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CORRUPTION AND TORTURE

VIOLENT EXCHANGE AND THE POLICING OF THE URBAN POOR

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Torture and Corruption: Violent Exchanges in Marginalized South African Communities

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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).[1] 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[2] on the one hand and corruption on the other?[3]

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[4] 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[5] com-

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5 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.[6] 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 CSVR'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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6 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 CSVR 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 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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