. He has two daughters and one son.

It all began with a neighborhood dispute over possession of land, more specifically over access to his house from the street. One day his neighbors began building a wall across the alley entrance, blocking all passage to his house. Tanvir intervened to stop it and they had an argument. At one point, the neighbor and his three sons attacked Tanvir. They hit him, breaking his nose and knocking him unconscious. They kept beating him. Tanvir's wife tried to protect him and was assaulted as well. There were

many witnesses, other neighbors, but they did nothing to stop the beating. In Tanvir's words, they did not dare to be implicated.

Tanvir went to the hospital for treatment and collected the medical certificate needed to file a criminal case against the attackers. Five days later the main perpetrator, the father, was arrested by police and placed in custody. In retaliation, the neighbor's sons filed a case of political vandalism against Tanvir. They named him as an activist with the allied opposition parties, the Jamaat/BNP. They accused him of being involved in ongoing public violence at the time, including petrol bomb attacks on public transportation which had killed and injured many people in the past months, as part of the antagonistic rivalries between the ruling party and the opposition.

The sons paid the police to file the false case. The police arrested Tanvir at home while he was still recuperating from his injuries. He spent 22 days in custody. Tanvir's wife took out a loan of BDT 30 000 (about USD 380) for the bribe to secure his release. A week later, the neighbor was freed through another police bribe from the sons.

Tanvir believes the attack was preplanned. Tanvir's wife and the attackers are related. They used to call the neighbor 'uncle'. He thinks it was an attempt to grab his land. The perpetrating family already owned all the houses in the lane except his. The attackers are rich by local standards. They own land in other Dhaka slums as well and collect about BDT 200 000 (USD 2 500) in rent every month. Land is the source of their power. They can pay the police and local leaders and therefore no one speaks against them.

In addition to filing a case at the police station, Tanvir tried to find another solution to the problem. He contacted a local political leader aligned to the ruling party. He wanted to set up a mediation meeting, a *shalish*. However, he was unsuccessful. The politician told him that he was unable to do anything because Tanvir had already involved the police. He suspected the politician did not want to be linked to Tanvir as he was accused of being an activist with the opposition. However, sometime later a mediating meeting was arranged at the request of the neighbor, the perpetrator of the attack.

The neighbor is a government official. When Tanvir filed a case against him and police brought him into custody, he temporarily lost his job. Once he had his job back, he tried to persuade Tanvir to withdraw the

case by offering some financial compensation. Tanvir declined. To solve the issue, the neighbor placed a request for *shalish* to the local club controlled by the AL, which mediates conflicts in the slum.

The club accepted the request and sent a letter to Tanvir, asking him to attend the meeting. He suspects the neighbor paid for the meeting. Tanvir and his wife attended the mediation. The club members offered a settlement of BDT 4 000 (USD 50) as compensation. They refused. And nothing more happened. As Tanvir said, “the club always supports those with money and good relations with political leaders”.

Tanvir had no connections with local politicians or influential people. He never attended processions or meetings arranged by any political party. Looking back, he recognized that this could have prevented the attempt to steal his land. Though he kept his house, the attack had physical and economic consequences. He was left with permanent back pain and headaches. His wife had to quit her job to take care of him, reducing the family income. Now they depend on their tea stall to sustain their daily life. When his wife took the loan to free Tanvir from detention, she pledged the tea stall. As a consequence, the family could no longer afford the elder daughter’s education. She had to stop school and contribute to the household income.

Tanvir still faces police harassment and threats from the neighbors. The police see him as a Jamaat/BNP activist and suspect he is involved in subversive activities. The neighbor now and then sends people to pressure Tanvir and his family to withdraw the legal case. However, neither the neighbor nor Tanvir has withdrawn their legal cases. The neighbor established a noisy sweet production workshop just opposite Tanvir’s house, making their life uncomfortable.

Though Tanvir did not give up his house, he was nonetheless pressurized to request the responsible government officer to reinstate the neighbor in his job. And the neighbor is today able to continue his life as if nothing happened. Tanvir, on the other hand, is left with a reduced ability to work, constant pain, a large debt, a daughter who is out of school and a red flag against his name on the police radar.

Siddique and Tanvir’s stories illustrate a situated and complex blend of violence and corruption. They expose the interconnectedness of different, overlapping and competing forms of authority, formal and informal, and show how different avenues of mediation and risk aversion in the end

all work according to monetary transactions and past personal relations. The stories also illustrate the unfolding of social and political exchange relationships in the urban slum that go beyond the momentary fixation of the act of violence and the transactional event of the bribe.

### **The Accidental Citizen**

Stories like those of Siddique and Tanvir are not exceptional. The 73 victims identified in the Choudhury survey were asked about their perpetrators. Of the 67 who answered, 22 were exposed to violence by someone with whom they had close intimate relations. Most frequently, the violence was perpetrated by a neighbor. In more than half of these 22 cases – 14 – the victims attributed their physical illness to violence perpetrated by a neighbor. Two said their neighbors were backed by locally influential people. In five incidents the perpetrator was a family member (6.8%) and in one the perpetrator was a sexual partner. In the other 45 of the 67 incidents the perpetrator fell into another category. Seven were political activists and seven others were local goons/*mastaans*. Two perpetrators were influential locals. Three were incidents between a drug addict and their supplier. One was a business rival, one a political rival, one a shop owner and one a *patti*. Three were money lenders, five extortionists and five of the 45 police perpetrators. Nine were unknown assailants

Of the 23 in-depth respondents, 12 said the police were indirectly but not directly involved as perpetrators. One said he regularly bribed the police not to obstruct his ferry business. Another said police were the main perpetrator but acting in a private capacity as house owner and landlord in the slum. In 10 incidents police played an active role in the aftermath of the violent encounter as a policing authority. They became involved when the people in conflict filed legal cases against each other at the police station. In five of these incidents police were bribed to arrest and/or to release one or other party from detention. In four of the five incidents it was the victim of the encounter who was arrested.

In eight of the 23 incidents, victims deliberately avoided involving police because they expected them to collude with the perpetrators. In seven of these eight incidents, the political party local club was mentioned as perpetrator. In just three of the 23 incidents, the police were not mentioned as an actor at all. In eight incidents, police were used directly to pressure victims, extort money or threaten victims into settling conflicts.

In one of these cases, where a child was kidnapped for ransom, the police appeared to have tortured suspects after the criminals conveyed their demands to the victim's family.

In all but three incidents, then, the police played a role. Passively or actively, the police affected the ways in which the victims tried to handle the situation, since they were invited in as a mediating actor in intimate and personal affairs by either the perpetrator or the victim. Thus, the police appear as a distant actor in nearly all of the incidents. However, if and when police are activated and get involved, it is seldom as a neutral arbitrator or institution of justice based on notions of lawfulness, but as an active and biased party, swayed by money and/or political influence and interests. In one incident of the 23 events where a police officer is the main perpetrator, he acts in his personal capacity but utilizes his police resources and networks to settle the conflict to his advantage.

This shifting of positions and utilization of resources across lines of legality and illegality illustrates the fluid nature of interactions between actors in the slum and the way individuals with access to particular resources can switch roles. It shows the extractive and collusive nature of governance and power structures and the normalization of violence in the slum, where authorities act for and on behalf of interest and money. And it illustrates the accidental of victimhood by the hands of the police. As such, state authorities appear as an entirely extractive institution in all of the processes, not a source of resolution or justice but a source of violence and insecurity for some and a part of the solution for others. In other words, although the police service as an institution was approached for assistance in 19 of 23 incidents, the help asked for and given was not that of a neutral and just arbitrator, nor that of protector of the weak, but the very opposite.

The survey showed that almost two thirds of all the victims (46 of 73, or 63%) sought some form of assistance from people and authorities after the violent encounter. Most of them needed help with reaching out to the powerful people in the area. A little over half (52.2%) said they requested others to arrange for arbitration, and over 39% asked them to notify the locally influential people about it. Of this 39%, 12 people made a request to notify the police and 11 to notify local political leaders, compared to the 18 respondents who wanted to reach otherwise locally influential people. When it came to the kind of help required, 21.7% asked for

immediate help such as protection from the attack and 19.6% asked for assistance to go to the hospital. One victim's family member said s/he asked for retaliation.

The survey also asked if the victims actually received help after reaching out. Assistance proved to be a factor of proximity and capacity. Thirty-three of 72 who responded to this question got help. Of the 33 people who were helped, about half (16) were assisted by locally influential people (12 of these by landlords, who were both near the victim and more or less powerful in the slum). Another three were helped by a neighbor and seven by local political leaders. Powerful relatives, not necessarily slum dwellers, came to the assistance of two. The police, despite being located nearby and having the capacity, helped only four people. One did not specify.

What emerges is that actors with political clout and financial resources can easily influence the police and enforce rulings to their advantage. Victims, on the other hand, especially those with little social, political and economic capital, have to think long and hard about whether to call in the police in case of conflict. Not only could direct contact with police escalate the dispute, it could even have the opposite effect and get the victim arrested and exposed to monetary demands.

Involving the police, then, appears a volatile and costly exercise, where the outcome is uncertain since financial capacity and monetary transactions are necessary to attract their attention. Consequently, most victims, particularly those without resources or networks, avoid the police and even any public attention in fear of further repercussion or problems.

The club, or local branch of the political party, does not seem a particularly good institutional substitution for justice, equality and fairness either, even though it is the site of what appears to be the preferred means of conflict resolution in the slum, the *shalish*. Although politically controlled clubs seem to have a certain level of local accountability, 'fair' solutions are influenced by political sway and money.

A *shalish* can be arranged for money and the verdict of the mediation can as well. Mediation and decision-making depends on reaching a solution according to the resources, networks and power of the conflicting persons or families. For those with no strong or persuasive means available, positive results would rarely be achieved by the mediation. None-

theless, it is a way in which the incident reaches some form of closure, if not necessarily fair or even reasonable, since the process is nowhere near impartial. It is not a just institution. It is an institutionalized, extractive network serving the interests of politicians, business (more or less legal) and criminals in the slum (often the same people or groups of people), somehow encapsulated in the figure of the *mastaan*. These networks are present in the lives of the slum residents in terms of effect – in other words control of access to resources and services – and situated in space; that is, in the clubs that order their surrounding areas.

The risks are well known, as are the avenues for avoidance, mediation and compensation. However, the incident that sets in motion a process of loss and suffering for the victim citizen at the hands of authorities is arbitrary and random, Virilio's shipwreck, ingrained in and constitutive of the ordering structure. It is that structure which links the shipwreck and the ship i.e. violence to citizenship as well as accident to order. The accident – the victimhood, and the process of settlement – illuminate not only the ship but also the processes of ship building. In other words, the ways in which the structure is made, organized and kept alive, constantly reinforcing its own existence and rationality. It becomes citizenship through the appeals to not suffer from violence again and through the claim for citizen rights, in the moment and in the aftermath of transgression. Yet, perpetration is already present as threats, in the potential of violence. A potential of the not-yet, the implied, that are integral to the structuring and ordering of the slum and of society, and visible through control of resources and services. Such violent exchanges are systematic and arbitrary at the same time – systematic in its inherent presence and constitutive potential and accidental in its targeting and effect. Hence, corruption and violence are the coherent and predictable consequences of the metaphorical ship building process.

The appeal to authority, be it the police or the club, is reactive; it comes after; it is produced as an integral substance and necessity of the violence and the injuries. It is an attempt to settle an ongoing conflict which nonetheless could trigger new problems. But however different in cause, consequence and progression, the incidents often follow a relatively predictable pattern – the conscious other side of the mechanisms structuring order in the slum – where incidents of violence are followed by some kind of involvement of authorities, be they police or political clubs. As

such, these appeals to institutionalized processes of settlements illustrate how localized markets of violence works in the slums of Dhaka (Elwert, 1999). Organized around a rational and structured extraction of resources by an entanglement of formal and informal authorities and collusion of interests maximizing power and profit by sacrificing the lives of those without access to needed relevant resources to enact, modify and sway decisions.

Tanvir's and the other cases illustrate everyday encounters between authorities and citizens, and the dynamics of their relationship. Though, routine encounters rarely receive public attention – and the same can be said of the 'unexciting' lives of the poor and those at the margins of society and legality – my point is that perpetration is rarely a discrete and singular event. It is a dynamic process in which different actors with distinct interests and intentions are brought together over the duration of an incident. The violent encounter is rarely the beginning but a decisive marker in a process that reaches from the past into the future, involving people that have known each other for years, more or less intimately, but always in ways that have a profound impact on the lives of the victims and their families.

## **Conclusion**

The chapter shows how corruption and torture are intimately related as exchange relationships between policing authorities and policed citizens in Bangladesh. Corruption and torture is systemic and routinized into law enforcement and judicial institutions as established practices of extortion, threats and violence under an umbrella of impunity to the point that it is expected by both police and policed. While state governance and party politics as exercises of authority (formal and informal) produce and circumscribe legality, legitimacy and citizenship, the violent encounter and the exchanges between unequal's that follows illustrates the routinized behavior of perpetrators, the complicity of local authorities and the conditions of the victims.

As a practice and a mentality, it not just negates but also enables people to survive in a situation of constitutive uncertainty and absence of security. As such, it exposes the mechanism by which victims, such as Tanvir and Siddique, are made part of the organizing structure in the slum and the city through the collusion of both formal and informal au-

thorities' economic and political interest. Both Tanvir and Siddique tried to solve their predicaments through a variety of avenues and efforts – the shalish being the most important and locally recognized mechanism of mediation, deliberation and judgement – with limited results, since local authorities sway decisions according to social status, political power and financial capacity. Violent exchanges, in this form, constitute a transactional economy between parties with inequitable resources and leverage based on a commodification of state power as transgressional impunity, on the one hand, and the safety and sovereignty of citizens' bodies on the other hand, where corruption and torture are intimately related, being almost mundane and routinized practices.

The process of becoming a victim; the bodily transgression, constitutes the production of citizenship. The 'accident' of the violent act, making and shaping political subjects, reinforces the political machinery of party networks and financial collusions through which formal and informal authority unfolds, constituting state and citizenship as we know it. This – the accidental – is the situated awareness of the fatal consequences of authority exercised, where those on the fringes of political recognition and legality are especially at risk.

These 'accidental' citizens forced into violent exchange relationships epitomize the positionality of those with less resources and connections, in the political economy of the slum and the city that are underlined by impunity, uncertainty and illegality. They are examples of the inbuilt disasters; abuses and violations, of a political system and ruling practice that relies on intimate connections between violence and corruption.

For the victim and victim family, the consequences on body, economy and livelihood are serious and enduring, and justice and fair compensation a distant impossible dream. When repercussions are real and trust in authorities to provide safety and fair settlement is low, then avoidance and invisibility become the avenues for security, and accidental citizenship undesirable.

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# Afterword

By Dennis Rodgers<sup>1</sup>

Like all good social science research, this volume aims first and foremost to disrupt and problematize mainstream thinking about the world we live in. The twin issues of torture and corruption are often held up as major ills of the contemporary epoch, the former epitomising the worst that human beings can do to other human beings, a barbaric overhang of our past, and the latter constituting a fundamental subversion of market exchanges that are normatively seen to constitute one of the keystones of human social organisation in the post-Cold War era. As such they are critical reference points regarding our epistemology of the “good life” – that is to say, our ideas of how we should live – yet as is pointed out in the introduction to this volume, the two phenomena are rarely considered as being linked in any way, except at the very general level that “bad governance” is sometimes blamed for “human rights violations” within mainstream, normative international development discourse, for example.

Yet torture and corruption frequently come together in very explicit ways, perhaps most prominently in the everyday policing practices that are predominant in most societies across the world. When a Police officer asks for a bribe, for example, this is not a one-way transaction, but is implicitly experienced as a contract whereby the person paying the bribe will as a result not suffer some form of violence at the hand of the Police officer, be it physical (e.g. a beating) or mental (e.g. harassment or persecution). As such, not only are corruption and torture experienced as thoroughly interlinked phenomena, but they can also be seen as two sides of an exchange process according to the authors of this volume, who draw on this observation to move from considering torture and corruption

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separately to thinking about them as interrelated phenomena through the concept of “violent exchange”.

This heuristic device highlights not only that there is an intimate relationship between torture and corruption, but also that this is reciprocal in nature. This is important, because it establishes a systematic rather than a sporadic relationship between the two phenomena, which the authors of this volume argue are literally co-constitutive of social order. As such, the notion of violent exchange can be said to inscribe itself within an established tradition of considering violence foundational to the constitution of social order.

Such thinking arguably finds its clearest formulation in the political philosophy of Thomas Hobbes (1651 [1996]), as expounded in his famous *Leviathan*. Hobbes’ basic argument is that in the “state of meer Nature”, “[human beings] are in that condition which is called Warre; and such a warre, as is of every man, against every man” (Hobbes, 1651 [1996]: 140 & 88). Because there are no rules, no laws, and thus no limits or interdictions in the “state of nature”, individuals are of “equality of ability” and consequently enjoy “equality of hope in the attaining of their Ends” (Hobbes, 1651 [1996]: 87). The interactions of individuals in the “state of nature” will therefore inevitably be marked by extreme uncertainty and unpredictability. Ultimately, “from this diffidence of one another, there is no way for any man to secure himself”, and consequently “Reason” dictates that individuals will seek a general condition of “Peace” in order to improve the “miserable” condition of their lives (Hobbes, 1651 [1996]: 88 & 92).<sup>2</sup>

The means by which this is attained, Hobbes argued, is through the establishment of a “common Power”, which he conceived in terms of a “covenant” between individuals which “conferre[d] all their power and strength upon one Man, ...in such manner, ...[that] every man should say to every man, *I Authorise and give up my Right of Governing my selfe, to this Man, ...on this condition, that thou give up thy Right to him, and Authorise all his Actions in like manner*” (Hobbes, 1651 [1996]: 120, emphasis in original). In doing so, individuals therefore “exchange” a measure of “liberty” for a measure of “order”, in the form of laws laid down by this

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<sup>2</sup> Such an assertion obviously has to be placed within the wider philosophical context of “the Enlightenment” and its vision of human beings as rational creatures (cf. Colson, 1992: 277).

“one Man” – or the “Leviathan”, to use Hobbes’ better-known expression – who represents the essence of the “common Power”. Thus, the Hobbesian vision is one whereby the social order represents a means of keeping in check the generalized violence of men in the “state of nature”. It is however a violent social order, insofar as individuals give up their natural right to resort to violence in exchange for security and certainty under the Leviathan, whose rule is in turn guaranteed through violence.

To this extent, as Daniel Pécaut (1996: 227, my translation) has succinctly summarized, “order and violence are not separate phenomena but rather two sides of the same coin. The social order ...is founded ...on violence [in the sense that] order implies violence ...through the constraints and regulations which are inherent to it”.<sup>3</sup> This is a conceptualization of the social order as being violent that has subsequently been conceived both explicitly, with Max Weber’s (1922 [1978]: 901) notion of a “political community” as “a community whose social action is aimed at subordinating to orderly domination by the participants a ‘territory’ and the conduct of persons within it, through readiness to resort to physical force, including normally force of arms”, as well as implicitly, with Michel Foucault’s (1975 [1977]) model of violence as being embedded in the normative structures of society.

As the authors of this volume highlight well in their contributions, underlying such a systematic form of violent social order are particular understandings of morality, legitimacy, and cosmology. Contrarily to the Hobbesian, Weberian, or Foucauldian visions, their notion of violent exchange is grounded in eminently contingent and situated moralities, legitimacies, and cosmologies, however. Rather than seeing these as monolithic or even simply hegemonic, the contributions to this volume explore how they are produced by particular entanglements and articulations of authority, violence, and resources in ways that do not produce an ideal-typical form of social order, but one that is messy, unequal, and unfair – in many ways a mirror of the Hobbesian “state of meer Nature”, thereby exposing the fallacy of this particular epistemological construction. As such, they echo the insight of Walter Benjamin (1989: 64), who argued that “the concept of progress should be grounded in [an] idea of

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3 Original text: “Ordre et violence ne sont pas des données séparées mais plutôt les deux faces d’une même réalité. L’ordre ...s’édifie ...sur fond d’une violence [car] ...l’ordre comporte une dose de violence ...qui résulte des contraintes et régulations qu’elle implique.”

catastrophe”, which is “not something that is impending at any particular time ahead [or behind], but something that is always given..., this very life, here and now.”

It is partly for this reason that the authors of this volume explicitly state that they “wish to explore how violence, or even the threat of it, acts as a catalyst in exchanges, and also how violence helps to maintain relations in such negative exchanges”. In this regard, however there is another potential notion of violent exchange that goes beyond the one presented in this volume. As Michel Maffesoli (1978: 1 & 1979: 171, my translation) has pointed out, it is necessary to distinguish between what he terms “social violence”,<sup>4</sup> on the one hand, and “foundational violence”, on the other.<sup>5</sup> While the former – which corresponds to the vision of violent exchange presented in this volume – is effectively instrumental in nature, the latter seeks “collectivization or symbolic exchange, which is the same as saying that it is in fact simply the paroxysmal expression of a desire for community” (Maffesoli, 1979: 171, my translation).<sup>6</sup>

This was perhaps best formulated by René Girard (1972) in his famous theory about the symbolic institutionalization of violence in society through ritual sacrifice, where he argues that “sacrifice”, as a primary act of violence, can symbolically “mislead” the mimetic impulses of men to be violent by “diverting” their attention – acting as a “conduit” or “channel” for their desire, as it were – onto ritual victim(s) rather than towards each other, thereby uniting them and imposing a “truce” in the underlying wider social conflict, in a manner structurally similar to the Hobbesian “covenant”. This is in many ways the original violent exchange, and conceiving of violent exchange in this way may have import for future research and elaboration of the concept, insofar as to view it as a form of “sacrifice” may transform its meanings and significance.

Indeed, this is something that another element of this volume might well help foster, insofar as the set of case studies that it offers for cross-cultural comparison brings together locations that are not usually juxtaposed with each other, allowing for a comparison of difference rather than similarity. However, rather than trying to systematically tease out

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4 Original text: “la violence sociale”.

5 Original text: “la violence fondatrice”.

6 Original text: “le collectif ou l’échange symbolique, ce qui revient à dire que la violence n’est en fait qu’une expression paroxystique du désir de communion.”

either similarities and differences, the volume uses these different case studies to show how violent exchanges can occur across a range of different domains, and involve a variety of actors and perspectives. As such the volume engages in illustrative rather than representative comparison, aiming to highlight the conceptual value of a theory rather than the extent to which it applies perfectly or not in any given context. In doing so the volume avoids essentializing the societies that the case studies focus on as representative of a particular part of the world – e.g. the so-called “Global South” – and offers a framework that is likely to be illuminating in many other societies, including in the so-called “Global North”, but also through alternative perspectives on the concept of violent exchange, including for example viewing it as sacrifice.

The other area where there is scope to expand the conceptual contribution of this excellent volume is in relation to the critical importance of the nature of context. All of the case studies focus on urban locations, and while all cities are different, urban space has particular qualities that are likely critical important to take into account (Rodgers, 2011). Although the introduction to the volume recognises that violent exchanges are not confined to urban contexts, and that they exist also in rural areas, has long been noted that the urban is an intensifier of social processes, which begs the question of whether violent exchanges are more common or more powerful in urban rather than rural areas. Urban contexts are inherent generators of friction, bringing together diverse, heterogeneous individuals in close and anonymous proximity in a way that rural communities do not (Wirth, 1938). As a result, many exchanges – i.e. violent and otherwise – are arguably less embedded compared to in rural areas, and a case could be made that this is what allows violent exchanges to proliferate (Rodgers, 2010).

Certainly, this is an avenue for future research, as is elaborating on one of the central but perhaps underplayed contributions of this volume, is concerning the way that violent exchanges are fundamentally tied into questions and systems of power, both formal or informal. The fact that Police officers are at the heart of all of the case study contributions to this volume highlights how state authority – or more accurately unequal access to state authority, both instrumentally or in an embodied form – constitutes a major vector of inequality that structures violent exchanges in particular way. Morten Koch Anderson proposes the idea of “acciden-

tal” citizenship to describe how violent exchanges constitute the urban poor in Dhaka, but in many ways, it would be more accurate to say that violent exchanges foster a form of unwilling, unequal citizenship, one which establishes the urban poor in Dhaka as partial citizens when they would otherwise seek to avoid engaging with the state entirely. Similarly, in their chapter on Kenya, Liv Gudmundsen, Line Vestergaard Hansen and Steffen Jensen show how such inequalities affect violent exchanges in the informal sphere, as these enact the unequal relations of the deeply patriarchal contexts within which they occur.

This suggests, that far from constituting “a pragmatic mindset enabling people to survive in a situation of constitutive uncertainty and absence of security and safety”, as the authors of this volume argue, violent exchanges are fundamentally the reflection and institutionalisation of what Bourgois *et al.* (2017) have called “structural vulnerabilities”. The question this raises is whether there is anything in a violent exchange – as opposed to a non-violent one, for example – which would allow for such structural vulnerabilities to be challenged. In the introduction to this volume, reference is made to Charles Tilly’s (1985) famous essay on the “war-making and state-making as organised crime”, where he makes the heuristic argument that European states effectively emerged from an alliance between Medieval warlords and an emergent capitalist class, with the latter paying the former not to pillage and plunder them. Tilly contended that the regular pay-off of warlords by capitalists eventually led to the latter being able to make demands on the former beyond not being plundered, including being protected from other warlords, as well as the provision of other security services. Little by little such amenities became codified in citizenship rights, while pay-offs become taxation. Seen from this perspective, the key question is whether certain types of violent exchanges have the potential to similarly reverse the structural vulnerabilities they reflect, are based on, and often reinforce, or whether they correspond to Walter Benjamin’s (1989: 64) other notion of catastrophe, whereby it is the fact “that things ‘just keep on going’ [that] is the catastrophe”.

Being good anthropologists, a key motivation for the particular approach adopted by the contributors to this volume to understanding the phenomena of torture and corruption was a desire to look beyond normative ideas about them and consider more vernacular conceptions. This volume has done so admirably, offering a range of different embedded

conceptions of torture, violence, and their interrelation, making us think in a different way. In this regard, paraphrasing the novelist Joseph Conrad (1897 [2017]: 3), it can be said that the task that this volume is “trying to achieve”, through its counter-intuitive notion of violent exchange, is “to make [us] hear, to make [us] feel”, and “before all, to make [us] see. That – and no more, and it is everything”. In this respect, it can be said that it succeeds wonderfully, as the notion of violent exchange clearly constitutes an intellectual “encouragement, consolation, fear, charm – all [we] demand; and, perhaps, also that glimpse of truth for which [we] have forgotten to ask.”

In the spirit of this volume, I therefore want to conclude this brief Afterword by returning to the starting point of the volume, reversing its contrarian gaze in order to consider normative ideas about torture and violence through a more vernacular perspective. Certainly, during the past two decades an increasing body of research has been produced on the particular cultures and institutional dynamics of international organisations concerned with both torture and corruption (e.g. Abélès, 2011; Fechter and Hindman, 2011; Lewis, 2009; Mosse, 2011; Smirl, 2015). This for example includes an excellent paper entitled “Two Cheers for Ritual: The UN Committee Against Torture” by Toby Kelly (2014), where he analyses the workings of the United Nations Committee Against Torture as ritual, and shows how even if its procedures are bureaucratic and even boring, these ultimately provide the means through which to put the politically sensitive issue of human rights and the hope for a better future squarely on the international agenda in a way that can navigate the complex geopolitics of the world. Seen from this perspective, perhaps such normative visions can be conceived as “non-violent exchanges”, attempts to transcend the banality of violent exchanges, that in doing so challenge not just a particular way of thinking but also a way of being.

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