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NEGOTIATING MOVEMENT: EVERYDAY IMMIGRATION POLICING IN JOHANNESBURG

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A thesis submitted to the Faculty of Humanities, University of the Witwatersrand, Johannesburg, in fulfilment of the degree of Master of Arts (Dissertation)

Johannesburg, 2009

Dedication

To *KUKHANYA*, a star rising in the east!

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I owe a lot of thanks to many people. This dissertation would not have been possible without the help of the following.

I wish to thank the Almighty God for all the opportunities and second chances that have come my way. His love shines through my life every day.

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I thank my family, friends, classmates and colleagues for being there for me always. This experience has been unforgettable because of them.

Declaration

I declare that this dissertation is my own unaided work. It is submitted to the Faculty of Humanities, University of the Witwatersrand, Johannesburg, for the degree of Masters of Arts (Dissertation). It has not been submitted for any other degree, or for examination in any other university.



Xolani Tshabalala

30th, April, 2009

Abstract

Volumes of cross-border migration into South Africa have substantially increased in recent years, and so have state efforts to regulate them. This has meant that as migrants go about their day-to-day activities, they have had to endure closer scrutiny from state police officials who enforce immigration laws deep within South Africa, away from the country's borders. Students of political economy may question how the resulting interaction between migrants and state officials at the street level impacts on state construction in the developing world.

This research is a result of about four months of (non-)participant observation conducted with police officials in inner-city Johannesburg. Additional data was obtained from official documents as well as semi-structured and informal interviews with both police officials and migrants.

The findings from this research suggest that in the case of South Africa, it may be premature to posit a state that has been 'cannibalized' by society, as some may suggest. State officials consistently and sometimes overzealously profile, interrogate and arrest suspected undocumented migrants. Migrants are themselves aware and wary of imminent arrest and possible deportation should they move around without their permits. For state officials, this has sometimes even entailed the use of seemingly excessive means to enforce immigration law and to protect the state's monopoly over regulating movement.

Nonetheless, such efforts by the state exist within other informal, non-state and culturally embedded logics of interaction so commonly practiced by many societies the world over. On the one hand, these represent centuries old logics of negotiation, gift-giving and

networking. On the other, such logics are being reinvented to include bribery, extortion, predatory authority and other forms of exchange between migrants and state officials.

The successive and sometimes simultaneous appeal to these different registers on both sides of the 'point of enforcement' in the course of immigration policing constantly shifts, re-draws and blurs the boundaries between the formal and the informal, the legitimate and the illegitimate, and between the state and society. Both the political science and anthropological readers must face up to these everyday realities of the South African state.

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List of acronyms/abbreviations

ANC	African National Congress
CBD	Central Business District
CoRMSA	Consortium for Refugees and Migrants in South Africa
CPF	Community Policing Forum
DHA	Department of Home Affairs
DoH	Department of Health
FMSP	Forced Migration Studies Programme
GCIM	Global Commission on International Migration
HRW	Human Rights Watch
HSRC	Human Sciences Research Council
ID	Identity (Document)
JHB	Johannesburg
JMPD	Johannesburg Metropolitan Police Department
NGO	Non-governmental Organization
SADC	Southern African Development Community
SAP	South African Police
SAPS	South African Police Service
SARS	South African Revenue Services
StatsSA	Statistics South Africa

1

INTRODUCTION

1.1 General Introduction

The fifteen years of transition from apartheid have had a significant consequence: South Africa has become the focus of increased volumes of cross-border migration. There is concern that the greater part of this human movement is covert and proceeds 'under the radar' of the state.[1] 'Illegals', 'aliens', or 'illegal aliens' are terms that have been proffered to describe those that are thought to transit through, or have come to reside in, the country without official sanction. The significance of this concern is best reflected in the efforts by the state to apprehend and deport undocumented migrants.[2] Such determination to expel undocumented migrants does not, however, reflect much on whether the state's available enforcement mechanisms are able to respond adequately to these forms of migration. Migration, especially undocumented, provides a good lens with which to debate and question the state's ability to control the movement of people within and across its territory.

Nonetheless, regulating the movement of people remains a significant feature of the present day state. Some scholars have suggested that processes of globalization are threatening to erode the abilities and prerogatives of the sovereign state (Sassen 1996), in the process diminishing its role in determining the flow of people, goods and information in and

[1] Concern with increased migration into South Africa was first registered by a Human Sciences Research Council (HSRC) (1996) survey: '*Who Goes There?'* that put the numbers of undocumented migration in the country at between 2.5 and 4.1 million at the time. Since then the numbers are thought to have increased, just as the political and economic turmoil in Zimbabwe, for instance, continues to push huge numbers of Zimbabweans out of that country.

[2] According to the DHA annual reports, in excess of 250 000 undocumented migrants were deported in 2006 alone, and this number has been increasing steadily since 1994.

out of its jurisdictional territory. However, other scholars (Barnett 2001; Krasner 2001) have emphasised the ability of the state to withstand these processes. This resilience not only has a historical dimension (Agnew 1994), but it is also manifested in various practices. One way that the state demonstrates its continued control over its territorial sovereignty is by physically allowing access or excluding sections of populations who may wish either to pass through, or reside within, its territorial space. Migration governance has entailed, for the state, various ways of enforcing migration laws; through the actual screening of individuals at the border, or through surveillance mechanisms within the territory, away from the points of entry (Coleman 2007; Groenendijk 2003; Lahav 2000).

Policing is one of the many ways through which contemporary states have come to ritually monitor their populations. All over the world, the police have, however, come to be particularly involved with immigration enforcement as a way of regulating behaviour in and through space (Herbert 2008). In South Africa, one way of carrying out territorial surveillance on migration has entailed the appointment of state police officers to profile, arrest, detain (in some cases) and deport suspected undocumented migrants. Although the Department of Home Affairs (DHA) is responsible both for formulating policy that should guide immigration enforcement and for determining the status of those that are suspected to be 'illegal', the South African Police Service (SAPS) is ultimately responsible for the day-to-day enforcement of such laws and policies. This mainly involves street patrols in search for suspected offenders, regular blitz operations, as well as various forms of community policing.[3]

Immigration enforcement is therefore conceived in this context of an international trend where governments have sought to "control migration through restrictive immigration

[3] see Vigneswaran, D. 2008 'Enduring Territoriality'(cited in this report), for a detailed discussion on community policing and its typology in the South African case

policies ... deterrent measures such as punitive and arbitrary detention, carrier sanctions, rejection at borders and large repatriation programmes" (Algotsson and van Garderen 2001: 1). This restrictive logic also informs the policing of movement, from the minor matter of interviewing migrants in the streets, to more general issues of denying access to potential visitors, to other national and international policies that have been formulated for the express purpose of deterring unwanted migration.

Just like in any other forms of surveillance, regulating movement is understood to achieve political ends through the legitimating and strengthening of state power (Herbert 1997; Yarwood 2007; Mitchell 2004). The dictum of 'weak states' is used to refer to governments that are not able to extend effective control over their territories, a part of which has often manifested in irregular or unmonitored movement of people across international borders. When a state in unable to control who comes in or who moves out of its territory, such a state is often subject to questions about its power, or more appropriately, its lack of it. This idea follows from, *inter alia*, the understanding that states hold the prerogative over the legitimate movement of people (Torpey 1997). This theory proceeds from the (neo) Weberian theories: that states are unitary, autonomous and constitute themselves separately from society. It is this distinction that has been posited as enabling them to effectively exercise their power in governing social life, a part of which is migration.

Other theorists, however, question this dichotomy (*inter alia*, Abrams 1977; Mitchell 1999; Sharma and Gupta 2006). It has become fashionable to re-examine the classical approaches and to consider alternative ways of studying 'the state'. Aradhana Sharma and Akhil Gupta (2006), for instance, have contended that the distinction between the state and society is only a result of how power is applied, and not a construct in and of itself. Since the state interacts closely and frequently with society, maintaining the distinction is not particularly useful when examining the ways in which the state manifests in practice (Mountz

2003). This study embeds itself within this logic. An example of immigration enforcement as recorded through fieldwork notes works well to summarise and presage the main context and argument of this paper.

> Police officers are driving to 'The Circle', their informal field rendezvous area within policing Sector 1 and 2, with a police captain. At Wanderers Street, near to where they are headed, they find that the streets are blocked by parked cars. Most of the cars belong to street traders who conduct their businesses in this area. As the officers try to get those vendors with cars to clear the driveway, the captain begins to interact with them in a way that shows that he knows most of these people. In fact, he calls a few of them by their names. As they notice him, a few also come forth and shake hands with him. Others proceed to move their cars. The majority of the vendors are migrants; a few are from West Africa, judging from their accents. The captain laughs as he greets them, cajoling them in a concocted Nigerian accent to move their cars over. One man comes over to Tshepo's side of the police van and asks to buy the captain a 'cold drink'. The captain agrees and politely thanks him, but Tshepo receives the money. The captain advises Tshepo soon afterwards that she can keep the 'cold drink' money.

The above extract illustrates one of the ways in which the state is manifested through quotidian immigration enforcement practices. There appears to be a familiarity between what one may consider the state, in the form of the police captain and his juniors, and society, in this case represented by the migrants. The distinction between the two, from the perspective of their interaction, is not entirely clear. More importantly, it is difficult to make sense of these practices if one does not put them in their proper social context.

Understanding the meanings of such interactions demands that one broadens the conception of the state to also encompass the ways in which it works in social settings, in order to make more general and meaningful conclusions about how it realises itself in practice. In this sense, it becomes apparent that the state is one of many institutions of

interaction and relation in social life; and the exercise of power and control may often be experienced through similar relationships. This state of affairs entails mutual involvement and feedback, even if such symbiosis may, as in the above case, for instance, serve state officials better than it does migrants.

This contact and interaction between the practices of state officials and those of migrants in the above example may describe a general relationship between the state itself and society. It helps us to examine how the one category is implicated in and helps shape the other. For instance, the captain's ability to impose his will on the vendors exists within a broader, apparently friendly, perhaps materialistic and seemingly more established relationship. This perspective not only underlines notions of the state as a "multilayered and contradictory…ensemble of institutions, practices and people" (Sharma and Gupta 2006: 6), but also the idea that the state itself does not altogether disappear within social practices. These uncertainties, complexities and contradictions are the main concern of this paper.

The remaining sections of this introduction present the background to the research question, foregrounding the interface between undocumented migration and migration policing. The rationale of the research is also explored to build a case for the relevance of the study. The aims of the research and the research question are then explored in more detail, in particular the meanings of everyday immigration policing and everyday enforcement practices. The concluding section also explains the layout of the entire research report.

1.2 Background of the Study

This study is framed primarily within the context of undocumented migration, and references to other categories of migrants may be made for illustration and elucidation purposes. Although in South Africa the various types of migrants are conflated into a singular

category of 'aliens'[4], the anxieties that characterize popular discourse are fuelled mainly by the difficulties associated with predicting, monitoring or stemming irregular or undocumented migration. It is for this reason that undocumented migration is of particular interest.

1.2.1 Undocumented Migration

While it is easy to estimate and describe the types, trends and numbers of documented migrants worldwide,[5] this is not the case with undocumented migrants. The difficulties with quantifying and describing the types of undocumented migrants are manifold. For instance, "in Africa, the most significant form of undocumented migration during the past decade has been spontaneous flows of refugees and displaced persons" (Appleyard 2001: 13). On the other hand, as governments have sought to deter rapid migration through increasingly restrictive admission policies, determined migrants have used alternative ways to circumvent such efforts. One way has been the use of bogus documents. Plugging the holes in porous border lines has also not been effective in the longer term as undocumented migrants have tended to shift to other routes. In addition, fortifying such borders, such as the United States has done along the Mexico border, has had an unintended effect, in that individuals who successfully cross without authorization appear to remain longer than they otherwise would have done (International Migration Report 2002: 28-30). Moreover, "potential movers seek eligibility in any category for which they can qualify" (UN Secretariat, 1997: 4). The above examples illustrate the distinctly irregular patterns of undocumented migration, which makes it hard to both describe and quantify.

[4] The persistence of the term probably owes to its use in The Aliens Control Act, No. 96 of 1991, and the subsequent amendments to the act that came later. The Immigration Act, No. 13 of 2002, does not use the term, but still makes references to 'illegal' foreigners.

[5] The UN puts the numbers of migrants worldwide at about 190 million by 2006 (United Nations. 2009. 'International Migration Report 2006: A Global Assessment', New York: United Nations)

It is the difficulty associated with quantifying undocumented migration that makes it difficult to define the exact dimensions of the phenomenon. While it is believed that undocumented migration has been on the rise since the 1970s (International Migration Report 2002: 28), the category itself is unhelpful in characterising those that cross international boundaries without papers. So while Steven Castles (2000) offers that the category refers to those who enter a country, usually in search of employment, without the necessary documents or permits, undocumented migrants are also likely, depending on the policies that govern immigration in destination countries, to attempt to present themselves in line with whichever category might help them get recognized (International Migration Report 2002: 28-30). This may mean that, for example, those that initially cross borders in search for employment may end up applying for political asylum if the process allows, or, when the asylum process is being exploited in the described manner, those with founded cases may end up not being recognized.

1.2.2 Migration and Migration Policy in South Africa

Migration patterns and typologies in South Africa compare and contrast in various ways with those from other regions in the world. For instance, undocumented migration in many parts of Africa may proceed along centuries-old routes of nomadism, aided along the way by empty tracts of land, familiar customs or ease of communication, and sometimes as an extension of internal migration (Appleyard 2001). In other instances, and in different parts of the world, both documented and undocumented migration may follow pre-colonial, colonial, post-colonial and other more general patterns of labour migration (Adepoju 2000). In South Africa, more recent migration patterns have been shaped heavily by perceptions of

better employment and other opportunities in the country (Landau and Gindrey 2008), and a relatively peaceful political climate.

As the other traditional migrant receiving countries have become both poorer and politically unstable in post independence economic decline, South Africa may have come to represent both a 'greener pasture' and a safe haven for those that seek to escape these conditions. Thus, apart from increased volumes of immigration since South Africa's 1994 independence, the profile of migrants has also changed considerably to include refugees, asylum seekers and other forced migrants (Landau 2007; Jacobsen 2006). In line with the processes of globalization as well as urbanization, both voluntary migrants and involuntary displacees are more likely to end up in urban areas (Jacobsen 2006; Vearey 2008). In South Africa, urban migrants have mainly settled in the Gauteng, Western Cape and KwaZulu Natal metropoles.

Gauteng is by far the province of choice for many migrants, both internal and international. This is reflected in the general population growth in the province. "Between 2001 and 2007, Gauteng saw a population growth rate of 1.9%, and this is the second highest rate after the Western Cape". Although it is not clear if this difference is a result of a bigger birth rate in Western Cape than in Gauteng, "...in 2007, Gauteng Province hosted 46% of South Africa's population born outside South Africa' (Landau and Gindrey 2008: 6). This trend is expected to increase.

South Africa has, nonetheless, not been immune to the challenges presented by (undocumented) migration. Although the numbers and types of migrants may have changed after 1994, the state's response to the phenomenon of immigration has continued to be driven by a desire for strict control and exclusion. Post-1994 South Africa has been a democratic and neo-liberal success story, with a government that has sought to embrace free-market

economic policies and encourage free movement of international trade and capital (Handmaker and Parsley 2001). A similar shift in responses to migration has, however, been slow. The fetish for migrant exclusion, and especially exclusion of those from other African countries, has mainly been registered through public discourses as well as other displays of anger. There have been, for example, complaints about the threat of 'tides' of migrants on South Africa's shores from immigration enforcement officials themselves, especially the SAPS officials (Newham, et al 2006), the media (Vigneswaran 2007) and the public (Crush and Williams 2004). In May 2008, feelings of resentment erupted in xenophobic violence that spread across many parts of the country. Despite such apparent consensus on the undesirability of migrants, the reality of the implementation and practice of regulating, or even reducing immigration has been conflicted, inconsistent and accompanied by little real change. The issuing of temporary residence permits to undocumented Zimbabwean migrants who have been coming to South Africa in increased numbers, for example, is a recent exception that proves the rule.[6]

The convergence of increased undocumented migration and South Africa's immigration policy and policing provides a good case study through which to question the state's ability to regulate movement. This has broader implications for the debate on the state's monopoly over regulating movement, and the effective use of legitimate force to achieve this.

1.3 Rationale of the study

[6] In March this year, in a response to increased undocumented migration from Zimbabwe, the DHA announced that it was going to issue temporary residence permits valid for up to six months to undocumented Zimbabweans already living in the country, in a attempt to regularize their status and to make them eligible to access some basic services that are inaccessible to undocumented persons (www.dha.org.za)

David Bayley (2006, in Bruce 2007: 15) has observed that the transformation[7] of SAPS, if compared to examples from other countries, can be said to be a "heartening success". However, some examples of operational policing cast long shadows on this presumed success of transformation. For instance, the 'dog training exercise' incident of 1998,[8] and more recently the police raids on immigrants at Johannesburg's Central Methodist Church and Noord Street Taxi Rank in February and March 2008 respectively,[9] would appear to suggest that 'old habits' still linger. A study of police officers' perceptions of foreigners in Johannesburg has also revealed entrenched anti-foreigner perceptions within the police force (Newham et al. 2006). It is safer to say that a slower change of practices within the same structures makes one question even further the success of transformation within SAPS.

Nonetheless, transformation has mainly been debated in the literature within the mainstream understandings of the state and its functions (see, for instance, Crush and Williams 2004; Jacobsen 2006). The police are seen as an organ that supports a political association that retains the legitimacy of enforcing order within a given territory. Such order is assumed to be both premised in and achieved through bureaucratic institutions (Heyman 1995). This suggests discipline and rationality as significant premises of policing practice.

This research, however, moves beyond such a "residual characterization" of the state (Mitchell 1991: 83), or formalization of policing. It suggests instead an interrogation of the presumed boundary between 'the state' and 'society' by focusing on the everyday interaction between police officials and migrants – an interaction between the legitimating forces of the state (the police) and the social pathology (undocumented migration) that justifies the work of the police in immigration enforcement.

[7]One may approach transformation from its more conventional reference to change of organizational structures. The reality within SAPS may however be closely related to a change of practices within the same structures.

[8] In which six police officers set dogs on three suspected undocumented immigrants on the East Rand.

[9] These operations were executed under the banner of crime prevention. Nonetheless, they resulted in the eventual arrest of hundred of suspected 'illegal immigrants'.

A hypothesis of this research considers forms of policing that are grounded in strategies that fall beyond the realms of the 'formal', of law and policy. By attempting to investigate interaction between law enforcement officials and migrants, an explanation of policing is sought that is embedded in practices and phenomena (migration) that would otherwise be considered informal, marginal, and irregular or to lie outside the realm of the official, even if such strategies may not appear to contravene the spirit and letter of the law. This research also exploits a gap that exists both in the literature and public discourse; a consistent attempt to either explain immigration policing through official law and policy while disregarding other alternative, social forms of immigration policing, or dismiss it as part of criminal practices within the police force. Hence, subsidiary, and yet common hypotheses regarding immigration enforcement include a) the belief that police officials tend to purposely abuse the law at the point of enforcement (for example, that they take advantage of migrants' presumed vulnerability to execute their duties in deliberate disregard of their own code of conduct), b) that police officials prey on large numbers of undocumented migrants in the inner-city to, among other things, extort money from, and c) that routine (read: everyday) encounters between the police official and the suspect are predominantly punctuated with violence.

These are pertinent questions. At a time when the transformation of the police is regarded to have been successful, immigration policing is one way of examining such success. In the light of increased volumes of migration, an examination of how these are shaping the practice of policing, and how the state is responding to the phenomenon is a useful lesson not only for other migrant-receiving areas, but for migration governance in general. With regards to the point of enforcement, the aim lies in understanding how state officials and migrants have invented themselves in relation to the state, and in the process, how they are reconstituting the meaning of state and state power.

1.4 Aims of the study and the research question

As a major aim of the project, this paper is structured around the empirical question: *what is the nature of the interaction between state officials and migrants a) at the street level, b) on a day-to-day basis*. In order to answer this question, the following subsidiary questions were developed,

- How can we describe the habits, procedures and justifications involved in the everyday interaction between police officials and migrants?
- How does policing work in practice?
- How do individual police officers (and migrants) insert themselves into these practices?

All these questions are informed by the theoretical question; *how is the state, as well as the boundary between state and society, constituted and reconstituted through every day practices of state officials and migrants?*

The above questions require an approach to immigration policing that looks at the everyday practices of police officials. Interaction between police officials and migrants, or 'the point of enforcement', is therefore the primary focus of the research. Such an approach aims to focus on where the line that separates the police officials from ordinary members of society is thought to lie. The focus is nonetheless the performance of the boundary between the institutional and the social, as opposed to a physical national border. Therefore this research questions the reaches, or the extents of the state in society, by looking at how those that seek to represent the state and those that constitute society, through their interaction, perform their roles.

In order to achieve this, this paper uses the theory of social constructivism. From this perspective, every day practices may best be understood from the social contexts that shape points of view and decisions of the individuals performing these practices. This is in line with the idea that knowledge does not exist independent of the individual, but that it is socially constructed and embedded (Vrasidas 2000). The value in social constructivism lies in its recognition that the world makes more sense through the ways in which people live and come into contact with their particular environments. Thus, the 'known' world sets certain limits within which multiple but limited perspectives can be negotiated and constructed.

When one follows this line of thought, then it becomes plausible to see the identities and interests of both police officials and migrants not only as socially constructed, but also co-existing with other ideational factors that emanate from the human capacity and will to take a deliberate attitude towards the world and to lend it significance (Ruggie 1998). Whereas structures and rules map the world in which humans can live, it is ultimately up to their own will and decision making that they perform their duties and live their lives. This is as true of police officials as it is for migrants.

Often, state law and policy are touted as the vanguards of the individual actions and behaviour of bureaucrats, or state employees. If there is an official that exemplifies the rationality of the state, the police official, as the individual entrusted with (and expected to) enforcing state laws, can be regarded as one. Ideally, the state official, in other words, should represent the bureaucrat par excellence: the core of the state itself. This research, however, adopts the counter-intuitive logic that law and policy alone do not explain everyday decisions and actions in immigration policing. Law and policy do provide a map that guides individual action. However, everyday decisions, and how they are actualized, are an individual matter, and in line with social constructivism, a social process. One may at this point borrow from Mitchell de Certeau's idea of the practice of everyday life, which "privileges" the *act* of

policing, as opposed to the knowledge of policing and policing laws. Everyday policing thus becomes an "appropriation" and "re-appropriation" of the act of policing by the officials, which "establishes a relative to time and place, and posits a contract with the other in a network of places and relations" (unpublished: 4). Time, place, contract, networks and relations are all rooted in social environments in which individuals exist and perform their lives.

Of importance is how everyday practices of policing (including immigration policing) are influenced by individual agency, itself given meaning through socio-cultural norms, scripts and beliefs. In examining policing as an everyday practice, the research follows the proposition that even if the instruments of law and policy may exist as a bureaucratic norm, actual policing on the ground is more an issue of these social norms and beliefs.

1.5 Overview of the Research Report

This research report is organized into five chapters, including this introduction. The second chapter covers a review of the literature. It includes a debate on some theories of the state and their usefulness to this study. It also discusses their limitations, and some alternative approaches. Further, it considers the policing profession, the history of policing in South Africa, and migration governance, developing a case for the current research question and interest.

Chapter Three discusses the methods that have been used. The methods section is made up of three methods that sought to approach the 'point of enforcement' from three different perspectives; namely incident reporting, a largely covert method of observing police practices, participant observation of police officials, as well as interviews with migrants. The

section discusses how the above techniques have been used in order to fulfil the objectives of the research.

The fourth chapter is the data presentation section. It has been divided into two broad sections; the first maps out the area of the research in relation to the data gathered, while the second engages with the data in a more detailed way. The second section itself has four sub-sections, in line with the major themes that emerge from the data. The first subsection discusses how we can understand discipline that we observe in the practice of immigration enforcement as part of the structural organization of the SAPS. The next subsection considers how enforcement can sometimes be characterized by double standards, thus questioning the consistency of disciplinary techniques and conduct described in the first subsection. The next subsection then seeks to explain enforcement within general social norms and conditions of informality. The last subsection then questions whether what one may see as informality may in fact be criminality.

The fifth and last chapter is the conclusion. It summarizes the report by discussing how all these characteristics of immigration enforcement explain migration policing in general. This is done with the view to tie the debate that proceeds from this report to broader theoretical arguments.

2

LITERATURE REVIEW

A particular problem arises when, instead of being a discourse on other discourses, as is usually the case, theory has to advance over an area where there are no longer any discourses. There is a sudden unevenness of terrain: the ground on which verbal language rests begins to fail. The theorizing operation finds itself at the limits of the terrain where it normally functions, like an automobile at the edge of a cliff. Beyond and below lies the ocean. – Mitchell de Certeau, 1984

2.1 Introduction

The following discussion draws from theories of the state, and by discussing some of the limits of these theories, builds a case for a complementary ethnographic lens through which to view the state. It considers migration policing as social and localized responsibility of a state that, as part of the international system of 'nation-states' around the world, is supposedly structured and functions in terms of a classical Weberian bureaucracy. The review thus uses (neo-)Weberian theories as a point of departure to illustrate how the state, through the discourse of rationality and bureaucratic technique, is thought to enact itself, govern social action, and maintain its dominion over society. By questioning the assumption that the state is the central locus of power in governing society in general, and regulating movement in particular, the review proceeds to argue, in line with anthropological thought, a more cultural approach to the study of the state. Immigration policing is thus discussed away from the centre and within social contexts, which is particularly relevant in the case of Central Johannesburg, where the individual police officer carries out his everyday practice.

Policing as a vocation is then discussed. This review discusses, in the context of everyday practice, the police "working personality" (Skolnick 1966), and how this personality is assumed to partially account for the everyday conduct of police officials. For this case study, a review of the history of policing in South Africa is also undertaken. South Africa's current politics and society have been influenced by her volatile past, and this historical trajectory projects significantly into the present policing climate. It is South Africa's policing history that causes van der Spuy (2004: 194) to question whether normal policing can "altogether return". The review then focuses on undocumented migration, migration policing and its urban governance in South Africa. The conclusion will outline how the research question has been developed.

2.2 The State

State theory literature is concerned with many important issues: "the state's autonomy from society, its class composition, institutional capacity, and legitimating discourse" (Wendt 1999:195). Let us take this as a starting point. Within this complex, talk of the state is essentially that of state power. Thus, in terms of the state, a positive correlation is often presented between strong or powerful states and more state sovereignty, and vice versa. In reality, as Steven Krasner (1999) has pointed out, the practice of sovereignty and application of state power is often inconsistent, contradictory and self-violating. The ideal type state cannot translate into reality, even if it aspires to be the premise of the modern international system of states.

In the interest of theory, and in this context of the international system of states, however, it is useful to return to the notion of state as state power. All four concerns outlined by Alexander Wendt (and others still) therefore touch on this concept of state power. State

theory literature, however, has done more than concern itself with such issues; since it has commonly done so against the backdrop of a predominantly neo-liberal context. The following part of this review traces, in brief, its development, and later discusses it within a third world context.

In Western political science, two main schools of thought regarding the theory of the state have developed: the systems approach and the statist approach (Mitchell 1999). We shall concern ourselves with the second one. The statist approach is synonymous with the proposition by Max Weber that the state retains a monopoly over the legitimate use of organized violence. In what has come to be known as the Weberian definition, the state is seen as the central 'unit' of power. According to this notion, the state exists as an entity in its own right. In other words, it is an 'actor' upon which the functioning of other organizations, as well as society, depends. In order for the Weberian state to retain its superiority, it must have a well-developed and self-contained structure and detailed bureaucratic organization, or 'apparatus'. Weber writes that:

> The decisive reason for the advance of bureaucratic organization has always been its purely technical superiority over any other form of organization. The fully developed bureaucratic apparatus compares with other organizations as does the machine with the non-mechanical modes of production (in Sharma and Gupta 2004: 57)

For Weber, the state can only meet its principal objectives as the locus of power if it maintains a distinction from the wider society that it governs. In fact, Weber's (1968) essay – *Bureaucracy*, drives home this point by constant reference to such words as "separate", "divorced", "different", "pure". Thus, the state needs to constantly show and enact itself as quite apart from society. According to Weber, its main means of achieving this is employing trained bureaucrats who should, as best as they can, exercise professionalism in their duties.

It is not difficult to see the development of the security forces, the army and the police, as following directly from this logic. The police in particular, since they intervene and interact more routinely with members of society, are a highly visible representation of the state. They come across as a more technically structured organization if compared to the relatively amorphous communities in which they work, a position that is also reinforced by the community's reliance on them as the keepers of order in society.

The kind of trusting, unquestioning dependence of society on the police – the state – for communal safety and order is in fact an illustration of Antonio Gramsci's distinction, which, although similar to that of Weber, rests on the idea of a dominant ruling class and a servant underclass. For Gramsci, the separation gives rise to an elite political society, and a dominated civil society (Hoare and Nowell Smith 1971). However, it appears that this Marxist distinction still suggests a closer interdependence between the classes, for it posits an economically endowed class of people that eventually controls the means of production, and thus regulates (and thus relies on) the behaviour of society for its own political and economic ends. Police officials occupy a central position within this interaction. By maintaining order in society, the police serve the needs of the state, and the state is in fact made up of the ruling classes. This works well, because the police underline the dependence of civil society on the ruling class for their collective security, which is a subtle form of domination.

Although transformative, the ruling classes in Gramsci's depiction are obviously interested in keeping the status quo, which is keeping themselves in positions of privilege and domination. This entails an exercise of power, again vindicating the idea of 'state' as 'state power'. However, what is different in Gramsci's interpretation is the ruling class', or the state's, 'familiar' interest in retaining a monopoly over the legitimate use of violence as its principal means of control and domination. Gramsci advances that rather than achieve

dominion through directly coercive means, the political elite – the state – do this using indirect means. Nonetheless, in the Gramscian case, the divide between state and society is not erased because it still appears in different wording and forms, and lies within both the repressive and ideological state apparatuses. As the example of the police illustrates, both hegemonic and ideological domination is reflected in the quiet submission and dependence of society on the political elite, and the former's control over the latter, as well as the technical development of the security forces as a means of partly achieving this.

In the class relationship, rule and domination are the prime objective, and are achievable, for instance, through hegemony and political ideology that seek to protect dominant class interests. Hegemony, however, is not clearly defined by Gramsci. Comaroff and Comaroff (2002) write that this is deliberate. Rather than think of hegemony in the imposing way that the word largely comes across, Gramsci invites us, suggest the Comaroffs, to appreciate what can be called its real but hidden existence (which is in fact Philip Abrams' (1977) depiction of the 'state'), the fact that we are never really in complete reach of it to explain it in concrete terms. We appreciate what it means because we always imagine what it could encompass, and we struggle to lend it meaning within a social and linguistic context; how we might possibly describe it, as opposed to it falling within pre-existing social or scholarly categories.

> …[T]he very fact that Gramsci's notion of hegemony was so unsystematically stated... appears to offer a ready rapprochement between theory and practice, thought and action, ideology and power... for Gramsci, nothing is anchored...to master narratives, to stable (positive) identities, to fixed and certain meanings: all social and semantic relations are contestable (Comaroff and Comaroff 2002: 207).

As subtle forms of rule, hegemony and ideology work to make the masses feel that their interests are being looked after by the state. This may be illustrated through the responsibility

of preserving security in society by the police. At the other hand, this helps the ruling classes in their attempts to achieve domination. The police are thus perfectly positioned to illustrate such class domination.

This is however, also where the mutual exclusivity of state and society appears to break. Through ideology and hegemony[10], the relationship between culture and power (or society and state) is understood (ibid: 208). The ruling classes may, through ideology, exercise power by intentionally controlling the actions and worldviews of others, for example, by controlling the means of production, circulation and consumption, or power may, through hegemony, present or hide itself through everyday life. While hegemony is based on the very constitution of society, ideology works to further elite interests. Both represent state power, yet the two derive and sustain themselves from the two ends of the state-society distinction. It appears that even with Gramsci's distinction, statist theories, even when they seek to be social, still reproduce the distinction between state and society.

2.3 African Theories of the State

A growing number of scholars have proposed that the state in Africa may not be expected to develop and evolve in the same manner that neo-liberal democracies in the West have (Chabal and Daloz 1999; Bayart et al. 1999; Medard 2004; Olivier de Sardan 1999; Reno 1995). This section focuses on the theories of state development in the third world. Such a proposition is important for the discussion on the divide between state and society because it provides an opportunity to further critique the South African state, which, by virtue

10 The Comaroffs define both hegemony and ideology as 'the order of signs and practices, relations and distinctions, images and epistemologies – drawn from a historically situated cultural field – that come to be taken-for-granted as the natural and received shape of the world and everything that inhabits it'; and as 'an articulated system of meanings, values, and beliefs of a kind that can be abstracted as the 'worldview' of any social grouping' (Comaroff, J. and Comaroff, J. 2002: 210) respectively.

of its geographical location in the continent, shares many of the dynamics that drive such development elsewhere in Africa.

'Africanist' scholars have proposed that the path that state development in Africa is taking, which has been posited to differ from that of the Western model on which it is premised, may in fact describe the norm rather than an exception to it (Olivier de Sardan 1999; Martin 2000). African states are thought to be heavily influenced by unique social contexts that constantly shape them. In most African societies, interaction (of which immigration enforcement is a prime example) entails networking, which entails solidarity, which itself also entails 'looking out for each other', as well as other forms of material exchange. Of significance is the proposition of particular 'behavioural logics' in the post colonial state are culturally embedded, although they may be corrupted through over-monetarization (exchanges between two parties have increasingly become monetarized) and exploitation of the concept of shame (failure to reciprocate, for instance, conjures shame for the concerned individual). Such behavioural logics may include, in no particular order; negotiation, gift giving, solidarity, predatory authority, redistributive accumulation, and so on (Olivier de Sardan 1999; 36-44). Particularly when these actions intersect with official work, works on Africa have posited the state as 'working' on a mode that is different from a (neo) liberal model (Chabal and Daloz 1999; Bayart et al. 1999, Medard 2004). We briefly look at them here in turn.

Patrick Chabal and Jean-Pascal Daloz (1999) have proposed a new model that can be used to understand how the state in Africa functions, a model they have called 'the political instrumentalization of disorder'. Taking this to mean the manner by which political actors in the continent look to "maximize their return on the state of confusion, uncertainty, and sometimes even chaos, which characterizes most African polities' (p. xviii), the model posits a predominantly criminal climate within which the project of state construction on the

continent functions. Chabal and Daloz attempt to show how the 'logics' of politics, society and the economy interact in a process of state construction that however "does not fit with the Western model of development" (Chabal and Daloz 1999: 143).

Particularly for Chabal and Daloz, the 'instrumentalization' of disorder thrives in general preconditions of endemic war and violence, which is, however, more than can be said for the greater African continent. While the exploitation of disorder may apply for certain enclaves in the continent where civil war and violence have resulted in what William Reno (1995) has called "shadow states", it may not be easy to apply the model to parts of the continent that are undergoing peaceful transition, such as the case of South Africa, or those that have remained peaceful for some time now. Guy Martin has particularly expressed his disappointment at the way Chabal and Daloz 'miserably fail' in proposing their model.

> [B]y taking Max Weber's concept of law, state, and bureaucracy as the ideal type against which African institutions can be measured, the authors fall into the trap of modernization theories' 'unilinear evolutionism', which posits that third world/African states are bound to follow the developmental path opened by western states before them (Martin 2000: 181).

Martin, in his criticism of Chabal and Daloz, in fact advances a different course of state development in Africa that does not coincide with the neo-liberal model. His view has been amply supported by Jean-Francois Bayart, Beatrice Hibou and Steven Ellis (1999). Adopting a historical perspective, and extending Chabal and Daloz's proposition, they have wondered if the African continent in general may be sliding towards criminalization. By positing that Western imperialism and colonialism might have marked a brief discontinuity in a long history of self orchestrated criminality, the authors have considered that the political climate in contemporary Africa may symbolize a return, or "restoration" of authoritarianism and predation (Bayart et al. 1999: 8). Although they are cautious of positing this thesis as an

explanation for the development of the state in Africa, they have suggested that the criminalization of the state, rather than pose a threat to its existence, may possibly underpin its construction, or "centralization" that can be traced over a long history (ibid: 44). It may be that the authors are slightly sceptical of their thesis, but for those that subscribe to this line of thought, seemingly peaceful political environments in the continent may already be engulfed in general political economies of criminalization.

Instead of looking for regular patterns that may eventually support a general theory of criminalization, or even instances involving political elites, one may instead focus on odd incidences and irregular instances that may not necessarily be traced back to general practices within the state itself, but to individual civil servants, such as police officials. These individuals may therefore be involved in petty criminal practices on a unilateral basis. The interaction between social norms and criminality in this manner further blurs the boundary between state and society, because in this instance the expectations of what may fall within state practice on one hand, and social practice on the other appears to be susceptible, as social constructivism suggests, to instrumentalism that is driven by personal gain.

In light of instrumentalism within the bureaucracies, political and to some extent economic upheaval need not be ingredients for criminality. Besides, criminality may be difficult to characterize in line with Bayart et al.'s proposition. Socially acceptable behaviour may not necessarily conform to the legalistic definitions put forth by the authors, which subsume the universality of law as a standard guide to acceptable and non-acceptable forms of behaviour (Bayart et al 1999: 16). We are impelled here to search within the everyday, seemingly legitimate and otherwise condoned behaviour, for possible loci of potentially criminal behaviour and conduct. For instance, Beatrice Hibou uses the example of external aid to illustrate how economic liberalization has had the unintended result of reducing state sovereignty, and the formalization and expansion of criminal activity in the public services.

In fact, Hibou (1999) extends the thesis on the growth of criminality in the public services in her work; *Privatizing the State*. Economic reform is seen by Hibou as driving the decline of legitimacy, sovereignty and the authority of the state. This in turn has driven a culture of rent seeking as "external financing is in fact being appropriated by the national elites and their courtiers, resulting in privatized rentier political economies" (Hibou 1999: 5). A direct effect has been, according to Hibou, the development in many African countries of a dual role of the civil services: one public, and the other private and self interested. "Alongside the traditional bureaucratic apparatus there is a real parallel administration: civil servants fulfil two roles, one public but not very active, the other private and often very lucrative" (ibid: 7).

Further, Hibou proposes that the state has been complicit in the increase in criminality surrounding its political economy. Thus;

> [t]oday, the explosive growth of criminal activities… and of the informal economy… is perhaps the 'revenge' of the 'market economy', as some claim. But in no way does it lead to the impotence of the state or the political more generally. Even if certain aspects of state power are in decline in some instances, the central power has contributed to the development of those activities, by its tolerance towards illegal activities and by the active involvement of some of its members (ibid: 12).

At a slightly micro-level, the greed of state officials may help contextualise the conduct of immigration enforcement. Previous economic studies on the link between the state and informality have at times posited "the state as a 'grabbing hand' discriminating against firms with low bargaining power to extract bribes through the discretionary imposition of red tape" (Shleifer and Vishny 1998, in Hellman et al 2000: 1). Using the same analogy in immigration enforcement, vulnerable migrants may be arbitrarily extorted by police officials responsible

for immigration law enforcement. This behaviour exploits the official law enforcement and regulatory regime to maximise private gain. Some studies have focused on corruption as a means of circumventing red-tape regulations, and have tended to portray corruption as an efficient informal deregulatory device ('grease') to get around existing official red tape (Leff 1964; Huntington 1978; and Liu 1986). However, this study advances the notion that contrary to the belief that bribery works to alleviate harassment by officials, it may in fact entrench such harassment. Evidence suggests that the more bribery and extortion become widespread, the more they may become more readily accepted by officials, and the more they may be silently sanctioned by the state.

The idea of the co-existence of formality and seemingly criminal tendencies in certain governments is taken further by Giorgio Blundo and Jean-Pierre Olivier de Sardan (2006) in their work, *Everyday Corruption and the State*. They have suggested that instead of looking at networking between state officials and economic functions as pointers towards the decay of the state, it may help to view it as a different way in which the state and state sovereignty are adapting to the particular environment of the third world. The debate centres less on whether the third-world state can be analyzed through the neo-liberal approaches where, as discussed earlier, the state fails to conform to the principles of the neo-liberal model, and more on whether the so-called state of anarchy could be a way in which the state is being constructed in the African context of widespread social and behavioural norms of exchange and reciprocity. Alternatively, there is also the notion that the third-world state exhibits a life of its own, where the actions of the state officials make us see the state in a different light, and from those actions and behaviour, we are able to see the state as being constructed in a way that is different, or does not conform to our expectation of the state. Blundo and Olivier de Sardan (ibid: 21) write that this may account for the sometimes contradictory nature of this

kind of state, where administration by hierarchical authority may co-exist with the patrimonial management of public resources.

Jean-Pierre Olivier de Sardan (1999) has written that in the post-colony, what might appear as corrupt behaviour in the civil service may in fact be routine behaviour that is culturally embedded among many societies in Africa. Thus, what other scholars may consider the failure of the state to reproduce itself in the third world may in fact be *the* way the state develops in this context. What is of interest nonetheless is the intersection between this 'moral economy of corruption' and the bureaucratic structures of the state (in this case the concept of policing) that have a cunning resemblance to the neo-liberal, Weberian model of the state. Socio-cultural logics as proposed by Olivier de Sardan may become corrupted by use of power that presides within state officials to exert influence, extract rent and generally channel the behaviour of those that are policed in particular ways, according to the whims of concerned state officials. When this happens, Alvin Gouldner (1960) has referred to such 'moral logic' as representing a relationship that is governed by unequal exchanges, since the policed (migrants in our case) hold no sway in these relationships. Closer to the purposes of this study, the juxtaposition of the 'behavioural logics' of the third world societies and the rationality of the bureaucracy simultaneously constructs and blurs the boundary between state and society, making a case for a closer study of how the interaction between state officials and migrants accounts for the shifts in this boundary.

2.4 Towards an Anthropology of the State?

The following section discusses the limitations of the (neo-) Weberian theories of the state, and while incorporating ideas from African theories of the state, examines how anthropological approaches could shed more light on the debate on the state society divide.

The discussion helps to question the overreliance of statist theories on bureaucratic technique, while neglecting human agency and social context within which such technique has to be performed. This is especially important in the discussion on policing, where even through bureaucratic technique may play a big role in the formulation and development of policing, policing practice itself is an intensely human and socio-cultural effort. This has implications for the study of policing, particularly immigration policing, but also on the state itself, since the construction and evolution of the state is directly linked social forces at play at any given moment.

A challenge to the Weberian notion of bureaucratic technique as championed by officials is that, as members of the police force, they are also private citizens and members of society. The police organization – the state – on the other hand, in the words of Althusser, is a "superstructure" that "rests" on the "base", which is wider society (Althusser 1977: 89). Any attempt to categorize the two is confronted by this connection. Within the state, the bigger difficulty, however, is distinguishing between the state as real (in its material form), and the state as an idea, that is, in its ideological form. Timothy Mitchell (1999) is alert to these challenges, and points out that in fact the line between society and state, and between the real and the illusory is uncertain (Mitchell 1999: 174).

But how did the categorization manifest in the first instance? Mitchell writes that it cannot be separated from the development of modern politics and society.

> We must take such distinction not as the boundary between two discrete entities but as a line drawn internally, within the network of institutional mechanisms through which a social and political order is maintained. The ability to have an internal distinction appear as though it were the external boundary between separate objects is the distinctive technique of the modern political order. One must examine the technique from a historical perspective, as the consequence of certain novel practices of the technical age. In particular, one can trace it to the methods of

> organization, arrangement, and representation that operate within the social practices they govern, yet create the effect of an enduring structure apparently external to those practices. This approach to the state accounts for the salience of the phenomenon but avoids attributing it to the coherence, unity, and absolute autonomy that results from existing theoretical approaches (Mitchell 1999: 170).

The possibility of the historicity of political organization and its effect on modern political thought is intriguing. The prospect of a particular 'predisposition' of the theorists themselves towards the subject is also fascinating. However, the question remains as to whether the attempt to categorize both state and society, even historicize them, helps us understand them any better. Particularly, are we in a position to describe how they function in different contexts? If one already suspects that the two are connected in various forms and perhaps according to different locales, shouldn't one be looking for other ways of understanding 'state' and 'society'? We are compelled to think not only of the particular environments within which we attempt to study the state, but also the individual members of society who also assume positions as bureaucratic officials.

Insights from anthropologist Akhil Gupta help in this regard. Questioning the adequacy of statist theories in describing the actions of bureaucratic officials, Gupta writes that the categories of 'state' and 'civil society' "are descriptively inadequate to the lived realities of those they purport to represent" (Gupta 1995: 384). How, he asks, can one interpret the image of the police official – an actor of the state – whom one may at times find 'at the roadside tea stalls and in their home rather than in their office' (Gupta 1995: 384)? This is a sensible question. Defining state and society as distinct categories obscures closer readings of both. The state exists within and is therefore embedded in society, while society itself is continually being shaped and reformulated by the state. Individuals who act as agents of the state are, after all, also members of society.

Here, one may use the policing organization to illustrate the point. Police officials first and foremost exist as regular citizens. They share their worldviews with other members of society. When they assume their policing duties, although we expect them to conduct themselves in a particular manner to reflect their professional duties, we do not expect them to transform completely into a new, less social being. At another level, they are still the same regular citizens. In fact, each time they complete their official shifts, they return to their usual selves. In this case, the divide between the state official and the regular citizen in the same individual exists at a formal level – as far as professional duty demands. Subconsciously, the two exist within the same individual – and space.

In an attempt to blur the boundary of the state and the distance of the state official from society, Alison Mountz advances the notion of the state as an everyday social construction. This approach, she argues, entails looking at the bureaucracy as a site where the nation-state is "produced unevenly across time and space and where the everyday relations of those theoretically conceived to be 'outside' of the state bleed into the dimensions of bureaucratic life in fascinating ways" (Mountz 2003: 626). If our analysis does not block the role of individuals and society in bureaucratic function, then bureaucracies themselves should not always be viewed as sacrosanct and immune to distortion and contestation. As Mitchell (1991) has warned us, bureaucracies may break down, counteract one another or overreach. Crucially, "bureaucracies may offer space for manoeuvre and resistance, and may be used to counter hegemonic purposes" (1991: 93). State officials themselves as members of society are the agents of change, conflict and contradictions within the bureaucracies, and by extension, the state itself. Thus the inconsistencies in the everyday manifestations of the state itself are a product of everyday social relations. In terms of the state in its material form, one finds that such inconsistencies and distortions may inform our understanding of neo-liberal as it does the so-called weak states.

The idea of the state however does not disappear in social practices. In fact, the 'state' persists, as Hansen and Stepputat (2001) have pointed out, even when one seeks to study anarchy, disorder, or social phenomena in general. The state retains the ability to be the foundation and logical starting point even when one seeks to explain its failure and non-existence. Here, one can think of the definition of the state as one that acknowledges the uncertain (and not invisible) boundary between what is considered the state and broader society (Mitchell 1991). This is so because even within a more general notion of society, of which bureaucrats are part, there is a need to constantly perform the state/society boundary and the idea of the state. In this light, the institutional mechanisms of the state are never confined within the limits of a 'state' because 'the boundaries of the state itself never mark a real exterior' (Mitchell 1991: 90). They appear in the actions and conduct of those that perform the functions of the state. And it is here that the distortions, lack of uniformity, individual agency as well as socially informed conceptions of where that which is done on behalf of the state and that which is done within the social realm may manifest, overlap and contradict in various ways.

By building on the agency of the individual bureaucrat, Mitchell advances the notion that the state may be viewed as a manifestation of "the institutionalization of the modern techniques of society" (Mitchell 1991: 93). He locates discipline, an apparatus of the state, within the individual, who is in fact a unit of society:

> Disciplines work within local domains and institutions, entering into particular social processes, rearranging the parts, increasing their efficiency and precision, and rearranging them into more productive and powerful combinations. These methods produce the organized power of armies, schools, factories, and other distinctive institutions of modern nation states. They also produce, within such institutions, the modern individual, constructed as an isolated, disciplined, receptive and industrious political subject. Power relations do not simply confront this individual as a set of

external orders and prohibitions. His or her individuality, formed within such institutions, is already the product of those relations (ibid).

The link between state and society is particularly interesting for this study. Mitchell's definition helps one relate the police officer to the two domains. If one may shift the narrative to the individual, who in fact straddles both society and state, one may consider here the possibility that the prism through which bureaucrats themselves (as political subjects and as individual units of society) see reality may be imported into the bureaucracy, on the one hand legitimating their own perceptions of reality. This opens up the state to the possibility of socially constructed interpretations of bureaucratic function and technique. On the other hand, bureaucrats may use such non-state conceptions of lived reality to act in the interest of the state. Alternatively, they may even use the legitimating power of the state to perform their roles according to their own social understandings, even if at times they may do so for private and personal gain. "The employees of the state are located within the complex web of social interactions and in that sense they experience the world in distinct ways according to different locale" (Mountz 2003: 624). It is therefore important to keep sight of the social relations within which the state is enacted and the bureaucratic and spatial variation these enactments take. It is plausible to argue, on the basis of the above, that localized social discourses dictate state officials' conceptualization of the 'real' world and the various ways in which they carry out their official duties.

The importation of such individual perception of reality into the bureaucracy may imply an interpretation of bureaucracy as an organization whose outcomes may become refracted by such perceptions. Thus, at a more general level, state sovereignty, which bureaucratic organizations are meant to strengthen, often does not translate perfectly in practice (Barkin and Cronin 1994; Krasner 1999, 2001). A part of this inconsistency may be attributed to individual agency, and such individuals' subjective interpretations of their duties and roles in

the bureaucratic structure. In bureaucratic organizations such as SAPS, therefore, one can expect that these come into play in the actual practice of policing.

With regards to immigration enforcement, individual perceptions may include personal motivations in carrying out official work (Andersson 2006; MacGaffey and Mukhoya 1991: Coplan 2001; Peberdy 2000). Because such motivations are not informed by professional duty, they may be regarded as extra-legal, illegitimate or informal. They may, nonetheless, become prominent (even if they may be hidden) because they are part of a salient mechanisms of, for example, controlling movement in the city, such as everyday immigration enforcement.

One may consider that individual actions to enforce immigration laws constitute cloistered understandings of policing duties. This may be thought to happen in at least two ways: police officers can be thought to perform their duties according to their own social understandings and the personal 'logics' associated with their official roles. Sometimes such performative action may verge on criminal behaviour. Thus, officials may do this as part of an underlying socially understood 'way of doing things', or for blatantly instrumental ends, where in either case the policing practice is accompanied by a simultaneous mode of interaction between the police and the policed. Alternatively, bureaucratic discretion may be seen to manifest itself in ways that appear to bolster the state's coercive prerogative, where individual officers may even justify their informal, excessive, even criminal methods of enforcing immigration laws with this idea that it is for the common good of the state.

In this way, it becomes possible to imagine that the state – through the authority vested in the individual officer, the uniform and the badge, the police van – either masks or legitimizes both informality and criminality in its everyday manifestations. Whereas the intervention of the state in society, exemplified by the work of police officials in the communities, works well to construct the distinction between state and society, some

instances of bureaucratic discretion or instrumentalism blur the distinction between state and society.

2.5 The Police, Police Subculture and Everyday Policing

In this section, policing as a vocation is discussed. The police subculture, in particular, is relevant to this study in two ways. At one level, a police subculture is about discretion in enforcing laws, which speaks to the 'appropriation' of policing duties in certain ways, which also supports the theory of social constructivism. At another level, such an appropriation speaks directly to the fundamental debate of the divide that exists between state and society. This divide is enacted and re-enacted continuously through every day practices of police officials.

With regards to the interaction between state officials and migrants, we understand the police official to fall within the 'state' side. Nonetheless, because the police official has been entrusted with enforcing the law, his/her presence in the streets represents the 'order' that that is assumed to characterise the state, and is thus also assumed to be the premise of his/her work. Nonetheless, although the police official should ideally be the bureaucrat par excellence, in keeping with his/her prime interest in enforcing the law, the bureaucrat not only is still influenced by the social environment within which s/he lives and works, but also cultivates a particular understanding of his/her work environment.

A police subculture generally refers to the way in which an official's occupation tends to influence their worldview. Jerome Skolnick has referred to this as a "working personality". The police, because of the very nature of their work, are particularly thought to be steeped in this working personality. Skolnick explains this working personality in the police:

> ...the police, as a result of combined features of their social situation, tend to develop ways of looking at the world distinctive to themselves, cognitive lenses through which to see situations and events. The strength of the lenses may be weaker or stronger depending on certain conditions, but they are ground on a similar axis (Skolnick 1966: 42).

The similar axis that Skolnick alludes to may be assumed to partly refer to the juxtaposition of police work to potential danger, suspicion and possible harm to both themselves and the communities they police, from undesirable elements within society. The idea that police are influenced by the social environment it their work, while they regard the environment with suspicion is paradoxical. This paradox is interesting for this research in two ways. First, the notion of bureaucrats as removed from society is counteracted by the idea that their cognitive lens is shaped by the same society. Hence, secondly, the divide between the state and society is contestable as such.

The police subculture subsumes collective experience of police officials. Within these collective understandings, the culture of the police cannot be assumed to be 'monolithic', 'universal', or 'unchanging'.

> There are differences of outlook within police forces, according to such individual variables as personality, generation or career trajectory, and structured variations according to rank, assignment and specialization. The organizational styles and cultures of the police forces vary between places and periods. Informal rules are not clear-cut and articulated, but embedded in specific practices and nuanced according to particular concrete situations and the interactional processes of each encounter' (Reiner 1985: 86).

Apart from the influences of social context, the differences that characterise a police culture arise from the discretion that accompanies police practices, for instance, in enforcing

law in general. Police discretion raises further questions that relate to standards of appropriate behaviour, the limits of legitimate, even lawful, action in policing, and the beginning of private and unilateral interests. Do these variations therefore leave a gap for officials to a) neglect duty within the grey area of discretion, or b) engage in private and non-state activities while assuming a 'cop culture'?

Although 'cop culture' is seen as distinct from the wider social context and is accessible only to the inner circle of the concerned police officials, it tends to fall within a prevailing political ideology of a given environment. A "street corner" politician, the police officer is seen as a somewhat low key "mediator of power relations" in society (Reiner 1985:87). Within a combination of discretion, variation in cop culture, as well as agency of the social context in the construction of 'cop culture', two things stand out that are of interest to this research. At the practical level, individual police officers always encounter different situations of relevance to their policing duties and respond to them differently in their daily practice according to both the local context as well as their discretion. At the theoretical level, the logic of a 'police culture', as Janet Chan concurs, should recognize the "interpretive and active role of officers in structuring their understanding of the organization and its environment" (Chan 1996: 112). This implies that the individual is likely to be influenced by his surroundings and his own interpretation of such surroundings.

'Cop culture' comes about from prolonged interaction and similar experiences among police officials. However, this must happen within particular social environments in which officials operate. An obvious tension arises where police officials must advance the objectives of the state, while they do so within social contexts that may model their experiences and subsequent behaviour in ways that identify more with social norms than the objectives of the state. When the influences of both the state and society come to simultaneously bear on the actions of state officials, the boundary that separates the two is

obviously at stake. How this tension has affected policing in the South African context is discussed further in the next section

2.6 The History of Policing in South Africa

The following section presents a history of policing in South Africa. This is relevant to this project because the unique way in which the apartheid state exerted its power through policing still informs many aspects of citizen-state interactions in post-1994 South Africa. Changes in practice have been observed in some areas, but transformation has not been successful in other areas. So while the aptly called 'front line' policing style of the apartheid times has given way to a community driven one, perceptions among the police of, and associated ways in which they deal with, especially migrants, have been slow to change. The implication of this for immigration policing is that while in South Africa's previous political climate the boundary between the state officials and society within which they intervened might have largely been clear-cut, the idea of community policing attempts to foster friendlier interaction between the police and members of the public. The ways in which the police continue to view migrants may however mean that their interaction re-formulates the divide between the state and society (represented by migrants) in new and different forms.

The police of apartheid South Africa can be said to have played a 'front line' role for the state. As Bowling et al. (2004: 8) have put it; the South African Police (SAP) was seen as "the medium through which apartheid was experienced". Policing of the time is presented as having proceeded along dual lines; community oriented policing for the white minority population, and authoritarian policing for the black majority (Cawthra 1993:8). The police of the pre-1994 era are therefore synonymous with the brutal segregation and subjugation of the black population. "The notorious 'pass laws', which restricted the movement of the African

population, were enforced by the police, and between 1916 and 1981, more than 17 million people were arrested for pass violations" (Bowling et a. 2004: 4). In line with their front line role, the police played a crucial role as an apparatus of white domination at the time.

The present situation of transitional (read: democratic) policing proceeds from the instatement of democratic rule in 1994. Attributed to the dictum of a political transition that South Africa has been going through, policing is being seen as closely tied to the change that is being experienced on the political front. This reflects how policing in this context closely mirrors state construction and evolution.

It is worth noting that the focus of policing at the present moment has attempted to be community oriented. Matters of public accountability have featured high on the transformation agenda. Community policing forums (CPF) have been set up to include members of the civilian community in the practice of policing. Diana Gordon writes that CPF's have been intended to "build upon traditions of self-help within black communities and the history of civic associations, street committees and self-defence units that filled the vacuum in law enforcement during apartheid" (Gordon 2001:135). They involve resident participation (on a voluntary basis) in policing activities at the community level. Gordon observes that during the time that they have been in existence, their influence has diminished, such that "opportunities for civilian participation in police decision-making are no longer seen as important in the vision for democratic policing" (ibid). A clash of interests, particularly the tension that exists between public oversight and police discretion, between the police and civil society groups lies at the heart of this diminished influence, and offers a good example of a failure of transformation within the police. So while community policing may have attempted to close the state-society divide, its failure may mean that the divide is either being dissolved or re-constituted in new forms.

As a description of the present and as a pointer towards the future, transitional policing has been posited as being characterized by a "brooding pessimism about the challenges ahead". "Far from breaking from the past, South African policing staggers into the future carrying the corpse of the old order around its neck like an albatross" (van der Spuy 2004: 201-214). A broader literature appears to concur (Marks 2000; Newham 2005; Altbeker 2007). Brutality, corruption and incompetence often typify policing. Crucially, the privatization of security, or the commodification of policing, has rendered policing "a private good rather than a public right" (van der Spuy 2004: 215). The diminished influence of civilian oversight also means that the police may regress into "unresponsiveness" and "routine violence" (Gordon 2001:174). A possibility of regression further underlines a re-enactment of the divides that have characterised the police and the community in the past.

From a policing practice perspective, Julia Hornberger's ethnographic study of police transformation in Johannesburg finds that the police officer is primarily involved and deeply entangled in the networks of sociability which do not function on the principle of extraction or the mere receiving of services, but which actually demand regular delivery of services, favours and support (Hornberger 2007: 210). This placement and function of the police officer speaks to several of the theories of the state as well as socio-cultural 'behavioural norms' that have been discussed above, and to the fact that the boundaries of 'community' are in fact not fixed; and that everyday social interactions of individual officers and the public may play a part in the configuring of the bureaucratic roles of police officials.

Policing in South Africa has come a long way, going through several phases. In the pre-1994 era the strength of policing was seen in the light of how close it was to the then minority governments own apartheid objectives. Post-apartheid policing has undergone a two-way change. The police have sought to dismantle their previous association to politics in favour for a more democratic, accountable, and community oriented organization. The

success of transformation of policing, as well as its disaggregation from politics, is under question. Community involvement in policing has not been convincing. More importantly, in the area of immigration policing, questions have been raised about resemblances of policing styles to those of the previous era.

These are important insights for this study. Transformation illustrates how the state/society divide has evolved in South Africa over time, and as the discussion makes clear, this has happened in an inconsistent manner. Just when one could assume that community policing may work to close the divide, the relative failure of this model, as suggested by the literature, sits against a general political current of mass participation, and therefore re-enacts the divide within a new realm. The new divide is no longer premised on the political divide that previously existed, but exists under a political climate that currently hides it.

2.7 Undocumented Migration, Migration Policing, and its Urban Governance

A look at undocumented migration vis-à-vis migration policing is relevant to this study because the two generally exist in tension with each other. As a norm, because of their lack of status, undocumented migrants actively seek to hide from the law and from public view. In the light of such practices and behaviour by those without papers, practices of police officials may help in relating individual officers back to the law they attempt to enforce. As migrants seek to hide from the scrutiny of police officials, officials themselves may employ enforcement strategies that increasingly become informal as well, thus burying the enforcement regime underneath both the law and legitimate conduct. This has significant implications for the state/society divide, since where it is expected to be most vivid, the divide may in fact disappear altogether.

In South Africa, forced migrants self-settle in host populations. Further, day-to-day immigration policing is carried out by SAPS, alongside its other policing functions like regular crime prevention. While the police provide a prime example of how the state effects its power, they must also carry out their immigration policing duties at the symbolic state 'margins', where they literally define the limits of the state by looking for undocumented migrants that do not belong within the territorial limits, in order that they can expel them.

There are two other ways in which one can imagine marginality. The first has to do with Michael Walzer's (1983) idea of community. Such marginality is constructed by use of the spatial metaphor to define the political and social community. In this case, the citizen community – the nation – is defined by the boundary that excludes those who do not belong, who in this case are the migrants. Politically, the migrant community is not part of the nation-state contract, and therefore also exist at the boundary of society, being an exception to the 'imagined' community.

Another way of imagining marginality has been advanced by Veena Das and Deborah Poole (2004). According to them, marginality may manifest in opposition to Walzer's idea of the boundedness of communities that makes individual nation-states. In reality, the practice of statehood seldom manifests the boundedness and boundary that is clear-cut. Here, the distinction between of the public and the private, the legitimate and the illegitimate, the formal and the informal may blur. Whereas the margin may be thought of as a sphere where the law and other forms of state regulation are expected to be most visible (in differentiating the legal from the illegal), this may in fact be where what the law prohibits may in fact be transgressed (Taussig 1999: 53). The state may thus become unordered and unreadable in a more predictable way. This is very important, because it suggests that individuals from both within and outside the 'state', that is, state officials as well as migrants may appropriate the

law, blurring the divide that separates them, in the course of their interaction, not least because they may be compelled to ensure their personal prerogatives.

The blurring of the boundary is suggestive for this study. Police officials, because of their bureaucratic position and function, are meant to personify the core of the state. Undocumented migrants, because of their status, are positioned furthest to the state. The two therefore best exemplify the divide that exists between the state on one hand, and migrants on the other. The marginality of migrants is thus conceptually important because it situates the political and socio-economic context in which enforcement of immigration law takes place. The 'margins of the state' represent a site where the divide between state and society in practice is challenged, and sometimes reconstituted (Das and Poole 2004). This is also where state power is contested. By focusing on the margins, where the state is engaged in a constant struggle to define its limits, state power, and the very idea of what the state represents is challenged, and, to use Das and Poole's analogy, where the "state is reincarnated in new forms" (Das and Poole 2004: 97).

2.8 Summary and main argument of the research

The preceding discussion informs the central question of this research in at least three ways. The first concerns the 'state' in its material form. Whereas the structuralists have emphasized the technical superiority of bureaucratic organizations as the foundation of state power, we are mindful of the role that the 'known world' plays in the development of the techniques of the bureaucracy. So while the state has persisted in both its abstract and material forms, Gupta and Mountz, however, point out that shifting focus towards the individual institutions, organizations, practices and persons that make up the state reveals variations, contestations and contradictions that are rooted in various social contexts, but that

are nonetheless unwittingly brought into the workings of the bureaucracy, in the process re-aligning the divide between the state and society in unexpected ways. Thus, Vrasidas (2000) suggests that the known world, or the individual, and therefore the social worldview, not only sets limits in which perspectives that inform bureaucratic technique can be constructed and negotiated, but also that such perspectives result from the ability of humans to pick and choose ways in which they wish the world to make sense to them.

The second concerns the debate on whether the state, parallel to its failure to reproduce itself in the third word in line with the (neo-) liberal Western model, is simultaneously being 'criminalized'. Although for Bayart et al. this thesis may be a prospect that has a historical dimension in Africa, its legalistic definition, accompanied by a lack of compelling argument and case examples (as such, "criminalization can hardly be the subject of any exact quantification" Bayart et al 1999:16) renders it somewhat superfluous. The criminalization thesis, in the form that it has been presented, is less useful as a social scientific tool for comparative analysis; how Africa remains significantly integrated into the world polity and economy (as it does presently) if its political and economic structures are overrun by criminality does not resist closer scrutiny. Beatrice Hibou's alternative thesis of the privatization of the state is less startling. After analyzing the unintended benefits of economic structural adjustment and privatization programmes in Africa, Hibou suggests that the political elites that have been tasked with managing these programmes have largely become corrupted by them, used them to line private coffers, and in the process have also contaminated their 'men of straw' in the bureaucratic rank and file. Hibou's thesis is particularly potent if used to explain the displacement of the security mandates of the state policing bodies by private security firms in South Africa (Van der Spuy 2004). Security had been commodified, setting precedence for it to be traded even where it is meant to be a public right.

This brings us to the third concern: the transformation of policing in South Africa. Whereas the literature has tended to posit a lack of transformation, in light of the broader political transition and reform, as resulting from the apartheid legacy, Bowling at al. (2004) suggest that this lack of transformation is reinforced by the inherent contradiction in the objective of transforming the police forces. The notion of making the police liable to the public oversight mainly in the form of the CPF's was bound to fail in South Africa because it represented an intrusion on the police's discretionary domain. The community oriented model of policing that was driven by the transformation agenda has nonetheless had an effect of bringing the police closer to the community, where they engage in and develop 'extensive networks of sociability' (Hornberger 2007).

The above three may be extrapolated into the field of immigration enforcement. When looked at from an everyday perspective, in social contexts where interaction is governed by norms that entail gift-giving and reciprocity, although these may themselves become corrupted and abused for unilateral gains, resulting in Alvin Gouldner's notion of reciprocity in unequal exchanges (Gouldner 1960), a three-way diffusion and cross pollination of both bureaucratic, social values, as well as criminal tendencies takes place. A focus on the one without the other(s) may result in a misreading of the practice of immigration enforcement. This chapter suggests and follows the argument that the third world state still regularly and habitually enforces it mandate of policing movement, in various (sometimes informal) ways. However, this must take place within 'value systems and cultural codes', which permit a justification of informal (and 'corruption'-type) practices by both police officials and migrants (and who may however not necessarily consider it to be such), and to affix such informality in ordinary everyday practice (Olivier de Sardan 1999: 25-6). This however happens within a context of marginality, where (undocumented) migrants live or eke out their

livelihoods, and also where contexts may permit for state practices to be subject to illegitimate, informal, or criminal practices.

In such contexts, the junior police official, who is expected to be a bureaucrat par excellence, therefore also exists within social practices and norms that have an "affinity to 'corruption'-type practices" (Olivier de Sardan 1999), but that may not be themselves corruption. Therefore;

> The very widespread adherence to abstract official norms of European origin, advocating the impartiality of the state and the necessity of an ethic of the general interest, thus coexists peacefully with an equally prevalent pattern of behaviour in conformity with social norms in favour of the pre-eminence of private and partisan interests (Olivier de Sardan 1999: 48).

This brings us to a different expectation. The political science and (neo) Weberian perspectives persuade us to think of immigration enforcement as flowing down from the apex of the bureaucratic hierarchy through the rank and file to eventually order society in practices that fit within given contexts. The anthropological perspective, on the other hand, advanced that society profoundly influences enforcement officials in the practical and everyday setting, so much so that the bureaucratic hierarchy matters less to the practice of immigration enforcement. The research suggests something else that lies in-between. Senior officials may still actively formulate the policy and therefore influence the particular ways in which enforcement officials should carry out their duties. On the other hand, junior officials themselves come up with strategies of their own that, while drawing from their enforcement mandate, are partly infused with social norm that obtain on the streets, or exploit both the bureaucratic mandate and the social norms to produce a brand of enforcement that very likely reflects the two, but that however sometimes fulfils private and personal prerogatives.

What we end up with is a fragmented and sometimes contradictory appropriation of a spectrum of behaviour that ranges from bolstering the state's prerogative over coercive force in regulating movement, even through such behaviour may sometimes appear through the register of 'predatory authority', to informal mechanisms of enforcement that may also, at appropriate times, borrow from social norms of negotiation, solidarity and gift-giving. Thus, it is possible to identify behaviour among police officials that appears multi-faceted in outlook; on the one hand informed by bureaucratic professionalism, while on the other proceeding from informal and social scripts.

3

METHODS

The comparative advantage enjoyed by the social science researcher is the possession of a documented point of view based on knowledge acquired through research – Giorgio Blundo and Jean-Pierre Olivier de Sardan, 2006

3.1 Introduction

At the core of the practice of immigration enforcement is the interaction between state officials and migrants, the latter being considered, by the very nature of the interaction, potential offenders. Two aspects of the 'point of enforcement' exist in tension with each other. This interaction is hard to observe from afar. 'Suspects' may get arrested or be released after brief interviews for a variety of reasons that may not be known to a distant onlooker. Once the observer draws near, however, participants may seek to downplay or obscure aspects of the interaction. Particularly when such interaction may involve illegitimate or non-formal behaviour, the presence of a researcher may be viewed as a hindrance to such interaction. In order to capture as closely as possible all the aspects of immigration enforcement, the study draws from several research methods, some of which were designed to collect data for other purposes, but nonetheless also speak to the objectives of this particular research, while others have been developed for this research. The time that has been involved in designing all these methods means that the study may appear iterative, as a long timeframe allows for some adjustment of subsidiary questions of this research, and the filling of gaps left by other methods.

The first method is a technique known as 'incident reporting', a method of observing law enforcement officials from a distance. The second method is the ethnographic technique of 'non-participant observation' of police officials as they conduct their duties. The third and last method involves semi-structured interviews with migrants. Using all three methods simultaneously allows us to examine police/migrant interactions from three different perspectives, and therefore helps us to generate a more rounded picture of practices involved in the 'point of enforcement'.

3.2 Research Instruments

3.2.1 Incident Reporting

This is an experimental research technique that was designed to analytically portray the corrupt activities of law enforcement officials in inner-city Johannesburg. The method involves the systematic tracing and observation of police stop and search and roadblock procedure. The idea was to follow (conveniently) identified police vans around within the area of study from an area of first sighting to the arrest incident[11]. The strategy was mainly covert in nature, but researchers would identify themselves and their work if approached by the police. A number of variable were identified to 'look out' for corrupt practices and other forms of abuse during immigration enforcement, including, *inter alia*, use of unwarranted force including assault, verbal abuse, the failure by officers to read the suspects their rights, soliciting for bribes, exchange of money (or something), taking suspects in a van and later dropping them before they could reach the police station. From the method, 110 'incidents'

[11] A typical incident would be concluded in the same spot if the 'suspect' had all his/her identity documents in order, but would follow a trail from (coordinate X) where the suspect is taken in a van up to (coordinate Y) either a) where they are dropped later or b) the police station where they would be taken into custody.

were observed where a police official stopped and questioned a member of the public on the street.

An obvious limitation of this method is that it cannot generate a scope for how widespread such practices are. Another limitation of this research is the inability to draw conclusion about the behaviour of officials as recorded in the data. For example, a case where a suspect is briefly taken into a police van before being released can only be described or presumed suspicious. On the other hand, however, such behaviour may be seen as a tool of intimidation or exertion of state influence by the police, rather than explicit or suspected corrupt practice. The technique thus did not seek to be statistically definitive, but rather to provide a sample large enough to identify general trends.

3.2.2 Participant Observation

The somewhat bizarre pattern of immigration enforcement as observed in the 'Incident Reporting' survey does not fully answer the principal question of what form(s) everyday immigration policing take. In order to fill in the gap that is left by the 'Incident Reporting' technique, a method was utilised that could describe the habits, procedures and justifications involved in immigration enforcement. Naturally, this also entails a method that helps in understanding how policing works in practice, and how police officials involve themselves in these methods of policing.

Although immigration enforcement occurs in the public sphere, on the streets, or 'the point of enforcement', the specific dimensions of the interaction between the state official and the 'suspect' are particularly hard to observe from afar. For instance, the 'Incident Reporting' method, utilising the rationale that police officers would re-represent and speak about their work "in an official and 'correct'" way if observed (Manning 1977, Holdaway

1983, Hornberger 2007), and would most likely try and alter their *modus operandi*, thus aimed at attempting to 'catch' those acts that the officials are likely to hide. As it turned out, although useful data were gained, such data are inconclusive. However, because it suggests informality, one realises that immigration enforcement 'shifts' the line between the public and the private domains. The behaviour of public officials begins to be hidden and suspect. "This advancement into the private sphere, which by definition is a space built of intimate interaction, demands sensitivity to an insider language and meaning that is somehow obscured from outside" (Hornberger 2007: 44). Such a method therefore not only reaches for a 'front-seat' view of what takes place, but moves beyond to note the work-related, reflexive (as opposed to consciously performed) and individual justifications that are an important part of police work. It is with this in mind that (non-)participant observation was deemed useful for the research, and complementary to the 'Incident Reporting' technique.

Participant observation is an 'omnibus field strategy' (Genzuk 2003) that combines concurrent strategies of document analysis, interviewing of respondents and informants, direct participation and observation, and introspection. In participant observation the researcher shares as intimately as possible in the life and activities of the people in the observed setting. The purpose of such participation is to develop an insider's view of what is happening. The challenge is to combine both participation and observation so as to become "capable of understanding the experience as an insider while describing the experience for outsiders" (Genzuk 2003: 2).

The ethnographic method of participant observation is therefore of distinct advantage. In the case of this research, involvement in with the police was, however, more observation that participant based. This is due to the training, danger and specialized equipment that go with the policing job, attributes that an ordinary researcher lacks. Non-participant observation

therefore consisted of the "go-along"[12], a way of shadowing a select few individual police officers during their everyday work. Sometimes it involved hanging out with them during their off-duty days as well. Non-participant observation is important for a study like this because of its potential to access some of the "transcendent and reflexive aspects of lived experience in situ" (Kusenbach 2003: 455). Such a strategy also not only helps to assess what the subjects of the research, in this case the police officials, say against what they do, but it also provides a focus for interaction between two parties that are strangers to one another (Herbert 2000). In general, (non-)participant observation provides a window of observation into the world of the studied populations in a real setting, an advantage most other methods of information gathering lack.

Further, this method, unlike other quantitative methods, is preferred for its ability to generate self critical as well as unrestricted perceptions on a given subject matter (Gaskell 2000). This is echoed by Blundo and Olivier de Sardan, who also believe that;

> [r]esearchers can only make a positive contribution…by producing well-documented, realistic and incontestable data that are as free as possible from normative judgements and ideological side-taking, in other words far-removed from the hackneyed official formulations that dominate in the development, administrative and political sectors (Blundo and Olivier de Sardan 2006:7).

In terms of interaction, the method allows for "a recording of lived experience, taken-for-granted social routines, informal rather than reified social knowledge and embodied practices" (Gupta and Ferguson 1997, in Hornberger 2007: 43). Such a method "can record that which becomes visible by being practiced rather than that which is reflected upon by those who practice it" (ibid).

[12] In Line with Kusenbach's (2003) definition in 'Street Phenomenology: The Go-along as Ethnographic Research Tool', *Ethnography*, Vol. 4 (3), pp.455-485

3.2.3 Semi-structured in-depth interviews

A subsidiary component of this research aimed to interview migrants that have interacted with police officials in the inner-city. Migrant lives and experiences constitute the opposite end of the 'point of enforcement'. Migrant perceptions and experiences are important because they provide an further explanation to the practices of immigration enforcement that cannot be explained through observation alone, but come out clearly from first hand narrations. In this way, such perceptions and experiences provide a more complete insight into the 'point of enforcement'.

Studying migrants, just like studying immigration enforcement itself, has conceptual consequences too. Migrants, more so those who live in the inner city, have had to largely exist within socio-economic conditions of relative deprivation. This is attested by the challenges high crime rates and the congestion of both internal and cross-border migrant populations (Chapter 4). With about forty percent of the population having no regular income (StatsSA, 2004), the inner city may also be thought of as an area of informal economic activity. This is evident from the widespread proliferation of informal and street vending in this part of the city. It is a combination of these socio-economic conditions that makes migrant lives that of marginality. As has been discussed, marginality as a concept helps to critique the imagined boundaries of the state and the society (see section 2.6 above).

3.2.3.1 Sampling Migrants

A major consideration for sampling migrants was that they had to be drawn from the same area that covers the Johannesburg Central Policing Precinct, for the reason that they are

in potential regular contact with the officers under study. It is through this way that a feedback mechanism of shared experiences between migrants and officials is ensured.

Migrants were identified using convenient sampling techniques, namely snow-balling. This technique can be defined as a method for recruiting new cases through a process of onward referral from known cases. Sampling starts with one or more individuals who are known to meet the given criteria. They are interviewed and asked to nominate and facilitate introductions to other people they know and who also fulfil a similar criterion as themselves. The nominees are contacted and interviewed, and the process repeated. The sample thus expands by tapping on social networks and contacts.

The snowballing technique was deemed suitable for this study in that it is best used to identify respondents of 'hidden' populations like migrants, or those that actively seek to evade the public spotlight, like undocumented migrants (Kalsbeek, 2000). The technique is criticized for its potential to generate data that might consist of similar experiences, since social groups or networks are likely to stick together and for this reason, may go through similar experiences of immigration enforcement. However, because the technique relies on referrals performed by respondents themselves, it is helpful in building trust between the respondents and the researcher.

Respondent name[13]	Nationality	Sex	Age (yrs)	Documentation Status	Time in South Africa	Works or lives in the JHB CBD?
Moyo	Zimbabwean	M	24	Undocumented	3 yrs	Works and lives
Mawaya	Zimbabwean	M	32	Asylum-seeker	6 yrs	Works
Makwavho	Mozambican	M	26	SA ID	7 yrs	Works
Constance	Congolese	F	27	Asylum-seeker	2 ½ yrs	Works and lives
Musasa	Malawian	F	23	Undocumented	3 yrs	Lives
Pride	Tanzanian	M	21	Asylum-seeker	4 ¼ yrs	Works
Chimoio	Mozambican	F	26	SA ID	8 yrs	Lives

Fig. 1: Profile of migrant respondents

3.3 Data Analysis

Data analysis represents a process of deriving meaning from raw data. With ethnographic data, this process has two main stages. First, ethnography involves an ongoing attempt to place specific encounters, events, and understandings into fuller, more meaningful context. "It is not simply the production of new information or research data, but rather the way in which such information or data are transformed into a written or visual form" (Tedlock 2003: 165). Second, the analysis of ethnographic data also entails bringing order to the data, organizing it into patterns, categories, and basic descriptive units. A good technique which allows for this is discourse analysis (Meyer 2001).

Discourse analysis is a way of reading content against context (see Quentin Skinner's works, in Tully, 1988). There are two main steps involved in achieving this. The first involves a focus on the content – a process known as intra-textual analysis. Here, close attention is paid to text that is directly related to a certain discourse (Meyer 2001). Such text

[13] Not their real names

could consist of written or spoken material, or both. The text is analysed for the kind of language used and its meaning for the users, but also in terms of the substance of the text itself. The aim is to extract meaning and relate it to the people that use the language. Such meaning could come from speech style, certain 'group language', where a group of people, by hanging out together for extended periods of time, eventually develop certain understandings of their world that they express using unique constructions. Meaning could also come from those subjects that are memorable and therefore recur for the people concerned, but also those that are seldom said.

Context has mainly to do with the actors and their environment. The demographics, background, socio-economic status and conditions, their interpretation of their surroundings, as well as the influences that they have to deal with from their surrounding social world, are some of the defining factors of context. Interpreting context acknowledges the fact that there are immediate influences from the place of habitation that influence the way in which an actor not only sees the world around him/her, but how he/she responds to it. In other words, all those influences that affect an individual's decision making processes about the way they approach the world are important to know, and thus go into the understanding of the way that individual lives and performs his/her life.

In achieving these objectives, the research employs the ethnographic iterative process in which ideas that arise during active involvement in the field are transformed using "representation", "inscription", "translation", and "textualization" of social phenomena and interaction into texts (Thorne 2000: 69). These texts are sifted and sorted to detect and interpret thematic categorizations, search for inconsistencies and contradictions, and generate conclusions about what is happening and why. This involves, as in textualizing ethnographic data, identifying, coding, categorising, classifying and labelling the primary themes and patterns in the data in order to determine significant information that structures individuals'

understanding and performance of their roles (Macmillan et al, 2006). In order to maximise return from this process, data analysis is done concurrently with data collection as a way of developing an ongoing understanding of field data, something that helps in focusing subsequent field work, as well as make the data analysis process more manageable.

All these, if they are reflected upon and included in the presentation of data, mean that the data thus becomes tainted or subjective. This is a natural and inherent result of any research process. The field data thus represents a limited perspective and is therefore non-generalizable, but nonetheless powerful for the context it represents.

3.4 Getting Out into the Field: A Summary of the Research Process

Johannesburg Central Policing Precinct covers mostly the old city, including the Central Business District (CBD) and adjacent residential areas of Joubert Park and Fordsburg. The precinct is divided into six sectors although these have been combined and are policed as three sectors; sectors one and two managed as a single sector, and three and four, as well as five and six. The first two weeks of the field work were spent in sectors one and two. During this time, irregular behaviour (such as officers purposely taking advantage of the non-uniformed status of the researcher to involve him in extortion and taking bribes, among other things) was observed that was putting the researcher in several ethical dilemmas. This forced a break that was meant to clarify the position of the researcher and seek guidance with supervisors. When the research process recommenced, all of the sectors were covered in another two weeks. After that a break was taken to reflect on the initial finding and to focus the data collection process. After about three weeks, the field work was continued to sectors one and two for the rest of the process. This area, located at the north-eastern end of the policing precinct, is the most congested and has the biggest concentrations of migrant

populations. The process basically followed a recurrent fashion, reporting to the senior officers on Mondays, writing reports, and taking regular breaks to reflect on the findings. The fieldwork ended on 19 December, 2008.

The process involved going to the police station in the morning, joining police constables on parade, registering names on the 'police register', which in fact doubles up as some kind on indemnity form for the officers on duty. Afterwards, the officers would book their firearms and bulletproof vests before they then get ferried to their respective work areas. The researcher would be with them all the time. At some point during the day, there was need for officers, especially arresting officers, to go back to the police station to charge 'their' suspects.

There were many opportunities for the researcher to ask officers questions about what was observed and that needed further clarification during a typical day in the field. During the morning and midday breaks, informal interviews will be conducted with officials. As the research process carried on, particular officers were sought that needed to focus the data gathering process in an undisrupted and regular understanding manner. This was particularly challenging, because many officers are not yet permanently employed, and so they take irregular off-duty days, mostly as they please, so that their presence at work was unpredictable and subject to impromptu adjustments. Four officers were nonetheless identified whom the researcher hung out with. On a few occasions, 'hanging out'[14] with them occurred outside of official work.

The researcher had the chance to be with the police at the time before the Christmas and New Year's Day holidays, when not only there was increased pedestrian numbers and activity in the inner city, but also when some officers were also preparing to take a break

[14] In line with Greame Rogers's (2003) definition, this refers to spending time with subjects in their living environments. This particular type of hanging out was however short, since it took place once.

themselves. The process ended on a good note, with an invitation to a police party on the 16th of December. During the breaks that were taken from the field work, interviews were conducted with migrants, as a way of checking the data that was being generated with the police against the policed. Most of the interviews were, however, only conducted after the research process with the police had been completed.

Reflecting on the research process, apart from the access challenges encountered early on in the year, no major problems were encountered in carrying out this study. Central Johannesburg is relatively accessible at most times. The research relied on the protection afforded by the police during the day and at awkward hours, such as night time, in the event that participant observation went on until this time, which in fact was once throughout the fieldwork. The language barrier was not a problem, since the police officers communicated in and/or understood several languages, including Zulu, Xhosa, English and Sotho. The research was either able to converse in or understand these languages. A strategy of the researcher introducing himself fully to both migrants and police officers was used so as to reduce suspicion as far as possible and cultivate trust, and this worked for the most part, because apart from a few occasions that some police constables were un-accommodative, the researcher was able to get along with them just fine. The strategy of availing oneself to the sector managers first also helped the researcher a lot, since most of the time they were the ones who introduced the junior officers, such that the initial encounter was always officially managed by the middle-level officials themselves. The fieldwork lasted enough for the researcher to come back in time for final data analysis and report writing.

3.5 Ethical considerations

One of the most important aims of research ethics is to protect the welfare of research participants in the form of both the researcher and respondents (Wassenaar and Mamotte 2003). This should be ensured both in terms of the research process, where the researcher and the respondents must not be exposed in any way to any danger that may come with availing themselves to the research process. The information that is generated should also not be used in a way that leads to prosecution, arrest, or loss of employment or income for the respondents. This research sought to adhere to ethical standards by ensuring the following. Names of police officials and migrants who participated in the research have been changed.

Information that includes acts of irregular behaviour has not been forwarded to anyone who may use it for reprisal against the concerned individuals. Because of their relative position of vulnerability, migrants were asked to sign consent forms, although this was made optional, and in order to protect their individual privacy, respondents were assured of the confidentiality of their responses.

In order to maintain transparency, the researcher informed the interview participants of the nature of questions that were asked and the purpose of the interview. The respondents were given a choice between agreeing to continue with the interview or not to answer any question they felt uncomfortable with. The researcher did not provide any kind of remuneration to the respondents but requested the respondents to voluntarily agree to participate. Group categories and occasional vignettes were used where necessary in order to avoid unnecessary invasion of privacy. Police officials that took part in this research were also informed about the purpose of the research.

As for the safety of the researcher, a strategy was followed to be with one or more uniformed officers (even if some of them would routinely be plain-clothed) at all times. This was meant to make sure that the research process was visible at all times. At some point this

presented a dilemma that was discussed in a previous section. In order to resolve this, the researcher was allowed to put on a bullet-proof vest. This had the added benefit of ensuring safety in the event of shoot-out, although these did not happen during the research process. However, since night operations were dimmed risky, the researcher was dissuaded from taking part in them.

3.6 Some Disadvantages of the Ethnographic Method

The ethnographic method was chosen to achieve three main objectives; to gain an understanding of migrants and police officials' behaviour in their everyday environment, the potential for in-depth descriptive information, as well as the subjective and personal meanings attached to the lived experiences of respondents. Crucially, the proximity that the method offers relative to the interaction between state officials and migrants at the point of enforcement is best suited to a) observe the divide between state and society as performed in everyday practices, and b) to better inform the debate of how this divide is affected by these practices.

Ethnographic methods are however criticized as a research tool for their proximity to the research subjects. This is thought to be a problem because in embedding himself too closely in the data collection process, the researcher is not able to escape his own subjective interpretation of the world under study. Wendy Luttrell offers that this must not necessarily be seen as an impediment to the research. Luttrell advises that;

> The best we can do then is to trace and document our data analysis processes, and the choices and decisions we make, so that other researchers and interested parties can see for themselves some of what has been lost and some of what has been gained. We need to document these reflexive processes, not just in general terms such as our class, gender and ethnic background; but in a

more concrete and nitty-gritty way in terms of where, how and why particular decisions are made at particular stages (Luttrell 2000: 500).

Questions arise, however, as to the appropriateness of ethnography as a method that seeks to understand the workings of a huge institution (like SAPS) that is made visible in localized practices. For instance, how far can one go in making claims to truth about the representativity of one's findings? Akhil Gupta asks similar questions about "the epistemological status of the object of analysis", "appropriate mode of gathering data", and "relevant scale of analysis". Gupta further questions the assumption regarding the assertion of authenticity implicit in the knowledge claims generated by the fact of 'being there', what he has called the "ontological imperative" (Gupta 1995: 376-377). He argues that the mere act of being in spatial proximity to the subject under study may fail to comprehend how, for instance, being a police official is 'discursively constituted'.

The ethnographic method would have been strengthened by use of more formal interviews with senior officials regarding the data that was generated in the field. These interviews would have shed more light on the ways in which immigration enforcement is organized and structured. For instance, information that remains unexplained from the field would have been explored further through more formal interviews with senior police officials. In this light, the data mainly speaks to the practices observed in the field. The data however offers a crucial starting point for similar research in the future.

3.7 Conclusion

Three field methods were employed in this research. The research questions were initially explored and developed through the 'Incident Reporting' survey. The main method that was used to further explore these research questions was the ethnographic technique of (non-)participant observation. In order to fully reflect on the interaction between state

officials and migrants, a subsidiary semi-structured interview technique was employed with migrants. Official SAPS documents were also used to complement the research. Studying the practice of immigration enforcement was thus approached from these various angles. The field process was not without its setbacks, but the process itself has been documented in detail. A major strength of the method that has been used is that it has been documented, and potential weaknesses may be drawn from the transparency of the process.

The method employed in this research is not definitive. Along the way there were challenges that include issues of ethics and reliability. As such the limitations associated with this kind of study cannot be ignored. The method is however still the most suitable for a question that sought to discover the behaviour, practices and justifications of such manifestations of the state at a local level. It is only by being in such proximity, and through adopting a subjective lens, aiming to be in the context to understand the actions of the respondents over time, that one can make conclusions about the practice of immigration enforcement at a local level, that is, at the point of interaction between the official and the migrant. More broadly, the ethnographic method is, as has been argued by the anthropological perspective, the suitable method of making sense of such an abstract entity as the state. It is when one studies the everyday that one can begin to understand and make pronunciations about the abstract.

The following chapter is organized around the data collected through the three methods outlined above. The chapter is informed mainly by data from (non-)participant observation. Data gathered using the other methods is mainly used to support scenarios presented from the insights gathered from the main method. That way the data is still complementary, and all the methods used in the study remain relevant.

4

DATA PRESENTATION

"Someone from CCTV is surely going to run to his superiors to report a case of extortion, and I will just call on both of you promptly to be my witnesses" – police constable, August 2008, after receiving money from a migrant friend

4.1 Introduction

The following discussion builds on the preceding state-society argument by use of ethnographic data and select open ended interviews from a detailed case study of immigration enforcement in inner-city Johannesburg. It proceeds from the logic that although state officials are governed by set structures and rules in enforcing immigration laws, and that they are expected to follow these rules and structures in the execution of immigration enforcement, their day-to-day activities are influenced more by social conditions and contexts prevailing in the environment within which they work. These conditions may very well proceed from the laws and bureaucratic procedures that govern the SAPS, but they may also be drawn from outside the organization.

The appeal to all these registers informs the discussion of individual (or group) strategies of enforcement as observed on a day-to-day basis. By looking at these in more detail, we seek to build a case for a state that appears willing to let society undergird both its existence and assumed autonomy. This data presentation, far from seeking to present an idea of the state that is 'consumed' by society, carefully builds on the idea that interaction between

state officials and migrants present a state society divide that is in constant contestation and reformulation.

The discussion considers the interaction between state formality as encountered through state officials, and informal behaviour that sometimes characterize strategies of immigration enforcement as practiced by these officials. Whereas the state uses its prerogative in wedging its position in these informal relationships, the eventual success of such interactions, this chapter will argue, depend mainly on the willingness of state officials to avail themselves to, participate in, negotiate, and eventually sustain networks of socio-economic interaction with migrants. The five dimensions of state society relationships presented in the literature review, namely, the political science, anthropological, Africanist theories of state development, the history of policing in South Africa, police subculture, all come out through themes that exemplify the above proposition have been observed to characterise immigration enforcement in Central Johannesburg.

The chapter is divided into two broad sections, the data presentation part, which details the organization of policing in Johannesburg, and the analysis part, which engages with the field data in a more detailed way. The first section maps out the research, location of Johannesburg Central Policing Precinct. Here, the physical location, the unit of study within both the rank structure and the broader SAPS organizational structures, as well as the population composition of the area briefly discussed.

The other part of the first section, the setting, is a thick description of a typical field work day. The vignette details the policing day from the point of view of the researcher, from the morning parade to the close of day. Only those details that are relevant to the research question are presented. The vignette is long, and may appear winding. It is however useful in situating most of the other extracts from field notes that are used in this chapter in their proper contexts. Particularly for those who have not been exposed to the particular ‘modes’

of policing obtaining in South Africa, the vignette works to foreground what can be expected to count as policing practices in Johannesburg. The vignette is also supported by images from the routes that were utilised on the particular day, giving both a textual and visual narration of typical policing in inner-city Johannesburg.

As the data analysis section develops, which forms the second broad section of this chapter, extracts from this vignette will be used to complement those parts of the discussion that compare with scenarios presented in 'the setting'. The vignette itself therefore forms an integral part of the whole chapter on data presentation.

4.2 The Location

4.2.1 The Research Site

The main component of this research – (non-)participant observation, was carried out with the Johannesburg Central Police Station, formerly named John Vorster Square. This station serves the inner-city area, including the residential suburb of Joubert Park to the northeast, the Central business District, and the small town and residential area of Fordsburg to the west. This area falls under the Johannesburg Central Policing Precinct (see map below). As has been explained earlier, the Johannesburg Central Police Station was chosen because it serves an area that has a significant concentration of migrants who either work or live here, or both. For this reason, the area provides a good site in which to study Immigration enforcement.

The Johannesburg Central Policing Precinct is a relatively big area, both in terms of land area and the people that live and work in it. In terms of area, it covers the central parts of the inner-city in this area. To the north, it follows Wolmarans Street due east up to Twist Street. It then follows Twist briefly due south up to Koch Street, where it then stretches due

east again along Koch towards End Street, which marks the eastern limits of the precinct. A few hundred meters south of (and along) the M2 motorway, which later gives way to Main Reef road, marks the southern limits of the precinct up to Church Street Extension to the west. Church Street also marks the western limits. To the north-east, Queens Road marks the limits of the precinct. To the north, the railway lines and the marshalling yard mark the limit up to Viljoen Street, which leads directly to Wolmarans.

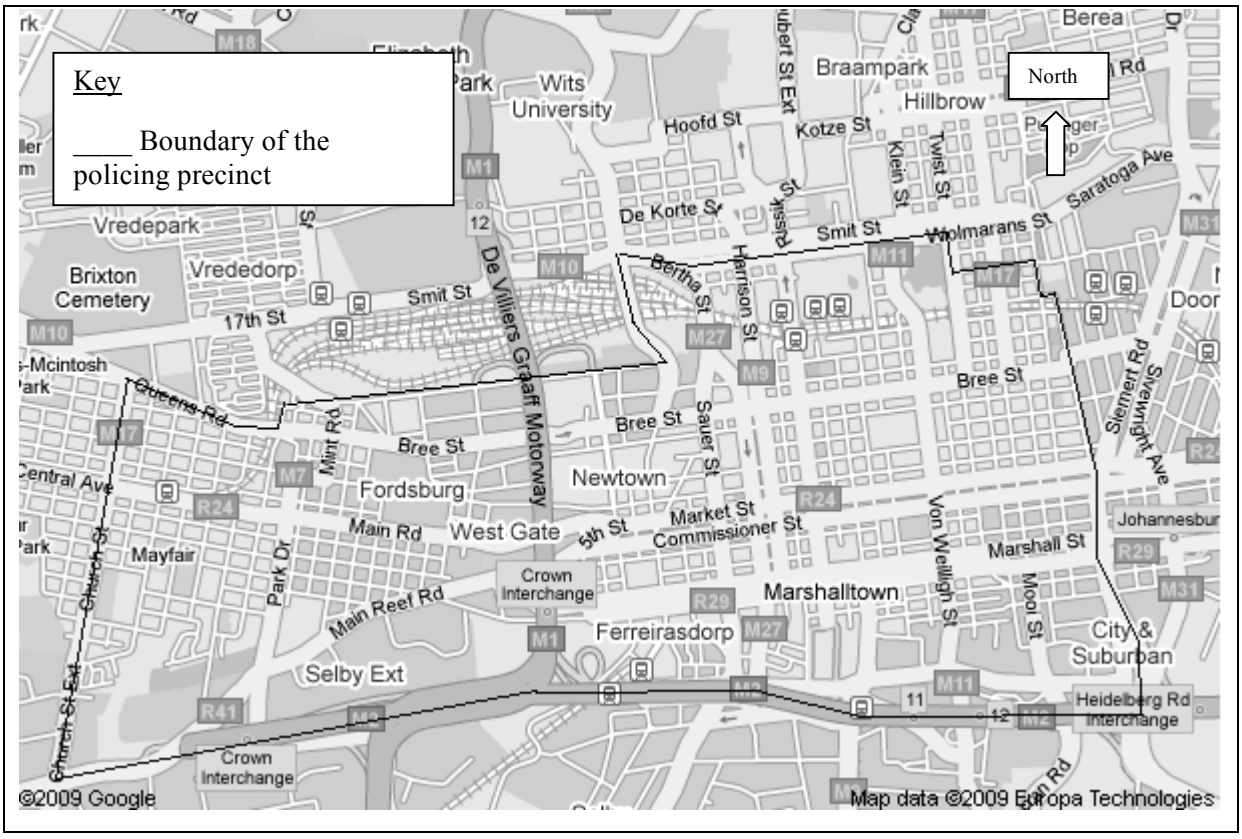


Fig. 2: Map of the Johannesburg Central Policing Precinct[15]

Three sectors managers, in the rank of superintendents, manage all six sectors, with sector one and two under one manager, two and three under another, and likewise five and six. Sectors one and two, because they cover parts of the residential suburb of Joubert Park, as well as the taxi ranks for both commuter minibuses and long distance buses, are the most

[15] Adapted from Google Maps (www.maps.google.com)

densely populated parts of the precinct. For that reason, they have the largest SAPS staff complement at any given time. In these two sectors, beat patrols where only effective on foot, because, in the words of one police officer, “one can hardly see what happens two meters away”. This is because the area is relatively congested; police officers need to be among the pedestrians to be able to closely monitor public behaviour and to maintain better visibility among members of the public. This entail a conduct of beat patrolling that is only effective on foot. Sectors three and four cover mainly the area where banks and other formal businesses are located, and although they are still congested, patrols are manageable in cars. Sectors five and six are the least populated, but with the biggest land area. Paradoxically, or fittingly, they have the smallest staff compliment, as well as fewer vehicles.

4.2.2 The Policing Structure

As a bureaucratic organization, the SAPS has a well developed structure and chain of command. Locating the area of this research can be done in two ways. In terms of the division of responsibilities within the organization, the research was situated under the Crime Prevention unit. Crime Prevention is one of six units that fall under the Visible Policing division. Visible Policing, as well as Cluster Coordination, both fall under Operational Services. In turn, Operational Services is one of five divisions under the five Deputy National Commissioner’s responsibilities, all of which fall under one National Police Commission. Figure 3 is an organogram of the SAPS organizational structure, showing the location of Crime Prevention within the organization. Crime prevention, the location of this study, is thus only a part of a huge and diverse organization. The reading of the data presented here should not be taken to the crime prevention aspect of the SAPS, from which the data was generated.

In terms of the SAPS rank structure (see figure 4 below), the research is located at the bottom of the hierarchy or chain of command. This is also where the interface between the

policing organization and the community takes place more frequently. This site consists of police constables, student constables, as well as police reservists. These officers are the ones that are tasked with beat patrols and under pro-active policing. In other words, they are the ones that are most likely to enforce immigration laws on behalf of SAPS, and thus they are more likely to be found at the 'point of enforcement', which is the particular site that this research utilises to observe the everyday practice of immigration enforcement. As Figure 4 shows, the unit of this study was the police constables. Police constables do have two other junior personnel categories below them, namely the student constables and the reservists. As the research reveals, the unit of study eventually involved reservists and student constables (the distinction being negligible) as well, who carried out the bulk of beat patrols and law enforcement. These were studied together with constables, since they carry out similar duties, and work as a singular group. Studying the junior enforcement officers bolsters the study of the state 'from below', which affords the chance of looking at the everyday practice of immigration law enforcement as a multi-faceted social process contributing to and influenced by state development in the South African context.

As a result of the chosen site, this research excludes a range of police activities that fall outside basic street patrols. Such activities may include desk, management, investigative jobs, etc, that are likely to be performed at the office. One limitation of this is that it excludes issues of the police's own analysis of their work. This however may help strengthen this research, since it does not allow such influences and opinions the police, as the object of study, may wish to have on the findings of the research.

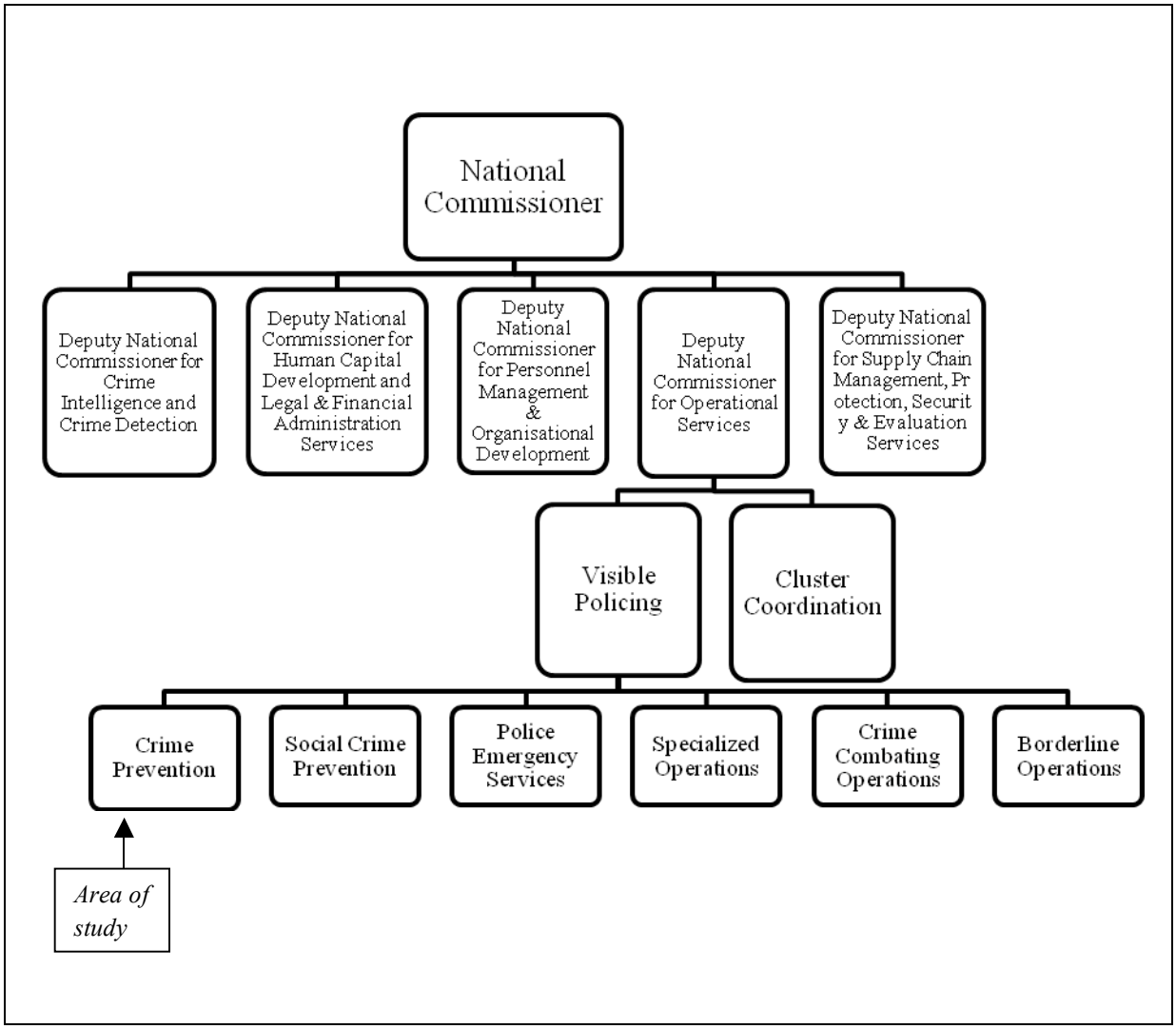


Fig. 3: Crime Prevention in the SAPS Policing Structure

4.2.3 The Police Constables

Police constables occupy the bottom of the chain of command in the rank structure of the police. They can otherwise be referred to as junior officers. Together with trainee constables and reservists, they are the force responsible for carrying out everyday crime prevention duties, resulting in term being also referred to as 'street cops' (Sheptycki 2002:14). 'Bobby on the beat' is what middle level officials call them. They mostly achieve this through 'pro-active policing'. This is a method of driving or walking around the streets to maintain visibility, look out for suspicious activities, and to scrutinize suspicious

individuals, some of whom undocumented migrants. They do this in conjunction with responding to emergency radio calls for incidents they may be asked to help with. Of the more that 1100 strong staff at the Johannesburg Central Police station[16], in excess of 250 comprise a combination of constables, trainee constables, as well as reservists[17]. Sometimes, mostly at night or in the early mornings, they engage in operational policing, by which they mount road blocks on streets, search residential buildings, taxi ranks and public places and buildings such as churches, liquor outlets, in impromptu operations that aim for criminals and other *persona non grata*.

The location of the unit of study at the bottom of the command structure is helpful for this research question from both the political science and anthropological perspectives. Regarding the former, the position of the junior officer in the command structure helps to critique the assumed bureaucratic efficiency that is theorised as achievable through the disciplinary aspect of the command structure. In other words, bureaucracies are held together mainly through the inculcation of disciple, from the top of the hierarchy down the order, among the bureaucrats that serve them. The conduct of junior officers is crucial in vindicating or disproving this notion.

From the anthropological perspective, the position of the constable, which also means that he is the one that invariably assumes the duty of a 'Bobby on the beat', means that s/he is meant to interacts with members of civil society more frequently than any other police official. If the state is to be 'cannibalized' by society, this would most likely proceed through the agency of the police constable.

[16] (www.saps.org.za)
[17] Estimates provided by three inspectors working as field heads of sectors.

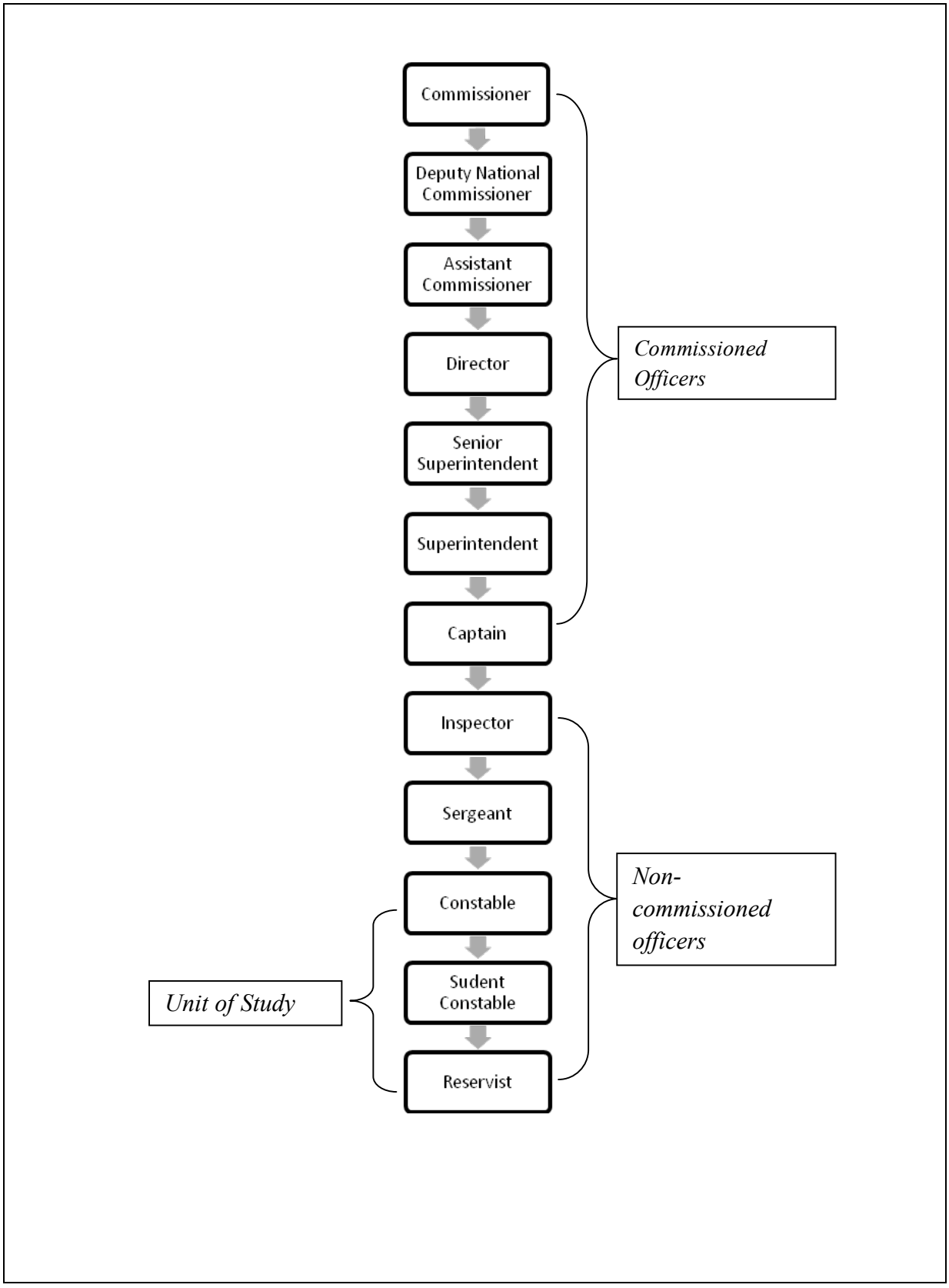


Fig. 4: SAPS Rank Structure

Constables, or 'street cops', are identifiable more for their visibility in and mastery of their area of work. Their interest, especially for this study is three fold. First, as Egon Bittner (1993, in Hornberger 2007: 52) notes, street officers intervene as 'peacekeepers' in society. This is an ideal value, and therefore it draws interest to its application in the light of the following aspects of their work. Second, because they comprise a) the most junior ranks, they are closer to society in both their rank (and implied relative inexperience in the policing job) and their interaction with society. Third, the known world for the street police officials, is continuously shaped, reinforced and redefined by their recurrent yet brief and mostly once-off interactions with the public.

4.2.4 The population composition of the area

The post-1994 inner-city of Johannesburg has rapidly changed from an area that used to be preserved for the white population to one that is now inhabited by people of colour (ninety-three percent of the inner-city is now non-white)[18]. Many of the people now living in the inner city are migrants, mainly from the rest of the country as well as Africa, and to some extent from Asia. The inner city is characterized by a relatively young population; sixty percent of it is between the ages of twenty and thirty-four years, while only six percent is over the age of forty-four years. This demographic pattern tallies with migrant profiles, which is further accentuated by the male majority within the population. Fifty-five percent of the African population are male, while the same category is at eighty-two percent for migrants of Asian origin.

While employment levels in the inner-city are high (seventy one percent among males and fifty percent among females), only forty percent of the population have regular income, the remainder being either unemployed or informally employed. This economic climate has

[18] The data presented in this section was represents the 2001 census (Statistics South Africa, 2004)

an effect on the organization of the city, resulting in the proliferation of informal and small-scale traders (Hornberger 2007: 59). Again, with migrants forced to exist at the margins of society with little formal employment and access to bank loans and decent housing,[19] the picture of informality imprints itself clearly in the form of migrants engaging in informal work, mainly street vending in the inner-city.

The Johannesburg Central Policing Precinct is also an area of high crime rates as compared to the inner-city areas in the country (see Appendix 1, 2 and 3). For example, Johannesburg Central registers higher numbers of almost all crimes compared to figures from other big inner-city police stations of Durban Central and Cape Town central. This, together with the congestion that characterises the inner-city, justifies the huge investment in resources and personnel, and the increased police visibility in the area. As a result, there is increased interaction between the police and the community in Johannesburg central as compared to any other part of the city per square area. A combination of these socio-economic factors makes the inner-city a good area to study immigration enforcement in everyday practice, and subsequently the immersion of the state in society. Although this makes the site a rather unrepresentative one, the particular objectives of the research question are better observable here. Real and assumed migrant socio-economies influence the ways in which they are viewed by both society and the state, and their responses to these offers a lens through which social processes of marginality contribute to, and are in turn influenced by, state construction in the case of South Africa.

[19] CoRMSA. 2008. 'Protecting Refugees, Asylum Seekers and Migrants in South Africa', *Consortium for Refugees and Migrants in South Africa*

4.3 The Setting

When one turns onto the seventh floor alley from the staircase on a clear morning, on the west wing of the Johannesburg Central Police Station and looks through the casement to the east, an awesome view of the Johannesburg Central Business district awaits. The morning shadows merge the numerous inner-city buildings into a solid block with an uneven skyline. Commissioner Street, running across the inner-city in the east-west direction, divides this built-up mass down the middle in two parts. To the one side, the north, a huge multi-storey building with a larger-than-life liquor advertisement plastered almost invisibly against it, somewhat nearer to the police station, juts skywards, a dramatic reminder of the location of John Vorster Square, as the police station is commonly referred to, in the heart of the city. To the other side, towards the south, and somewhat further down the road, another multi-storey building, the famous Carlton Centre, stands out from the rest of the buildings. Commissioner Street continues down the middle relentlessly towards the eastern end of the city.



Fig. 5: A view of the inner-city and the eastern part of the policing precinct from the Johannesburg Central Police Station. Commissioner Street runs through it.

It is also of interest that Commissioner Street situates itself at the centre of the Central Johannesburg policing precinct (see map), touching (or rather, cutting across) all six sectors in the precinct. In a way, the street holds the six sectors together as one policing area, just as it simultaneously divides the same precinct in two parts; even as several rapid transit, elevated roads attempt to hold the two divisions together.

Today, at 07h15, I stand here because I came, as it turns out, rather early for fieldwork. Parade has not yet started. Most police officers who work in Sectors One and Two, the sectors that I am currently with, have yet to turn up. I came upstairs in the hope of finding another police officer in his office on the same floor, but he too is not yet in. So I decide to hang around here a little longer just to while up time. A few people pass in both directions behind me. Sometimes we exchange greetings, sometimes not. I notice a few officers that are working in 'my' sectors coming through the main gate across from where I stand. A few more continue to trickle in, and about fifteen minutes later, I decide to go to the basement, the parade area, to meet them.

When I get to the basement, I find officers standing in various groups of twos and threes all around the parking area. Mhlekazi is already here too, and after shouting my greetings to all, I head straight to him. We exchange greetings, and engage in chit chat, and then Mhlekazi asks me to accompany him to book his fire arm and bullet-proof vest. I agree, and with that we head for the ground floor. When we arrive at the booking office, we find that there are a few other officers that are already waiting to go through the same process, and so we also wait in line behind them. As we wait, Mhlekazi begins to tell me about a man that he met the day before during a routine patrol. He tells me that we will meet the same man today to finish some outstanding 'business' and that for that reason I have to be with him the whole day today.

When we get back to the parade area, we find that parade has already started. We rush to the men conducting parade and offer brief apologies by way of salutes before joining other officers. It is about 08h20 and more constables are still arriving. In charge of parade is Captain Kgotso. Today he is flanked by Inspector Letsatsi, Constable Nzama, Constable Mporetji and Constable Luthuli. I count about 36 officers at the moment, nine of them female.... The captain is warning officers to desist from asking for bribes from 'illegals', and that officer activity in the field is monitored at all times through closed circuit television. As usual, Kgotso takes us through the good ways of profiling, stopping and asking to search 'suspects'. Parade is, in a way, both a preamble to, and a rehearsal of, the art of immigration policing, which is what the bulk of pro-active policing in the precinct is, from my observation, mostly about. By 'suspects' Kgotso usually refers to suspected undocumented immigrants, and most strategies of combating crime are directed at arresting such 'illegal immigrants'. Of course, the captain also talks about the preparations for the upcoming police party scheduled for the 16th of December. We disperse after going through the daily salutes and other ritualized drills that respond to the conductors' commands.

After a few more minutes of waiting after parade, about half an hour in fact, we begin to get into the vans, minibuses, and the trucks on our way to the field. Work is about to begin in earnest. Having failed to fit into the other vehicles, I hop into Captain Kgotso's van. With us is Mhlekazi, Mnguni, as a well as two female officers; Christine and Tshepo.

At Wanderers Street, near to where we are headed, we find that the motorways are blocked by parked cars. Most of them belong to street traders who conduct their businesses in this area. As the officers try to get them to move their cars, I notice that the captain knows most of them. In fact, he calls a few of them by their names. As they notice him, a few also come forth and shake hands with him. Others proceed to move their cars. The majority of the vendors are migrants; a few are from West Africa, judging from their accents. The captain

laughs as he greets them, cajoling them in a concocted Nigerian accent to move their cars over. One man comes over to Tshepo's side of the police van and asks to buy the captain a 'cold drink'. The captain agrees and politely thanks him, but Tshepo receives the money. The captain advises Tshepo soon afterwards that she can keep the 'cold drink' money.

We arrive at 'The Circle' to find a few officers already there. The Circle is an open area surrounded by vending stalls, blocks of flats and nothing much else. Right at the heart of Sectors One and Two, the area is where the police truck parks, where officers meet briefly in the field before beat patrols can start, and where officers regularly appear to report on their progress and to update each other. This is where officers also have their morning tea before disappearing into their work.



Fig. 8: Police mark out space at 'The Circle'. In the background, life goes on for informal street vendors.

As we arrive, some officers are already having their tea, and we join them as well. Some had not been part of parade this morning, and almost all of the ones I am noticing are

not in uniform either. As I order my morning coffee, Mhlekazi asks me to accompany him to the other side of the block, where he is organising to meet the man from the previous day by use of his cell phone. Mnguni persuades me to join him for his morning meal, which I eventually agree to. I tell Mhlekazi to expect me in a few minutes.

When I do eventually join Mhlekazi, he tells me that he has not yet met the man and that we should be able to meet him an hour or so later at a nearby block. With that we start patrols without going back to start with the rest of the officers. Mhlekazi is preoccupied with making sure that his phone is open. You can see that he is anxious to talk to his 'mystery man'. We stroll down along Wanderers Street and turn east on Plein Street. We proceed towards Bree Street on the right a block later, from where we join Small Street. We turn again on Jeppe Street and proceed east. While we are here, we start stopping and searching people.

We confiscate (for inspection) three asylum seeker papers from young males of Asian descent, and we apprehend one man who does not have any documentation on him. A group of people starts to congregate around us, among them two men who claim to employ the three apprehended men. We ask them to leave, but the men start complaining that their employees' documents are legitimate, to which Mhlekazi blurts out that that is exactly what he aims to ascertain. A stand-off ensues, during which time Mhlekazi hands over the confiscated documents to me as he takes another phone call. I ask the two argumentative men to take their wares from the men that are being questioned. After a few more protests they agree and leave, while the 'suspects' remain. No sooner had I started questioning them did Mhlekazi ask me to hand over their documents and go with him.

As we walk in the opposite direction from where we were initially headed, we are signalled to from a small car that had just pulled over. One man disembarks to accommodate me, and with that we leave the precinct in the car. Two other men are in the car, apart from the driver. Together with Mhlekazi and me, we are five in total. It looks and feels like we are

crowded. Mhlekazi does not seem to mind. The man that had called Mhlekazi is Chileshe. Chileshe and another man known as Mulauzi are Malawian. The man that is driving the car is Congolese. Mulauzi and Chileshe had called the Congolese to come and pick us up. As it turns out, we are being asked to accompany these men on some important business that I do not yet know of. We continue to travel out of the precinct, several kilometres due north-east to Berea. Once there, we disembark from the car in the basement of some building and proceed towards a white Toyota Camry sedan that is parked in there. It looks used but still smart and intact. We all get into this other car and head back into town.



Fig. 6: A typical side-walk scene in the north-eastern suburb of Berea. One of the inner-city residential areas in Johannesburg, Berea has a substantial migrant population.

We quickly join Joe Slovo Drive and proceed along it back towards town. We then take a few turns until we arrive at a wheel alignment shop on Pritchard Street near the Jeepestown area. Once there, I ask Mhlekazi what exactly we are doing. Chileshe is a small time car dealer, Mhlekazi tells me. He buys used cars and then sells them back home in

Malawi. The car that we are currently servicing will leave tonight for Malawi. The reason that we are accompanying these men is that on their last attempt to fine-tune a car prior to it being 'exported', they were car- jacked and their car taken from them at gun point. They were preventing that from befalling them again by asking us to accompany them, and as I understand, for a substantial fee.

After the wheel alignment we proceed to a petrol station where Chileshe fills up the car with fuel. All the while Mhlekazi is driving and to all these people that we interact with, presents himself as the owner of the car. After the petrol station we proceed to a car wash in Jeppestown.



Fig. 7: Car wash of choice for Chileshe (foreground), a few kilometers' distance from the CBD and policing precinct (background).

We drive back to where we fetched the car in the morning. After parking the car in the slot that it was in previously, we get back into the other car and the Congolese man drives us back into town. As soon as we arrive, we go for a late lunch at one of the nearby sidewalk

‘kitchens’. I ask Mhlekazi if he has been paid for the job, to which he tells me that Chileshe is still organising the payment. After the lunch we head back to The Circle.

On the way back, we are confronted with a scene with a lot of commotion next to one of the taxi ranks. A man driving a huge truck had driven over some vegetable wares as he was attempting to negotiate a turn in the busy part of town. Mhlekazi swiftly gets into action, stopping other smaller vehicles that are blocking the way, while at the same time directing the driver out of his spot. Soon after the driver extricates himself, Mhlekazi check his driving licence, and reprimands the driver for being careless. Apologising to the vendors, we leave the scene.

Soon afterwards, on our way to The Circle, two guys stop us with a complaint that they have been robbed of R800.00 in cash, and that they know the perpetrators. They are asking us to intervene in the matter. The assailants, we are told, are about five or so, and they are currently at a bar on Smit Street. After a few more questions, we decide to go to The Circle to get some back up. When we arrive there, we meet with Mnguni and other constables.

At ‘The Circle’, we find Andile, and to much pleasant surprise, Netshifefe. Netshifefe had not been at parade in the morning. After hearing the story of ‘the pub robbery’, they come along. Andile, Netshifefe, Mhlekazi, Mnguni, Tshepo, Boitumelo, and I all proceed to the bar, and sure enough, the ‘robbers’ are still there. Andile says that he knows two of the men. He reminds them that he has got them like he promised to them some time ago. One man tries to protest. Andile lands a blow on the man’s stomach, and with that all the men become silent. They arrest 5 men and take them to The Circle. As we are on our way, it starts to pour down heavily, and although we take the suspects to The Circle, our actions are not coordinated from here on.

On the way, the men start apologizing and pointing out that the men that reported them owe them in turn, and that they were trying to recover what is theirs. We are told by the

complainants that they owe one of the men R200.00 and that R800.00 is way too much to take away from them. At this point, Andile is less interested in the present matter. Repeating what he said earlier about catching his men some day, he makes it clear that he is settling an old score. On arrival at The Circle, the men are not taken to the police truck, as per norm. They are asked to huddle under a vending stall, sheltering from the rain. Police officers come and go. I can see the R800.00 money being returned. The arrested men apologize again to the complainants, and to the police officers. A few of the arrested men also make phone calls. There appears to be confusion as to who is handling the 'case'. So far no 'suspects' have been released or officially arrested. We are all in and out of the area in which the suspects are held, and quite frankly, I am not able to see what the officers were doing given the rains. One moment Andile is busy with the arrested people, the next he is nowhere to be seen. Mhlekazi, when he finally comes to the area where the 'suspects' are being held, complains that he is being robbed of his 'successes'[20], that he will go to the station to dispute the matter, that he is not going to be denied. At about five in the afternoon, the last of the vans leave for the police station, and Andile is in one of them, together with five suspects to be charged for 'mugging', since the suspects themselves had agreed that they took the money from the victims. (I suspect that this is the official version of the charges the men will face). Mhlekazi does not follow through on his threats and is still with me. It is at this point that we just resign to the torrents and watch from a vending stall as the rain continues to batter down.

[20] A 'success', in the police lingo, is a successful arrest that is certain to lead to a case being opened against the offender. Such an arrest is credited to the arresting officer, who is also the person that has full knowledge of the case in question

4.4 ANALYSIS

4.4.1 Introduction

This section is the data analysis section. The analysis relies on extracts generated from field work notes. These vignettes are presented as scenarios, and therefore do not appear in the third person narrative. This helps the field data speak for itself, without the intermediation of the researcher. That way, the reader gets to interact more closely with the data, as if they see the practices of police officials themselves.

The section is organised into four themes, also discussed and explained from field settings that come up from the data. The first covers the ways in which internalization of policing procedures informs the discipline and discretion that guides police work, and shows how such discipline and discretionary decision-making manifest in everyday practices of police officials. The second theme deals with the manner in which police officials sometimes use their power to exert influence, sometimes through seemingly illegitimate ways, on migrants. This therefore makes a case for instances when discipline and discretion within the forces are over-looked, down played or disregarded in actual practices. The third theme proceeds to look at specific police practices at the point of enforcement that give rise to the informalization of the policing job. These are sometimes characterized by socio-culturally embedded norm of interaction. At other times, such norms are exploited so that they come across as ‘corruption’-type practices and other forms of informal behaviour. The fourth theme discusses how police officials themselves make sense of the informal and other activities that they find themselves taking part in. The section concludes by linking the whole discussion together.

The section, as mentioned earlier, is mainly organised around (non-)participant observation data, although data from the 'Incident Reporting' survey and interviews with migrants is also used to support the arguments made. Having followed the themes outlined above, the data therefore engages with the various state-society dimensions in a rather unstructured way. Nonetheless, this helps the themes to hold together more strongly. Where suitable, the thick description used in 'The Setting' is also used to support the claims made at certain points, so that the field experience is continuously brought to both the surface and the substance of the analysis.

4.4.2 The Disciplined Police: On the Internalization of Policing Procedure

4.4.2.1 Discipline as a Shared Value in Law Enforcement

"Re ko mmberekong!" ("We are at work!"), is what a policing sector manager offers as greetings on our first encounter in the field. Even from an outsider perspective, such an announcement relates to something more than an enthusiasm for duty; it translates to a certain level of familiarity with one's work, a verbal approximation of knowhow, or an internalization of work related procedure and norm. It represents a connection between individual conduct and the organization that such an individual serves. The SAPS officials who are in charge of immigration enforcement at the street level constitute the human arm of a structure that fulfils everyday public security obligations of the state. One may call this structure the police service. Everyday enforcement proceeds from a set of laws, norms and procedures that are not only part of the structure, but also form a common understanding of practices in the service. One may also call this common understanding the police subculture (Chan 1996). Police officials, in order to effectively discharge their enforcement duties, equip

themselves with the necessary resources, such as knowledge of the law, a uniform, vehicles, enforcement gear and accessories, etc. However, in order for them to gain a common understanding of enforcement, officers must ritually congregate and reiterate and internalize the objectives of their work. They can achieve this through various methods, the most ritualized of which is the police parade.

Parade is more than just a physical show of numbers and clean uniforms. Police parades are where the behaviour and conduct of police officials is structured, reviewed and reiterated. The repetition of these inculcates the discipline of the bureaucrats that Timothy Mitchell (1991) has already pointed out elsewhere in this report. Little details that eventually inform such crucial action as decision making in emergency situations are kept alive at parade sessions. As an illustration, a lot can be learnt from just looking at punctuality of officers for parade. As an exercise that is carried out on an everyday basis and to minute detail, punctuality for parade fosters discipline among the officers. Further, other than it being something which individuals need to do out of a sense of duty as passed down through chains of command in the police force; discipline is internalized through the ritualization of the parade itself. Individual behaviour becomes standardized, and the known world of the police officers is commonly constructed and shared. At one level, for instance, if an officer is late for duty, this will manifest first of all as lateness for parade. Such behaviour is collectively regarded as improper, and the culprit can be expected to proceed to the front of parade, where usually an official of senior rank is conducting the parade. The proper respect, which the act of being late casts in doubt, is then extended, first in the form of a salute. An apology, accompanied by an explanation for the lateness, is then offered. There may be exceptions, such as when the reason for being late was made known before hand, in which case only a salute will suffice.

There is something else to parade other than the inculcation of discipline. As the only point when all the officers on duty can be at one place at any given time of day, parade is also 'a meeting on foot'. Orders from seniors, brainstorm sessions, complaints, discussions of matters arising from previous work, are all handled during this time. Ideas are cross-pollinated, and a common police culture cultivated. If police officers can conduct themselves in a more or less unified fashion in the field, a significant part of that unison is developed during parade.

For those that see the efficiency of the police as arising from good administration, such as William Parker (1957), the parade is a vital ingredient. The discipline that is built and inculcated among the police officers mostly during parade can be seen to reflect in their everyday work. When Mhlekazi instinctively moves into action to untangle the motor vehicles that are blocking the truck that has run over some vendors' wares, one notices that his actions are internalised within him, and he does not need anyone to instruct or plead with him to do his duty. His actions identify with, and exemplify, the knowledge and discipline that is constructed and passed down at parade.

Constant communication and feedback up and down the chain of command act as a continuous mechanism of discipline, but they ultimately rest on good hierarchical structure and a smooth floor of information and instructions down this hierarchy. This can also be observed in the manner in which even outsiders that are in prolonged interaction with police officials are requested to appear frequently in front of division supervisors. In that way, the flow of information is not impeded. Crucially, everyone in the chain of command is kept in the loop about the 'goings-on' around them.

4.4.2.2 Discipline as an Organizing Principle in Everyday Work

Outside the police station, police work in the inner city routinely brings into interaction the state official and the ordinary members of the community. Despite suspicion and perceptions of one by the other, such interaction is accompanied by expectations of mutual respect and assistance. Often, police officers are stopped on the street by civilians, for instance, seeking directions to a certain part of the city, asking for intervention in a dispute, or reporting a recent crime. Cases like these involve both migrants and the local populations. The expectation is that the police will help everyone without discrimination. In most cases, police will help. In some cases, such help may not be possible. For instance, when a person is mugged in a congested part of the city, the victim might, in the hope that the police will help, quickly seek them and report what has happened. The thick description used above illustrates this well when the police are approached by two men to help them recover money that had been stolen from them. Barring the vendettas between some of the officials and some of the suspects, the response of the officials to help out appears more than just an act of goodwill. Agreeing to help where possible is a vocation. Even if the location of the 'robbery' in the above example took place outside the policing precinct of Johannesburg Central, officers felt that they had to 'do something'.

Sometimes however, police officers may not be able to extend such help. This may be as a result of lack of capacity as it may be about discretion. So, whereas helping is a sensible reaction and course of action, especially towards those that might be new in the city, such as migrants, the police, constrained by congestion, as well as the inability to closely monitor individuals in such congested parts of the city, are unable to offer help. It is the honesty with which they explain the inability, for example, to effectively follow up on a petty thief in thick human traffic, which preserves the name of the police. In this case, an awareness of one's

work rests not so much on the wish to offer help at all the times that it may be sought, but the ability to distinguish between when such help is possible and when it is not. A police officer is aware, for instance, of the consequences of chasing down a fleeing suspect in heavy motor vehicle traffic. In order to avoid accidents that might be blamed on the police organization, an officer will let such a suspect run. Again, this illustrates less the adherence to law and policy and the wish to make as many arrests as possible, and more the discretionary application of such law. It also illustrates the proper ways of interacting with the public, as spawned by the *understanding* that suspects shall be presumed innocent until proven otherwise.

The relevance of bureaucratic technique, in the form of the expected execution of the policing job in the field, is in this case out of question. The fact that officers spend time in the field doing these kinds of duties illustrates that the disciplinary objective of the parade (and the organization), the chain of command from up in the hierarchy, as well as the policing responsibilities of the SAPS are regularly met. As such the state's ability to intervene satisfactorily in everyday lives of the members of society is validated.

Bureaucratic policy and protocol are not static. Organizational values change, usually in response to patterns of behaviour in the surrounding environment. Attention to these may also mean public officials change the ways they carry out their work in concert with changes in society. Such change is crucial for junior police officials who constitute the interface between the police organization and members of the community. The case of the mid-2008 xenophobic violence may serve as an illustration. As a result of deteriorated relations between the local populations and migrants that eventually resulted in physical attacks on foreigners, the police have been positioned to set a good example for at least two reasons. As the possible arbiters in communal conflicts, the conflict presented an opportunity for them to set a good example of themselves by quelling the violence. Secondly, having been either

implicated in 'moving too slowly' to abate the attacks,[21] or criticized for standing by as foreigners died,[22] this presented a good opportunity for them to redeem a part of their name. This is reflected in the way in which, during my field work, some officers professed reluctance in arresting undocumented migrants, which they attributed to the sensitivity surrounding the question of the xenophobic attacks. The officers that pointed this out mainly presented it as an instruction from their superiors. This also appears to vindicate a policing organization that is steeped in the philosophy of community policing. The sentiments of these officers however reflect a command from higher up the SAPS hierarchy, and as such, they exemplify a strong allegiance to organizational practice and the strength of the disciplinary mechanism in the service. An understanding of these values at the lowest levels of the organization, such as in this case, suggests the strength of both the culture of hierarchy and of a bureaucratic organization.

Such allegiance is not always manifest in conscious action. It could be registered by omission. A ritualized emphasis on what the police officers can do, for instance as passed on during parade, simultaneously sets the limits of permissible conduct, and as such, silently maps out what officers may not do. The following example serves as an illustration.

> During a routine vehicle patrol, a police officer and his crew[23] stop at an undesignated area to observe a particularly busy section of an inner city block. As they wait, a young man approaches and greets them in a friendly manner. From his tone, the man is probably not a South African, at least not by birth. After exchanging pleasantries, it becomes clear that the police official and the man know each other from previous encounters. In an unsolicited move, the man offers to buy the officer a drink[24]. The officer is grateful but hesitant to accept the money. He explains his behaviour by pointing out that, with so many street cameras monitoring both cop and civilian, he

[21] http://www.mg.co.za/article/2008-05-22-anc-on-xenophobia-cops-acted-too-slowly
[22] http://news.sbs.com.au/dateline/fear_and_foreigners_in_south_africa_548353
[23] A police code to refer to an officer's work partner in a patrol vehicle, usually the one that is not driving
[24] Usually another a way of offering small cash to a person

fears that he might be misconstrued as having solicited and accepted a bribe. For that reason he apologizes to the man and declines his offer. After leaving the scene, he seeks justification for his behaviour from his crew.

Nothing apparent stops the officer from taking the money. The presence of witnesses to the exchange also strengthens his case were he to accept the 'drink'. However, even when no one warns the officer to decline the offer, possible subsequent scenarios are enough to model the officer's behaviour. In this case, attention to expected forms of behaviour is exhibited in what may not be done. Although vocalizing his adherence to law and actually performing such adherence to the colleagues may be an act of commission itself, it is manifested and justified in what has not been done. Thus, omission becomes a good show of allegiance to law and good practice.

Similar tendencies towards exemplary behaviour are evident in the image of the official as an arbiter in disputes. The role of the official as a personification of the law becomes evident when his mere presence works to quell inflamed emotions. In such instances, where force may not be the ideal way of handling the conflict, the counter-inflammatory demeanour of a calm individual, projects the law as a silent yet strong presence. As an illustration, a homeless woman who lives in a shelter in the middle of the city brought a domestic dispute with the father of her child to the attention of police officials passing through the area. The sensible reaction from the officials was to calm them both down. The woman, as the 'complainant', was instructed to open a case at a nearest police station in order that the police may then look at the case formally. However, in order to resolve the dispute in the short term, the officers asked the woman to leave them, while simultaneously detaining the man informally in the police van. The impersonation of the law, although in this case silent, is evident in the positioning of the officer in-between the feuding parties. While the man remains in the truck, the police show no indication of arresting him formally. The physical

space between the woman and the man symbolizes the silent position of the law (Herbert 1997), which the officers avail as a possibility if the woman proceeds to open a case against the man.

Policing practice appears internalized in the manner in which officers choose, among the many undocumented migrants that move daily across central Johannesburg, who to arrest and who not to arrest. With a significant perception of criminality among undocumented migrants within the SAPS rank and file (see table below from Newham's (2005) work, officials would naturally be expected to exercise impunity in their arrest procedure. As an immigration offence by law, the presence in the country without valid residence permits appears to support extensive arrests of undocumented migrants. However, as both the table and the following example show, actual enforcement seldom proceeds from the specification of law alone:

> An officer is going about his beat patrol duties in his designated sector on foot. As expected he meets and interviews a lot of migrants, many among them undocumented. Interestingly, he is letting a lot of migrants go free even when they fail to produce valid residence permits. The officer explains why he is letting so many of them free. He gives the example of a soccer referee. The referee example means that even though the laws are there and may apply all the times to a playing offence, the referee can exercise discretion when he deems it necessary. So some migrants may be found without papers, but if they show respect and a good attitude, they may be let loose. This is validated by the way the officer is letting most of those found without valid papers, but not before a thorough interview.

The above examples paint a picture of disciplined state officials who exhibit a good understanding of their role in the communities that they serve. This culture obviously proceeds from the ritualistic drills and transfer of knowledge that officers undergo on a

regular basis, whether it is during parade or on training clinics that they attend. The end result is that, the organization, and therefore the state, succeeds in its objective to govern social life when these techniques, skills and knowledge become a part of police conduct, and therefore, of their work in general.

		2.4 Most of the illegal/undocumented immigrants in Johannesburg are involved in crime			Total
		Agree	Disagree	Neutral/Don't know	
Race	Black	91.0%	7.9%	1.1%	100.0%
	Coloured	64.7%	35.3%	0	100.0%
	Indian	85.7%	14.3%	0	100.0%
	White	69.5%	25.6%	4.9%	100.0%
Total		**87.1%**	**11.4%**	**1.6%**	**100.0%**

Fig. 8: Perceptions of links between crime and undocumented migrants among SAPS police officials (Newham 2005)

Given a tendency of many among state officers to link migrants to criminality,[25] as well as a preoccupation with selecting a crop of migrants to arrest, the actual application of arrest procedure is less surprising. Of interest, however, are tales of social economies of interaction and motivations behind migrant behaviour that feed into the understanding of migrant lives and eventually into a stable, shared and quasi-official process of profiling and arrest of such migrant groups. Pressed to justify a widening stream of criticism of their selective arrest procedure, state officials are quick to point out that such arrests are directed at those migrants that have found ways of living in the country without papers. They propose a

[25] Interaction with the police has proved this. An interview conducted with Senior Superintendent Lategan (08/04/2008), (available from the author) proves this as well

thesis of direct relation between lack of documentation and criminality. The issue is less related to the idea that undocumented migrants do not appear on any official state records. A lack of status, accompanied by a lack of employment opportunities, they argue, encourages migrants to engage in acts of criminality in the knowledge that they will not be traced by the state system. This has justified other forms of policing in Johannesburg central; the routine raids on residential building are geared to 'fish out' such migrants. The rationale is usually two-fold; not only do such efforts aim to catch undocumented migrants, they in the process also aim to catch criminals and persons on the police wanted list. Here, it becomes less important if such rationales are founded or not. One only has to look at the scale and the frequency of such operations to realise that this is a common belief among state officials.[26] The manner in which such beliefs are well-resourced and executed lends value to the notion that they have been elevated to the level of law and police policy. In this case, the idea is less to debate the correctness of these beliefs than it is to demonstrate the ability of the organizational hierarchy to influence and foster particular beliefs, and how these beliefs not only become standardized, but also manifest in everyday actions of officials. Correct or not, the beliefs succeed in structuring certain action out in the field. Note how such action is centrally generated, and how it filters through the bureaucracy, and how it eventually influences immigration enforcement practices on the street.

This illustrates the Weberian/Gramscian proposition of how the technique of the bureaucracy works to structure eventual individual officer conduct, as well as the investment in time and effort senior officers make in order to make such practice to materialize as part of the control they exert in society. These are mediated and helped by the police culture, which itself may sometimes work to legitimate the formalization (and informalization) of the enforcement regime, as later sections of this report seek to reveal.

[26] The same interview with Lategan makes references to this

4.4.2.3 Law Enforcement and Public Misconduct: A Case for the Use of Force

State officials also show a keen knowledge of law and organizational policy in their ability to exploit its loopholes. In a way that perpetuates the law itself, as opposed to the corruption of it, officers may take 'short-cuts' in order to get work done faster, in order to earn the respect of members the community, or for the sake of exerting the punishment that the justice system may either take longer to deliver, or may eventually fail to deliver at all. A case in point may be the way a police officer explained during a foot patrol exercise how he may deal with a suspected dagga smoker. Possession of dagga, however small, is a punishable offence by law. A 'suspect' may, nonetheless, be warned and let loose even if he has been found with a 'joint' of dagga depending mainly on a good attitude and show of remorse. Alternatively, even if such a suspect may be found smoking that joint but quickly finishes it and throws the stub away in insolence, such a suspect may not be arrested because of lack of 'hard' evidence. In the first instance, arresting and condemning such a person to up to six months in prison may appear cruel. However, in the second instance, because the suspect is in fact using drugs in public and is seditious about it, officers may, in the interest of revenge, implant evidence on him and subsequently arrest him to not only discourage such behaviour, but also to punish the individual for his behaviour towards them. Without witnesses, officers may collude in testimony against such an individual, and the individual in question may end up serving time. When such an eventuality in uncertain, officers may even assault such a person in reprisal for his behaviour towards them, as long as they will not leave physical evidence on him. Such behaviour is of course not condoned, and if it surfaces, may lead to criminal charges on the concerned officers. However, as a 'short-cut' towards justice and a preservation mechanism of the respect and power relations between officials and the public, such conduct may be permissible within the circle junior officers. Such conduct,

though illegitimate, not only reinforces the position of the state official as enforcer of the law, but also perpetuates the same law of which the police official is the enforcer.

When Andile (in the chapter's opening vignette) assaults one of the robbers, all the while reminding him that he has 'finally caught him', for instance, his behaviour might be irregular, but in the interest of the preservation of the respect that is due to him (as an officer of the law and state official) he feels justified to behave in that manner. The success of his manoeuvre is evident when all other suspects that are complaining fall silent, and subsequently submit to the will of the officers. The police officers, in a rather irregular and unexpected way, make the state appear material and able to impose itself on, and govern society.

The role of the beat patrol officers in the enforcement of immigration law can be best understood in the eagerness with which they sometimes carry out their duties. If it is the objective of the state to aggressively arrest undocumented migrants as a way of countering perceived huge volumes of irregular immigration, one needs to look at the verve with which such enforcement is carried out to believe it. Multilayered profiling strategies ensure that no room is left for deceptive suspects. The interview process is gruelling, ranging from the background of the suspect through knowledge of South African languages to current affairs. If this process is not enough, inspection of inoculation marks on the body is not out of question. If suspicion persists after these processes, intimidation is always an open option. Intimidation is used, in the words of one police constable, to show suspects that "the South Africa that they claim is aslo theirs can be a rough place as well".[27] Migrants venture into the inner city in the full knowledge of what awaits them. If the state holds monopoly over legitimate movement of people into and across South Africa, migrants that live and work in

[27] Human Rights Watch (HRW). 2007. 'Keep Your Head Down: Unprotected Migrants in South Africa', details this problem.

the inner city will be ill advised to doubt it. The conduct of enforcement officials best exemplifies the full understanding and internalization of the objective of the policing organization in effecting law, and more broadly, that of the state in regulating migration[28]. Once more, such behaviour may be overzealous and sometimes irregular, but it works to shore up the state's intention and willingness to preside over society and social mobility.[29]

Perhaps the best way in which the enthusiasm of the enforcement officers is brought into focus is when the profiling process leads to the apprehension of an innocent 'suspect'. With both suspect and police official unwilling to back down, the interaction may illustrate the way in which the interest of law and state may be protected in overzealous ways. The following example offers good illustration.

> A man is walking along a busy street, somewhat at a corner of a block, when he is stopped for a routine search. He initially cooperates, but almost immediately changes his mind. As it turns out, his decision to refuse appears to be inspired by a sense of citizenship, something which the current interrogation seeks to ascertain. One officer asks the man to move over from where is standing, so that he does not continue to obstruct both an entrance to a shop and pedestrian traffic. Again the man refuses, asking to be left alone. A series of questions also fail to get the man to co-operate. An air of politeness from the officer seems to spur the man into stubbornness. When the interaction turns into a 'scene', the officer calls on his companion, and explains the man's refusal to co-operate. The second officer does not wait to hear the man out, but begins to attack the man with slaps and kicks. The man is taken aback, and tries to apologize. However, the attacking officer has ceased to listen to him, and continues to attack the man. After the man has successfully pleaded with the officer to stop, he is informed that he is being arrested for failing to co-operate with an officer of the law. The man begins to panic. The arresting officer taunts the man that he will narrate to the courts the following day what he was trying to prove. The man is

[28] Whether the zeal results in more deportations of those arrested is a different matter altogether.
[29] This author (together with Darshan Vigneswaran, Collin Hoag and Tesfalem Araia) has dealt with this issue in a forth-coming publication, 'Criminality or Monopoly?: Immigration Enforcement in South Africa', *Journal of Southern African Studies*

also told that the court will probably not find him guilty and will release him. Just before the man is thrown in the back of the police truck, he is again reminded to respect officers of the law.

Although the man's behaviour does not constitute a crime *per se*, the man is now being taken through the humiliation of spending the day in the back of a truck, of being taken to the cells and spending the night in police custody. The officer might be unjustified to use such force to subdue the man. This is especially pertinent because the man has clearly not done anything wrong. The point however is less about right or wrong, but more squarely on the nature of the force that is brought to bear on immigration enforcement, as well as the preservation of such force. The victim is not necessarily paying for being disrespectful as he is serving as an illustration to those undocumented migrants that might try to resist the profiling procedure of what might befall them. The officer illustrates the way in which the objective of immigration law enforcement is kept alive and working through him. In this case, state officials appear to succeed in making the point that the state holds the monopoly over both legitimate force and movement.

4.4.2.4 Enforcement as a Weak Value

In big organizations such as the Johannesburg Central SAPS, complex and sometimes contradictory actions may mire expected forms of conduct in actions that demand swift responses. Another inspector may disrupt parade and ask a few officers to abandon such parade in order to fulfil another duty. Rather than appear as unruly conduct that clearly infringes on and impedes a certain outcome, such behaviour may be accepted as ordinarily and pointing towards the resolution of an urgent issue. Here is an example:

Before parade is concluded, two inspectors arrive and ask for two individuals to accompany them elsewhere. They clearly offer their request as a communication of information without an

expectation of being turned down. The individuals that volunteer to go on this errand, in turn do not even ask permission to leave. As it turns out, the inspectors are taking a few boxes to another police station, and all they need is extra manpower. One of the inspectors has been in the service for more than 15 years, and judging by the way he speaks, is a man given to principle, and possibly a temper as well. Along the way, he talks mainly about crime combating tactics. His sentiments are that policing has, or rather police officers have, shifted their attention from tackling more dangerous 'A' crimes towards the pettier 'B' crimes. The inspector is quick to attribute this to a change in leadership styles, rebuking those in leadership that, for the sole purpose of pride, would rather discontinue good strategies if only to be identified by their own 'unique' styles and strategies of leadership. Especially, the inspector curses the tendency among many senior officials to disregard or even completely shoot down advice from others. He reflects that since he has worked with the Johannesburg Central SAPS, he has watched helplessly as crime figures have increased while many dedicated officers have left. He especially mourns the abolition of task teams (or groups of skilled men and women who were tasked with tracking down known criminals). 'Now things are uncoordinated and unplanned', he says. Here he gives the example of the escalation of organized crimes such as credit card scams/fraud and theft of motor vehicles as a direct result.

The man in the above example not only demonstrates permissible action and conduct, but he also illustrates how such permissible action structures action in the police service. It is important that both his action and his narration juxtapose the ways in which such permissible action may work to bolster both disciple and efficiency on one hand, while hindering progress within the organization on the other. Both men have acted on their initiative to temporarily disrupt parade, but the inspector in the first instance does not affect the will and conduct of those he presides over. That the two men he requests for immediately avail themselves to his command demonstrates and entrenches proper conduct across the ranks. However, the senior officials in the narration, while acting within permissible conduct, have

sewn dissent and truancy among the junior officials. Particularly in the case of the narrating officer, the senior officers have solicited a lack of respect from those they have supervised. Discipline can manifest in different forms in different individuals, but it may also engender complex forms of interaction for different individuals at different times. A crucial part of this is the fine balance that discipline must strike with the discretionary behaviour that is equally important for police officers.

As Slotnick (1966) has demonstrated, the ideals of chains of command and bureaucratic order are not always applicable uniformly in practice. Whereas his concern is the tension between the 'operational consequences of the ideals of order', efficiency and initiative as espoused by the police code, and legality within which the police as a democratic legal organization exist and operate, our concern is that such operational ideals and legality may pose a contradiction and conflict within the organization itself. Discipline may take different meanings to different officials and in different contexts. For instance, discipline may be a guiding principle among police officers as a community, but similar conduct may not be extended to individuals considered outsiders. Crucially, discipline exists with other forms of behaviour that are of less interest to the bureaucratic code. At one level, for example, officers may exhibit suspicion when suddenly they are paid a visit by someone from outside the organization, someone they may see as an intruder, (such as this author/researcher). At another level, they may feel not necessarily bound by the codes of conduct applicable at parade once they are out in the field. The following examples may serve as an illustration:

> (Case 1) An inspector calls this researcher immediately to his office, whereupon he introduces him to his fellow officers. A few of them are curious about the researcher's business with the police. A few others openly display a disinterest in him, and this is evident from the way they avoided even talking to him. Others are however open towards him, or maybe they just do not

mind his presence. The inspector is however at this stage still giving the researcher enough attention, which makes him feel comfortable, or at least un-alienated.

(Case 2) Officers are on parade. A few things are said that do not particularly speak to any deviance from agreed disciplinary codes. An inspector then asks the officers to again desist from asking for bribes from those they are supposed to arrest. The inspector mentions that a few officers have been caught on closed circuit television taking bribes and are sitting in front of a disciplinary panel presently. This is said with such force as to remind officers of the conduct with which they ought to carry themselves, and the conduct which they were meant to exhibit at all times. During the parade, however, the officers appear unmoved, and one wonders if the officers have heard this before, or if it does not speak to them directly.

(Case 3) A Superintendent expresses her worry in an address to junior officers during parade at the reports of officers soliciting for bribes when at work. She promises to discipline those that might get caught taking bribes. She says this with the seriousness of someone who intends to carry through with her threat. Officers are attentive, unlike when she is not around and everybody is feeling fidgety. As a parting note, the superintendent suggests that perhaps she should make sure that she checks every person's wallet when they leave parade for the field in the morning and when they come back in the afternoon, just to see if they still had more or less the same amounts of money in then. To this, everybody roars with laughter, returning to silence as soon as she carries on with the rest of what she has to say.

The above suggest that discipline may take different forms. It may depend on the relationship between the enforcer and those upon whom it is impressed. It could also be a question of the manner in which such discipline is being inculcated. It might even be that what may be meant to inculcate discipline may be interpreted as something completely different by different people. The laughter of the officers in particular, signifies a breaking point between the prerogative of the state on the one hand, and the partisan and private

motivations of the individual officers on the other. Juniors officers are aware that the superintendent cannot hope to impose her wishes on them. In a world where potentially different worldviews are brought to bear on a singular *modus operandi*, operational ideals may appear to project in more complex and contradictory practices and understandings of such practices.

This balance, or an attempt to strike it, is more evident, and for this work, more relevant from its application in the everyday work of police officials. At this point, one might draw from insights gained particularly from immigration enforcement. As the numbers of migrants living and working in the streets of Johannesburg have thought to have increased over the years, enforcement officials have become drawn into immigration enforcement. In the everyday lives of officials working in the migrant populated areas, their interaction with migrants has given rise to unique forms of socialization. Most importantly, such frequent interaction has brought the balance between professional discipline and discretion into the foreground.

An undocumented migrant, Moyo, who works and lives in the Johannesburg inner-city had this to say when questioned about his ability to make a living in that part of the city without valid identification documents;

> [t]hey come around here a lot. They even know me now. Sometimes they harass us, pretend that they don't know me, but at other times they can be friendly. We can chat and make jokes. When I have something, I give to them so that they will not arrest me. Some of the time they just leave me alone.

The motivation to enforce immigration laws is weakened when individual and social motivations of both officials and migrants begin to influence their behaviour. There is

nothing in particular to suggest that both the migrant and the officer want to partake in, say, corrupt behaviour. Familiarity, negotiation and mere interaction come in the way of arresting this particular undocumented migrant. The wallet of the officer that accepts 'something' from this migrant, as well as that of Mhlekazi after escorting Chileshe (from the chapter's opening field notes), may be bigger at the end of the day, but nothing in their interaction with and behaviour among migrants (in the two cases referred to immediately above) would suggest that they completely abandon their sense of duty. In the case of Moyo, officers are still compelled to want to arrest the man; one would think that they may be justified if they were doing it in light of his undocumented status. In the second case, Mhlekazi's presence, barring the fact that it has been incentivised through a payment to escort Chileshe, is solicited by the migrant, on the understanding that it will forestall possible criminal behaviour by potential car-jackers. In both cases however, because officials have accepted money for their duties, there is a complex relationship between the role of the SAPS and that of communal norm in modelling police behaviour. Nonetheless, in both cases the migrants and police officials may feel that they have acted legitimately in line with the various registers (law on the one hand and societal norm on the other) they may use to justify their actions. Such action however succeeds in shifting the boundary between what may be legitimate and illegitimate in the different cases, simultaneously shifting and blurring the boundaries between state and society.

At times, the line between discipline and discretion may be even finer. The application of immigration law enforcement might be counteracted by a lack of wish from the enforcement officer to make arrests. Confronted with suspects that have previously been arrested several times for being in the country illegally but who nonetheless have not been deported and are still going about their vending business in the streets, police officers may either feel compelled to not make an arrest out of the sheer futility of the exercise, or may feel guilty at

having to arrest similar people all the time.[30] In a case like this, the prerogative over ensuring legitimate movement is retained by the officers, but it is nonetheless not being exercised in the expected manner. It is clear that an officer can at any time decide to arrest such 'suspects', however there is no clear reason why that officer is not doing so at the present moment.

Personal (private) inclination to not arrest appears supersede both the specification in law and the extent of officer discretion to arrest undocumented migrants. In this case, individual motivation and calculation, in other words the 'spur of the moment', infused into discretion, has prevented the state official from realising the state's objective of governing social life and regulating movement. What happens, instead, is an appropriation and selection (whichever may serve immediate, if unilateral goals) of non-state norms, which in this case, however, appear in opposition to overzealous enforcement, to justify police conduct. This highlights the complexity sometimes associated with making the state society distinction.

4.4.3 Double Standards in Law Enforcement: 'Rounding Up the Usual Suspects'

4.4.3.1 Immigration Enforcement as Window-dressing

There is a belief that South Africa may be failing to regulate the movement of migrants both into and across its shores (Coplan 2001). For those that subscribe to this theory, the art of immigration enforcement is nothing more than a window-dressing exercise. Deportation statistics, according to this line of thought, represent "sacrificial lambs" and "give the appearance of ... pursuing illegal migrants so as to justify... employment [of state officials] and respond to anti-foreigner sentiments among the general public" (Coplan

[30] This scenario, although not included in the vignettes, recurred on several occasions during fieldwork

2001:108). This theory questions whether immigration enforcement is only conducted to play into the expectations of the individual enforcers themselves and the society that they serve. While it may be difficult to adequately prove the motivations of both policy makers and enforcement officials, one only has to observe aspects of the practice of enforcement to understand the challenges of immigration enforcement. In the words of one police official who performs such duties in a part of the inner city, "no number of officers can manage this sector". More realistically, however, a certain air of futility accompanies officers who work in the congested parts of the city. Even if officials were determined to work, this proves a challenge because, as another officer mentioned, "one is not even able to see what is happening two meters away". When looked at from the opposite angle, one migrant, Pride, has this to say about the actions of police officers during enforcement; "[t]hey enjoy troubling us. It seems to me that they have nothing else to do. Either that or they are in it for the money they are able to get from undocumented migrants".

And yet on the face of it, immigration enforcement is by far the most attractive option for both senior officials and their juniors. The parade continuously fine-tunes this aspect of policing on a daily basis. Headline raids in the streets and on residential blocks in pursuit of undocumented migrants are not uncommon[31], and are further evidence for the fashion in the exercise. The appearance of determination in the enforcement apparatus may justify, such as David Coplan has suggested, continued investment by the state in the exercise. A closer look at the practice of enforcement itself may cast such determination in doubt. Often, an officer may, in the course of the day, round up a few 'suspects' to present to superiors if only to keep up the appearance of working. If a junior officer has been away in the field of work for several hours, isn't it prudent for such an official to justify absence with physical evidence of

[31] Raids on inner-city blocks, presented as crackdowns on crime, invariably end up rounding up 'illegal immigrants'. For a detailed discussion, see Vigneswaran, D. (2008) Free Movement and the Movement's Forgotten Freedoms: South Africa's Press Representations of Undocumented Migrants, Institute of Refugee Studies working paper, Oxford

arrests? Sacrificial lambs demonstrate to both senior police officials and other migrants that there is reason still to carry out such work. Officials that make such arrests can breathe easy in the knowledge that they have justified both their superiors' faith in their ability to perform work and the continued support for immigration enforcement. Such action by officials may not be acceptable to migrants, even if officials may feel compelled to carry them out. In this case, the state appears to fail to justify its dominion over society.

The behaviour of enforcement officials is telling about the manner in which they regard their work. Certain forms of work, such as immigration enforcement, elicit enthusiastic responses, while other forms of work, such as by-law enforcement, may even draw complaints from the same officials. Here is an example;

> A superintendent makes an impromptu afternoon visit to the field. She hangs around a rather populated police rendezvous. When officers hear that she is around, they appear surprised, although they also mention that her visit is not unexpected. There is a sudden injection of energy all round. Officers suddenly have a spring in their step. However, there is a tendency to avoid closer proximity with the superintendent. When contact is unavoidable, officers give an excuse about something that already demands their attention. A constable uses the later excuse to get away from his senior, towards a group of his colleagues that is busy clearing a section of the pavement of undesignated street vending. By way of greeting his colleagues, the constable jokes that the superintendent is angered by the fact that she found patrol officers idling around. A cantankerous constable replies that the superintendent finds it easy to lie about them because she is beyond reproach. A number of the other constables voice their agreement, while yet another constable voices her distaste of their present errand.

There is no obvious reason to suppose that, because officers show a dislike for chores such as by-law enforcement, then they must like immigration enforcement more. It is plausible to suggest, however, on the basis of the behaviour observed above, that officers feel

compelled to extend respect to their superiors and from time to time illustrate that respect by showing dedication for their work, as is the expectation. If the superiors are not around to witness such dedication, other ways may be used to prove it. One way of doing this is through arrest statistics, which will eventually appear at some point or another, before senior officials. Of importance here is how 'parade' and its attendant disciplinary force is manifested both in the physical presence of the senior officer in the streets and through the disciplinary function of statistics which bind street work and office work. In the short term, however, votes of thanks are issued at parades for those officers that show their dedication by making more arrests and boosting arrest numbers.

Instructions that proceed from high up in the hierarchy may not always translate in practice. When officers openly express a dislike for particular instructions handed down to them from the superintendent, this is evidence of the bureaucracy's failure to adequately structure conduct within its ranks, and subsequently, this mirrors the inability of the state to uniformly manifest itself in everyday practice. The dislike for certain instructions, or rather the fracture in the chain of command, suggests that the practice of immigration enforcement does not always proceed from senior police officials at it is determined locally at the enforcement level.

4.4.3.2 Enforcement around a Variety of 'Soft Targets'

Middle level officers are evasive with regard to the police's alleged preoccupation with arresting undocumented migrants. Tales of the corruptibility of vulnerable officers by migrants who are always willing to offer bribes, a 'pre-occupation' with crime prevention in the form of going after loiterers and prostitutes, as well as a notion of there being more to law enforcement than chasing after poor migrants are readily presented as evidence that the

enforcement regime is alert to the caprices of the practice. This gives a notion of a police force that is steeped in best possible law enforcement practice. Often, figures are made available that support this notion, such as the three appendices below show. For those that are sceptical of the efforts of street level enforcement officers, such figures represent a strong case. However, the fact that statistics of arrested undocumented migrants appear in separate official documents makes statistics like these conspicuous in their silence on the same issue. This gives the impression that not having valid residence permits is a separate offence from all others. This is, however, contradicted by evidence from interactions with a variety of officers. There is a general collation of immigration enforcement with other forms of crime prevention. Immigration offences tend to be grouped together with other crimes, such that, as an interview with senior crime prevention officials reveals, immigration offenders may be liable to a prison sentence of up to three months[32].

Another disconnect is evident further down the command chain, where the prominence of arrests of undocumented migrants is subsequently downplayed. Field supervising officers, by professing to be mainly interested in crime prevention (an official named this to include rounding up loiterers and prostitutes who commonly hang around the numerous liquor outlets and bars in the inner city[33]), paradoxically split crime prevention from immigration enforcement. The contradiction is patent. It is the apparent attempt to shy away from the arrest of undocumented migrants, evident both from the separation of available arrest statistics and responses of senior police officials, that makes it even more glaring in the field. By turning a blind eye on the phenomenon, or by seeking to separate it from other forms of crime prevention, officials appear to acknowledge its lack of strong justification. In the light of the above, the prominence with which arrests of undocumented

[32] Interview with head of Crime Prevention at Johannesburg Central Police Station, 04 April, 2008
[33] Interview with an Inspector and Sector manager, 20 October 2008

migrants occur may support the hypothesis that such migrants are 'soft targets' for police officials.

The above can be summarised through a simple field experience. During a parade, the supervising officer motivates officers to warm up for the task in the field for the day. He emphasizes the details of the day's task to such a point where it begins to appear like the task itself is 'an operation'[34]. As it turns out, the supervising officer is asking, or rather, commanding patrol officers to make as many arrests as they could. The reason he gives for wanting many arrests is that his superiors have asked him to provide them with arrests statistics from his sectors for the month, something that he has so far not managed to do. On the face of it, officers can be expected to make arrests on any given day. When officers can set targets of the numbers of 'suspects' they wish to arrest, something else becomes clear; they can only manage to meet such targets if they have a constant and reliable pool from which to draw those numbers. While they may arrest various other offenders simply by applying themselves more to their work, they could nonetheless quite easily achieve whatever numbers they need by targeting the ever present undocumented migrants in the streets of inner-city Johannesburg.

Perceptions of migrants regarding immigration enforcement in general, and the arrest of 'illegal immigrants' in particular, push this point even further. Here are two migrant opinions regarding arrests.

> (Constance) Policemen arrest migrants because they know that migrants are not able to speak for themselves. I have been arrested a number of times. Once, I could not understand what they were saying, or what they wanted. I ended up giving them money.... Now I just show them my asylum paper.

[34]As used to refer to operational policing

(Chimoio)... I just avoid them. I suffer because they say my ID is a fake. Now I don't carry it because they take it and they sometimes want to tear it up. So even if we have IDs, police say us Mozambicans have fake IDs... they don't want to see it... so I have an ID but the police still bother me. I think that they just want to get money from us.

The same perception as registered by Chimoio, particular the failure by officers to ask migrants to produce identification can be systematically portrayed through data from the 'Incident Reporting' survey.

Did the Officer Request to See the Suspect's Documents?			
	Valid Case	Frequency	Percent
	DK/RA	34	30.9
	Yes	65	59.1
	No	10	9.1
	Question not asked	1	0.9
	Total	110	100

Fig. 9: Incidence of a police officer requesting to see a suspect's identification documents (n=110)

(Key: DK/RA means respondent did not know or refused to answer. In this research, since the method of data collection was mere observation, this category refers to the not-so-definite cases where the researchers could not tell whether the officer did in fact request to see the documents or not).

The cases where officers did not ask to see a suspect's documents equal nine percent of all observed cases. This is a relatively small number, as expected, in light of the fact that asking to see a suspect's documents forms a significant part of the street profiling and

interview process. Nonetheless, the fact that there is an observable trend where officers disregard this step of the profiling process may support the notion that it is happening regularly in the streets, and one way of justifying it may be that in such instances officers may be hard-pressed to get more arrests.

Making up the numbers thus tends to opens up the practice of enforcement for manipulation and abuse. Arresting just about any migrant, documented or not, so as to beef up the 'success' numbers works to undermine the whole enforcement regime. Neither migrants can understand it nor can officials justify it (other than for the sake of numbers). A state that is ready to violate its own laws in order to demonstrate its monopoly over legitimate force however also opens itself up to various forms abuse, resistance, counter-manoeuvres. In contradistinction to that instance when Mhlekazi (in the chapter's opening vignette) and this researcher actually let migrants loose even when it was clear that they should have been arrested, such contradictory action by state officials may show and support the notion that migrants are being deliberately targeted and victimized by state officials, or that offenders can 'have it their way' with the state. Either way, partisan enforcement works to support the idea that the state is not fully able to realise its monopoly over legitimate movement. Further, the boundary between legitimate and illegitimate use of coercive force also shifts remarkably is the instance where state officials either forego their mandate to conduct their procedures more consistently in the migrant community by going after 'soft targets', or when such action paradoxically fosters the attitudes among some that such practices by police officials can in fact be countered, as in the case of those migrants that are able to successfully evade arrest consciously or inadvertently. This distorts the divide between the state and society, so that it can either appear visible or invisible, depending on what officials do and the reason they have for their actions at given moments.

4.4.3.3 The (Re-) enforcement of Preconceived Beliefs

Street level officials, perhaps due mainly to the nature of their work which is thought to cultivate a 'cop culture' (Chan 1996), are interactive and less measured in the manner they share their ideas. It is thus unsurprising that even when they are merely engaging in informal conversation, strong convictions about the 'world out there' usually come out and eventually project onto their enforcement work. Particularly with regards to migrants generally, officers frequently express their opinions of fondness, dislike or indifference. Such opinions are usually debated strongly, supported by some recent experience or another. Whereas such opinions have a way of influencing eventual conduct, it is they manner in which they can sometimes be debated in the midst of, or directly influence, law enforcement that lends strength to the hold they have on an individual's world view.

Perhaps the belief that migrants can and will be used, at any point, to fulfil short term objects of police officials, from meeting their arrest figures to getting enough money to buy themselves lunch while on duty, is so fundamental that, at odd instances, work plans may sometimes even be structured around it. This may not be consciously planned and deliberately put into action, but may nonetheless be subconsciously used to meet short term ends. Intuitively accepting a command to pursue a duty that is otherwise difficult to perform, an officer may nonetheless agree in the full knowledge that, by interacting with a few migrants, the duty will be fulfilled. The following example may work as an illustration.

> At about 9.10 am, officers prepare to leave the station for duty in the field. A constable pulls out a police minibus that is used by constables for transport to the field. As officers leave the station, a superintendent and sector manager asks the junior officers to take the minibus for valet, but he does not provide the official credit card or cash to cover the expenses for the car-wash. The driver explains immediately that he and the other officers have to find their own ways of covering the cost. The driver also explains that they have not much choice, because the next day,

all the vehicles in the police department will be going for inspection. The police officers in the minibus seem to understand the arrangement, and they are agreed that they are expected to return the vehicle clean that afternoon.

The foregoing example is not conclusive as to whether the officers get the money to wash their vehicles, say, from migrants. However, it works to illustrate an adherence to instructions from a superior. Nonetheless it exemplifies enforcement that works around a preconception and belief that certain forms of interaction during work in the field will enable the officials to generate the money needed to fulfil the task of washing their vehicle. Such interaction moves further away from the more formal, law and policy driven objectives of the state. The thrust of the example lies in its ability to push official work, with full sanction from the organization, firmly into the informal territory, providing a firm case of state officials who willingly constitute, and allows themselves to be supported, in various ways, by their particular interactions with some within society.

In is clear from the above example that the interaction between state officials and those that will eventually bankroll the car-washing blurs the boundary between state and society. In the case, the idea that officers can extract rent from members of the public at will suggests a particular relationship that posits the state officials as dependent on civilians (especially migrants) for petty cash. It is plausible to suggest that civilians themselves either privately benefit from the interaction, for instance through personal protection from police officials. In such cases, the state becomes constituted within society, thus reproducing the state society boundary in a different way. Here, the boundary does not appear as an imaginary divide between the state and society, but is both exemplified and blurred by the material resources that both state officials and members of the community can exchange, if only for personal gain. The following sections seek to discuss this notion further. These issues are explored further in the following sections.

4.4.4 The Everyday Practice of Immigration Enforcement: Informalization

When do decisions and action by police officials cease to represent discretionary conduct that accompanies official work and start appearing as informal behaviour? The case for informality may be initially contestable if argued through seemingly random decisions by officers on the beat. However, if the formal structures and procedures of the state were directly influencing these decisions and behaviour, then it might be useful to take a closer look at such influences, which set the preconditions for informality. One might consider two preconditions in turn.

The first precondition is related to the 'enlistment' of reservists in the police force. The idea of reservists is not new in the SAPS, and their role in the force has been hailed by many in and outside the organization as pivotal. From the pre-1994 times, reservists have supplied critical manpower and skill mainly to augment the numbers of more permanent members[35]. Their recruitment in the service has increased of late for several reasons whose importance is not immediate for this paper. The importance regarding their recruitment and enlistment is two-fold. First, reservists are not salaried officers. Although they may be paid for engaging in special operations and working extra time, the understanding is that they avail themselves to work for the SAPS on a voluntary basis. Second, many reservists help with beat patrols in the policing sectors. They are provided with uniforms, firearms and other equipment to carry out their duties with full confidence and protection. For an unsuspecting civilian (or migrant), they very frequently pass for regular constables going about regular visible policing duties.

[35] http://www.sahistory.org.za/pages/governence-projects/organisations/sap/SAP-history.htm

The second precondition is the idea that, depending on the type of work to be done in the field, salaried officers may work in civilian clothes[36]. Whereas this in some cases is a good policing strategy, especially in detective work, it however means that crime prevention work, which thrives on visible policing, may go unmonitored. This opens uninformed officers to various interactions in the public milieu. There is a strong possibility that by opting to be 'invisible', officers may be seeking to engage in informal behaviour, something that Hornberger (2007: 280) has termed "a search for opportunities". Whereas this second precondition may not be a strong motivator for officers to engage in interactions of private gain with individuals in the public, the idea that their conduct goes unnoticed in the field may mean that mechanisms to prevent such interactions may not be effective. Everyday interaction with officials reveals that such informal interaction may be more established and structured in different ways. When the state is unable to justify the recruitment of its own officials (for instance through regular pay), and when it disappears within society even through officers literally disappearing into the crowds during official work, then such a state is unable to effectively look after its own interest in any regulated way. In fact, such a state appears to partake in its own informalization.

4.4.4.1 Private-public Interaction as Social Norm

Police officers become "entangled in networks of sociability" that demand their participation more as 'empowered' individuals rather than as state officials. Julia Hornberger writes that interaction of this nature between officials and members of the public "indebt officials both socially and materially, to individuals who can then exploit these ties through various processes of give and take" (Hornberger 2007: 208). Olivier de Sardan (1999) writes

[36] This became apparent from my work in the field. When officers, for instance, have received a tip-off from the public and wish to intercept a criminal activity, they may not wear uniforms. In practice, officers frequently do regular crime prevention in civilian clothes, and reservists sometimes work in plain clothes as well.

that such give and take processes are ordinarily culturally embedded, and as such are generally engrained into the everyday social lives of both officials and members of the community. Within the context of immigration enforcement, one may argue therefore that such indebtedness is reciprocal for both migrants and officials. For police officials, the interaction may well be a search for opportunities. For migrants, this interaction and indebtedness may be best expressed as a 'cautionary' exercise. For many migrants the realities of living in consistent vulnerability due mainly to a lack of documentation and running informal businesses on the streets may mean soliciting and nurturing friendships with police officials as an investment, in case their protection may be needed in the future. However, such immediate motivations are made possible through the behavioural norms of negotiation and reciprocity that constitute the everyday lives of many people in the African continent (Olivier de Sardan 1999).

However, police officials, by virtue of the power vested in them, are able to appropriate and re-appropriate the power that presides within their profession. For that reason, they may channel such interaction for various partisan purposes. By willingly engaging in these interactions, from a state-centric perspective, they become willing participants in the informalization of policing, and by extension, that of the state.

Law enforcement officers, because of their constant interaction with members of the public in the course of their work, develop a familiarity with the sectors they police, including the people themselves. This is evident in the way almost all officers develop little enclaves to which they, from time to time, pay visits seemingly for no particular reasons. Vendors at designated stalls, street vendors, shop operators, office workers all form nodes that connect the police to the public. During the course of fieldwork, it was noted that most of these points of interaction constituted of migrants. While police officers have not shied away from interacting with members of the public that are South African, the manner in which they

actively cultivate these friendships with migrants suggests that they may be doing so with strictly material gain in mind. In almost all the interactions of this nature that we had during my fieldwork, all of them involved a migrant requesting to offer something to the police, or actually offering unsolicited gifts. Here is an illustration.

> Officers are patrolling on a busy street, and Mancane disappears into a certain house suddenly without prior notice. It turns out that Mancane has a granny friend of Indian descent who lives in this house. The other officers immediately start complaining about her numerous friendships and the fact that 'we do not patrol in people's houses'. After about twenty minutes, she obtains from the house, beaming. She starts narrating to the officers how the granny always asks her if she could live with her, and that she is undecided on whether to agree or not. One officer points out that Mancane maintains too many friendships, to which she replied that she has friends practically everywhere in the central Johannesburg policing area, and that "I can get my hair fixed at Noord Street for no charge if I so wish".

The challenge of defining a police official that is likely to be found chit-chatting members of the community more than merely monitoring them has already been alluded to by (Gupta 1995). Although officers can be expected to converse with members of the public, when done in excess, such behaviour may serve to demonstrate the lack of a clear boundary between state and society. When this blurriness is closely scrutinized, new meanings of the complexity may be generated. When most of the officers, who have become known especially to the informal traders working in the streets of the inner-city, disappear behind a trading stall or some other corner, and rejoin a group of colleagues a few minutes later, or engage in a significant amount of chit-chat with the public, especially the traders, a whole new dimension of informality becomes evident. While migrants may not be the ones that approach officials because of their static nature as dictated by business space, or their instinctive desire to steer clear of police officials, their invisible pull on officials suggests that

they offer something of value to officials that protects their own interests. Mawaya, a street vendor and migrant, sums up the social interaction that goes on between state official and migrant;

> It's good to have a police officer in your corner. When you have taken time to know them, they are not such bad people... they come here often. I have personally become acquainted with a few officers myself. When they come around, I feel compelled to give then what I have. If it's not a bit of money, I invite them to take whatever they want... a CD cleaner, a DVD, something like that. That way, I know that one day I might request their help.

Although this may read like state officials engaging in informal behaviour, in the process informalizing the state with them, such informality may in fact mask more socially conditioned forms of interaction. In contrast to other instances of victimization of migrants, the above example points to not only mutually beneficial form of interaction, but a culturally productive one as well. As social beings, both the officer and the migrant may not feel that they are engaging in improper behaviour. As a social register, gift giving is not condemned, quite the contrary. Individuals in society engage in gift-giving as "an action of everyday life" and "moral duty" (Olivier de Sardan 1999: 38). Some societies customarily give gifts to passers-by. In the interaction that proceeds in the inner-city between migrants and police officials however, such gift giving simultaneously functions as cautionary behaviour. Doesn't a migrant who gets acquainted with an officer of the law feel compelled to nurture that friendship for his own protection? Conversely, won't an officer accept a gift in the form of something that s/he may already need? It is this relative lack of clarity between official and social registers that blurs the boundary between official and unofficial, between state and society. There is a compelling argument to accept these forms of interaction as social norm.

Nonetheless, there is also the line that a state official who is expected to perform official duties may not cross. Different registers push the state society boundary in various directions,

sometimes blurring it, and yet sometimes they reinstate it in unintended ways, such as when migrants interact with state officials for the purpose of getting protection in exchange, they unwittingly bolster the position of the state official as one that they are dependent on.

One may venture in to suggest that such social norms, which may appear as informalization of the state, appear entrenched in the everyday lives of both officials and migrants. This can be seen in the amount of time that officials are prepared to invest in these public-private friendships, as exemplified by Mhlekazi and Chileshe earlier on in the chapter. In most instances, officers consciously inset themselves into these friendships. That way, the state official, rather than being helplessly engulfed in society, appears to consciously condition these social interactions.

There have been suggestions that officers may be courting the good books of migrants for material gain[37]. Whereas there are numerous examples from the field that support this argument, it could be argued that such interactions also carry greater social significance. While an official may accept a twenty rand note from a friendly migrant, or a bowl of fruits, or a DVD cleaner, it may be flippant to assume that such 'gifts' are all there is to offer and to gain from these interactions. One may argue that such interactions work to confirm if previously agreed upon social contracts are still in place. By offering a bowl of fruits, a migrant might be seeking to reaffirm an understanding that the friendships that have been cultivated have not been eroded by changing policing strategy or by some new superior who might be redirecting policing strategy from a distance. On the other hand, by accepting that bowl, an officer may in fact be confirming that everything is still as it was, and that previous understandings are still in place. This conforms to Alvin Gouldner's (1960) notion of reciprocity in unequal exchanges.

[37] In line with the idea that corruption among public officials comes mainly from the desire to 'eat', or for self enrichment (Bayart 1999*)*

Migrants come and go, and it may be naïve to pretend that the same migrants that occupied the inner-city trading areas some years back are still the ones that still occupy them now. Others still, even though they may have lived in Johannesburg for a while, wish and plan on translocating (Landau 2007). Migrant lives may improve, so that individuals may change jobs and living standards, and places. Alternatively, migrants may continue with onward journeys, or go back home. Either way, new people mean that previously existing networks of informality have to be reworked and re-established with new friends. Officials are aware of these dynamics, and for their part strategically positions themselves to, if the chance allows, groom these friendships and relations. A good illustration is that of a Mozambican man who was observed trying to avoid police officers.

> Two officers are seated at a table next to their truck in the inner city. The two are discussing the man's conduct, his seeming nervousness at seeing them, and subsequent attempt to change his path so as not to pass by them. Unfortunately for this man, his proximity to the officers means that they have been watching his behaviour closely, and he is duly called to come to them. He obliges. They offer him a seat and for some time continue with their talk. One police officer offers a 'tip' to the man to not behave suspiciously if he wants officers to not bother him, even if he has something to hide and does not want to draw the attention of the police. Asked where he is headed, the man replies that he is going to his place of work. He fails to produce any form of legal documentation when prompted. Asked about what he is carrying, he also fails to give a satisfactory answer about where he got what appeared to be an old small gearbox wrapped up in a plastic back. He is eventually let loose, but not after he has spent between two to three hours, chatting with the officers.

During the time that the officers were with the man, they asked a variety of questions that, even though they seemed to unsettle the man, were however not intended to lead to arrest. One officer assured the man that nothing was going to happen to him, and that that is exactly how he should be conducting himself – as if nothing was going to happen to him, if

he wanted to not be bothered by the police. What could possibly be wrong, from a social point of view, with the officers politely chatting with the man? Nonetheless, the young man appeared to be in a hurry, although this may have had something to do with the discomfort of being with police officers. Nonetheless, he could not excuse himself, in case he destabilised the present dynamic and worked to his own disadvantage and possible arrest.

What is clear about this relationship is the interest that the officers have in making the man to feel comfortable to be among them, and to induct him to their friendlier side. It becomes plausible to argue that the officers attempt to extend an invitation to the man to take advantage of their openness towards him in order to find protection in it. Socially, this may be a nice thing to do, although presently, such friendliness may come with the expectation that once this sort of relationship takes root, it may lead to deeper mutually beneficial interaction in the future. More broadly, this process suggests a socialization of the state that proceeds from a unilateral yet willing undertaking by constituents of the state itself, in the form of state officials. Once more, officers are willing to let professional duty slide while cultivating and demonstrating their more social side.

Although these relationships flourish at a very local and sometimes covert level, they are not entirely subterranean. Officially sanctioned relationships may proceed along similar lines to the discussion above, and may reveal similarity in the way they are arranged. Patrol officers in one of the sectors have benefited from an arrangement between the police station and a wholesaler in the area where, officers are provided with lunch at the willing expense of the wholesaler. This is not a material relationship, since officers will invariably afford their own lunch. This appears more like a reciprocal relationship of convenience, where in exchange for his premises becoming an informal rendezvous point – thereby enhancing police visibility in the area, the wholesaler offers lunch as a token of appreciation. This relationship not only straddles the public-private, the state-society boundary, but it works to

erase it. Precisely because it is a voluntary arrangement makes the relationship social, thus again, constituting the state in the social sphere, from where its visibility is cultivated. The following scene works to illustrate the same point in a different way.

> A female officer suggests a visit to a Somali shop on the other side of the M1 motorway that passes through Newtown. The visit is apparently just to 'check out an old friend'. As it turns out, the officers do not remember the way very well and temporarily get lost. They eventually do find their way, a few blocks to the west of the motorway. On approach, there is a man that is shouting about how he dislikes foreigners and how he cannot wait for (current ANC president Jacob) Zuma to come to power so all foreigners could be chased out. The man is saying this in front of the shop that the officers are visiting, and his remarks are clearly directed at number of Somalis that are standing about. This man appears dirty, as if he has not had a bath in a very long time. One could say that the man could be ignored because he is a vagrant, or appears to be insane. The officers however rebuke him and undertake to make him see that they were not impressed by asking him to leave that part of the pavement. The man is insulting the officers' 'friends' and clearly has to be shut up. When they do eventually get to speak to the Somalis, they look unperturbed by what has just happened outside; choosing instead to share old stories and asking each other about life in general. After spending some time at the Somalis' premises, they offer to leave, and the Somali in turn offers them bottled water, asking them to cool themselves down while they carry on with their patrol duties in the hot weather.

The investment in this friendship, in terms of the effort (walking a distance, getting lost on the way and eventually locating the premises) and time (spending so much time in chit chat) illustrates how deeply socialized the state may become, and how vested it may be in these socializations. The image of an older officer[38] (who became a permanent SAPS member before 1994, often in civilian clothes, and who usually does not attend parade and in the field,

[38] This man, whom I will call Mbuyane, explained to me that apart from there being a request for him to be in uniform and attend parade, he does not see the need to adhere to both these routines of the police organization. As a result, he goes directly to the field and spends most of his time alone, mingling and socializing with members of the public on a regular basis.

sits on street-side stalls talking to vendors), becomes a symbol of a state that, while still visible among the public, is however opting to and validate itself within the social sphere.

The discretion that accompanies police work, the experience with the officers in the field suggests, gives officials the liberty to also 'work' their way into positions of privilege and personal convenience, where the need for protection on the side of migrants, and the keenness with which they are willing to win it with the police if the opportunity presents itself, positions officers to exploit these for unilateral gain. The manner in which they assert themselves within the street setting, as if they rule this particular community, lends credence to this constitution of the police official-migrant relationship that reproduces both migrant and official as having the other's best interest at heart.

There appears, however, to be a separation of these informal interactions from 'official' duty. Officers are careful to deny involvement of this nature with migrants during parade. Nonetheless, such interactions are neither unknown to sector managers nor actively discouraged. If anything, they are allowed to flourish at the social level, since they carry both social and material benefits (as it will be explained in the next section of this chapter) for both parties. These relationships, in their 'parallel' presence, reconstitute junior officials even deeper in the social margins, since they are sometimes nurtured with some of mainstream society's *persona non grata*. By availing themselves to these relationships, and by allowing them to be nurtured and maintained with full participation of migrants, officials unwittingly re-invent the state within these micro-communities, not only illustrating the murkiness of the distinction between state and society, but also defining the way in which the state may legitimate itself within the illegitimate. As willing participants in this interaction that is discursively constituted in the social margins, state officials define a state that derives its form and continued visibility from these margins, in the process redefining expanding these

boundaries to incorporate that which its definition seeks to exclude, like undocumented migrants.

4.4.4.2 Suspects or Clients? Enforcement as Transaction

Writing on the motivations of police officials in seeking interaction with members of the general public, Hornberger (2007) notes that;

> Their search for opportunities compel[s] them to be open up towards people who [a]re not police officers, which mean[s] that at times they ha[ve] to discard their authority to act unilaterally. These interactions indebt them socially, and sometimes materially, to people who [can] later make use of the affinity and familiarity built up through give and take. Such exchanges of favours and obligations transform the policing powers embodied by the individual police officers into products of exchange and circulation (Hornberger 2007: 208).

There is a strong pattern in inner-city Johannesburg of police officials seeking to trade their authority and protection, or simple to exchange an arrest, for material gain. It may be that this pattern is not officially sanctioned, but its strength in enforcement practices suggests that Hornberger's prognosis represents the norm rather than the exception.

As similar field experience is even more telling of this kind of relationship between police officers and migrants;

> As they continue on the way to the caravan, their assigned post for the day, this researcher asks one of the officers, Progress, again about the lingo that he have picked up, that of referring to suspects as 'clients'. She smiles, and then points out that this is what everybody says and that she also had gotten used to it. The researcher asks her what it means, and she points out that when things work according to plan, this is where their pay check comes from.

Hornberger makes this observation on seemingly settled relationships. Social and material indebtedness, as well as affinity and familiarity build-up, may apply well to continued nurturing and maintenance of existing relationships. However, how can one explain the same search for opportunities that obtains during short term and random stop and search operations with migrant strangers? One may argue that the same motivations and search for opportunities still exist, and they still reorganize policing powers in a similar way. One may further argue, however, that when the preconditions that result in medium to long-term relations are absent, social networks and entanglement mutate into on-the-spot material transactions. Particularly when migrants encounter police officials on singular journeys across the city, without a motivation to reappear in the part of the city on a regular basis, avoiding immediate and possible arrest may mean giving something of value in a short space of time in exchange for freedom. Officials that accept bribes would appear to resemble private gate-keepers. In this terrain, the state begins to become captured in and used as 'predatory authority' (Olivier de Sardan 1999: 41).

It has been argued earlier that such interaction may sometimes be used as an investment, where indebtedness compels both migrants and police officials to engage in such exchanges in anticipation of returning the favour in the future. In the present scenario, the above need not change, since continuous interaction will eventually lead to more familiarity and social indebtedness. Before then, and most certainly on first encounters (which are mostly in the form of stop and search operations), such interaction will proceed in the form of on-the-spot transactions, more commonly referred to as extortion and bribery.

There is a danger, in seeking to describe everyday 'points of enforcement', of reducing work of police officials to consistent neglect of all other forms of law enforcement to hunt for undocumented migrants and extort them for money. Certainly in the congested parts of the city, various kinds of people approach police officials with various problems and officials

offer help where they can. However, since visible policing has come to include immigration enforcement[39], and because numbers of migrants either live or pass through the city, a huge opportunity for these forms of interaction exists, and officers have duly exploited them. Where these relationships are not accompanied by undue state influence, they may be regarded as a part of socialization. A different case arises when they are abused, so that they end up suggesting anti-social predatory behaviour. The following discussion will seek to illustrate this point.

As discussed before, the bulk of law enforcement officials at the most junior level, that is, the ones responsible for beat patrols, a form of visible policing, are reservists. They start in the police as volunteers, and as such, uphold their commitment to SAPS mainly through sheer personal motivation. The following extract from field notes is instructive about the realities of volunteership;

> After the formalities of ensuring that lunch will be served, this researcher launches into questions about how officers feel about working for SAPS. About four officers are listening, and are at liberty to respond, which they do. The researcher then asks the relatively experienced male if they arrest undocumented migrants at all. He first hesitates. He then starts to tell the official version; that officers are not supposed to arrest undocumented migrants because they are always offered bribes by guilty migrants. He explains that this is the instruction from the sector manager. But then, another officer cuts him right off, and points out that most police officers that are involved with visible policing are reservists and are not paid, and yet are required to come to work regularly, even if they need to use their own transport means to do so. She explains, using herself as an example, saying that most non-white police officers live in townships, usually far away from the city and yet have to be at work every day except on off-duty days.

[39] New recruits in the police force, all of them reservists, are naturally the most junior officers in the policing hierarchy. Their familiarity with the field of work is built through beat patrols, mainly on foot, where they carry out the less complicated policing tasks, mainly immigration enforcement.

But then this is one side of the story. Unlike national conscription, such as in national youth call-up in times of war, recruitment into the police is completely optional for individuals. If it is such an effort to be a police reservist, one might wonder, then why would young men and women bother at all? Such a pragmatic question elicits a pragmatic answer, that is; the potential benefits of being a police reservist far outweigh the costs. And more than just in terms of the experience gained in police work. Officers come to work day after day, and although they may live far outside the city, they can still afford it. Their expenses, which are not covered by the state, have a reliable funder within policing work in the form of immigration law enforcement. A discussion with Mawaya, another migrant, at a braai (meat roasting) place in a the inner-city, turns naturally onto this aspect about the police, in reference to two police officers who had just finished their braai.

> You will not believe how much motivated they are when they are looking to get money for lunch. The money that they just spent here is ours... all they had to do was collect it from our fellow brothers and sisters...

If the conscription of police reservists, as one of the two preconditions discussed earlier, does not provide enough explanation of the breadth of extortion and bribery in the police, then its observation in everyday immigration enforcement might help. One may consider this scenario;

> A Mozambican man is arrested for not having legal residence papers. He is asked to make a plan, and eventually agrees to pay R200.00. A Zimbabwean woman sells sweets, cigarettes and the like at the corner of a busy part of the inner-city. She is a 'friend' of the officer that has arrested the Mozambican. On the way to the vendor woman, the police officer instructs the man to hand over the money to the woman that they will find, and the man agrees. Once there, the man does as he has been told, while the officer picks up some loose cigarettes and some sweets from the vending table. After the brief 'exchange', the officer leaves, still in the company of the

Mozambican man. They walk down a few blocks before the man quickens his pace, leaving the officer behind. The next patrol along the same route includes the collection of 'dues' that have been entrusted to known individuals in the precinct.

A similar incident was observed across town.

On the southern parts of town, an officer intercepts a Mozambican young man and asks to search him; a routine procedure, he explains. He then asks him to show his identification. The man explains that he has his passport but the visitors' visa on it expired recently. He takes it out and shows it to the officer. As the officer inspects the document, he asks the 'suspect' what else he is carrying. The young man buys CD's to sell in Mozambique. Even as he is being interviewed, he is preparing to catch a train in the evening to travel back to Mozambique. The officer, however, informs the man that he is being arrested for being in the country illegally. The conversation shifts swiftly towards settling the matter for a fee. The officer offers this as the better alternative. The man agrees, and from there the conversation shifts back to the man's business in Mozambique. During this time, the officer and the man are strolling towards a vending stall where a friend of the officer works in a nearby market place selling freshly extracted juice, a mix of cane, oranges and carrots. The suspect, or the client, leaves the money with the juice man, and they both carry on with the stroll.

Sometimes officers may not need the help of known people to pull off transactions of this kind. A random informer may be sufficient, as the following scenario illustrates.

No sooner than officers finish putting suspects in the back of a police truck that a stranger approaches them with 'information'. Apparently, some Nigerian men are buying illegal trade cigarettes from across the border in Zimbabwe. They sell these in a retail building nearby. The informant, who only says that he works for Hillbrow SAPS, wants to enlist the uniformed officials to ensure an arrest. When the police agree to help, the man is tasked with watching the Nigerian retailers for when they start handling the particular boxes, and then he will alert the other police officers, who will then move in. With that the officers take a position beyond a

corner, and wait for some time, about twenty to thirty minutes. When finally the officers are called to move in on the men, the retailers identify the 'Hillbrow cop' as a known informer, but are willing to cooperate and 'talk'. They explain that they know that they have done something wrong, and that they are willing to pay R300.00 just to be left alone. An officer drives for a higher amount, whereupon the retailers explain that such an amount leaves them with nothing to gain from the eventual sell of the cigarettes. As the haggling continues, the informer disappears from the scene, but another member of the SAPS in civilian clothes comes along and negotiates on the retailers' behalf, and the 'fee' is eventually settled at R300.

The retailers know that they are 'wrong', but they are willing to buy themselves some goodwill from the officers. For their part, the officers are ready to negotiate, but because they are not familiar with the men requesting their goodwill, they ask for a steeper amount. It is doubtful that entering the business premises without a search warrant is within the bounds of the police officers' work to begin with. However, a lack familiarity with both the environment and the men does not compel them to be sympathetic with the retailers. They are clearly not prepared to invest in that particular interaction and relationship. Another member of the police, aware that these men may be 'going about it the wrong way' intervenes and takes the side of the retailers. He does so to protect 'these kinds of relationships' with clients. Crucially, he takes advantage of the situation to establish a relationship of his own with the men. Clearly because the men are 'doing business' in the sector, and will not go away for a while, it will be important for the police to treat them leniently. The civilian officer affords them protection which he knows he will be rewarded for in the future.

One of the objectives of the 'Incident Reporting' survey was the monitor for behaviour that included money being handed over to an official, or where an official took 'something' from a suspect, in exchange for their freedom. The following table summarises the prevalence of this practice.

Valid Case	Frequency	Percentage
Yes	16.67	15.1
No	41.33	37.6
DK/RA	50.33	45.8
Question not asked	1.67	1.5
Total	110	100

Fig. 10: The mean responses to exchange of money or 'something' between official and migrant (n=110)

Key: The DK/RA category means that the researcher was not able to ascertain if anything was exchanged or not.

The incidence of officers either soliciting for or accepting money or 'something' from migrants, from the above table is at fifteen percent. This is a significant figure, even if it may only be a suspicion, especially given the difficulty of observing such practices from a distance. In the DK/RA category, the responses could go either way. The yes response, if taken as a ratio of the two definite categories (that is, where the researcher was sure of either there being an exchange, or none) stands at 28.7 percent. In other words, one could say that one in every four clearly observed incidents will involve exchange between the two. It is less important whether the exchange is friendly or predatory. What comes out clearly is that there is some kind of exchange between the official within a random, on-the- spot interaction.

It is clear that such relationships have moved beyond such social norms as gift-giving, negotiation and solidarity. What proceeds, from the above examples, is overt extortion and use of 'police power as a product of exchange and circulation'. At one level, this may be an overzealous state that side-steps the law to pursue its statist prerogative; that of preserving its monopoly over legitimate movement, while preventing other actors, such as migrants, from

encroaching onto it. At another level, such action represents the corruption of official power for private gains, a scenario that criminalises the state. It is instances like these that lend credence to the idea that although the state is able to make itself felt in everyday practice, it may sometimes do so in an irregular (even criminal) way.

Officers who bargain and extort for money are aware they what they are doing is improper not least because this, just like the parade itself, has become a refrain that is mentioned over and over in the morning's meeting each day before work in the field can start. However, they persist, in defiance of both their conviction and their superiors. One way of evading responsibility for accepting money has been to apportion the blame squarely at the migrants themselves. Migrants are said to deliberately not seek to regularize their residence statuses because they know they can pay their way out. And they get extorted for money because the practice itself is widespread[40]. "It is not worth it... they always bribe their way out" is the common justification. There appears to be a widespread idea that if one officer (especially the 'arresting' officer) does not extract a bribe from a suspect, someone else will. In an environment where so much time elapses from the first point of interaction to the charge room where arrest cases are officially registered, and where suspects are forwarded to other persons through the bureaucratic process of registering cases, numerous windows of opportunity present themselves that alert officers and migrants will eventually take. This way, officers that defy senior authority give weight to the notion of a break in the bureaucratic hierarchy, and as such, a state that partially fails to 'stand upright', whose objectives are constituted and sometimes violated at the middle to junior levels.

Such windows of opportunity may not always present themselves for state officials and migrants to exploit. This supports this version of the state that either willingly partakes in its

[40] An informal interview with an officer I was shadowing revealed frustration and resignation that the police have given up on arresting undocumented people, opting to accept their money in exchange for freedom instead, as if that offered a consolatory price for their effort.

own informalization, or fails to enforce its own immigration objectives, as argued much earlier. First, because such opportunities are sometimes closed, officers consciously seek them, and willingly take them when they find them. Second, when such opportunities are closed, state officials retreat from such a sphere, leaving a gap that is conspicuous by its presence. The example of the non-arrest of Somali migrants, as described by one officer, is a case in point.

> It is difficult to arrest them because, if you arrest one, the rest of them will come to the scene of arrest and congregate around you. They even come in their numbers to the police station, and they will not leave until their colleague has been released. They make things difficult. So it is better to leave them alone[41].

This piece of information was shared in a predominantly Somali populated part of the sector. In reality, although the Somali form the majority of in the migrant population of this particular area, there are other migrants living with this community. The information itself was solicited in an attempt to explain an apparent lack of interest in arresting migrants in a clearly migrant populated area. The behaviour of Somalis was used to explain a blanket amnesty on all migrants and a decision among officers to not make things difficult for themselves. Congregating around an arresting officer surely makes it difficult to process the arrest in non-official ways. However, it also draws attention to the officer, so that any window of opportunity that might otherwise have presented itself closes, making the arrest only enticing as a statistic for the state, and less rewarding for the individual arresting officer. When state officials are not overzealously enforcing immigration laws, they may be absent altogether. Such a state reproduces itself unevenly and in a contradictory manner in society and in everyday practices.

[41] An informal interview with the police during a routine patrol

Just as not all crime prevention is about immigration enforcement, so is not all immigration enforcement about bribery and extortion. Undocumented migrants still get arrested, as sacrificial lambs or not, and indications are that the numbers are increasing (see figure 11 below). Particularly cases of marriages of convenience, as well as the buying of legal identity documents in general, annoy many enforcement officials. The idea that offenders are exploiting loopholes in the immigration enforcement system to stay 'legally' in the country draws unsympathetic attitudes. A lot of offenders get themselves taken into custody (even if temporarily) and their documents confiscated (even if they will not be presented as evidence because they carry an official stamp)[42].

[42] One such case, which involved a marriage of convenience between a Nigerian and a Xhosa woman, revealed that the woman is paid the money to register the marriage, although the man and the woman may not be living together

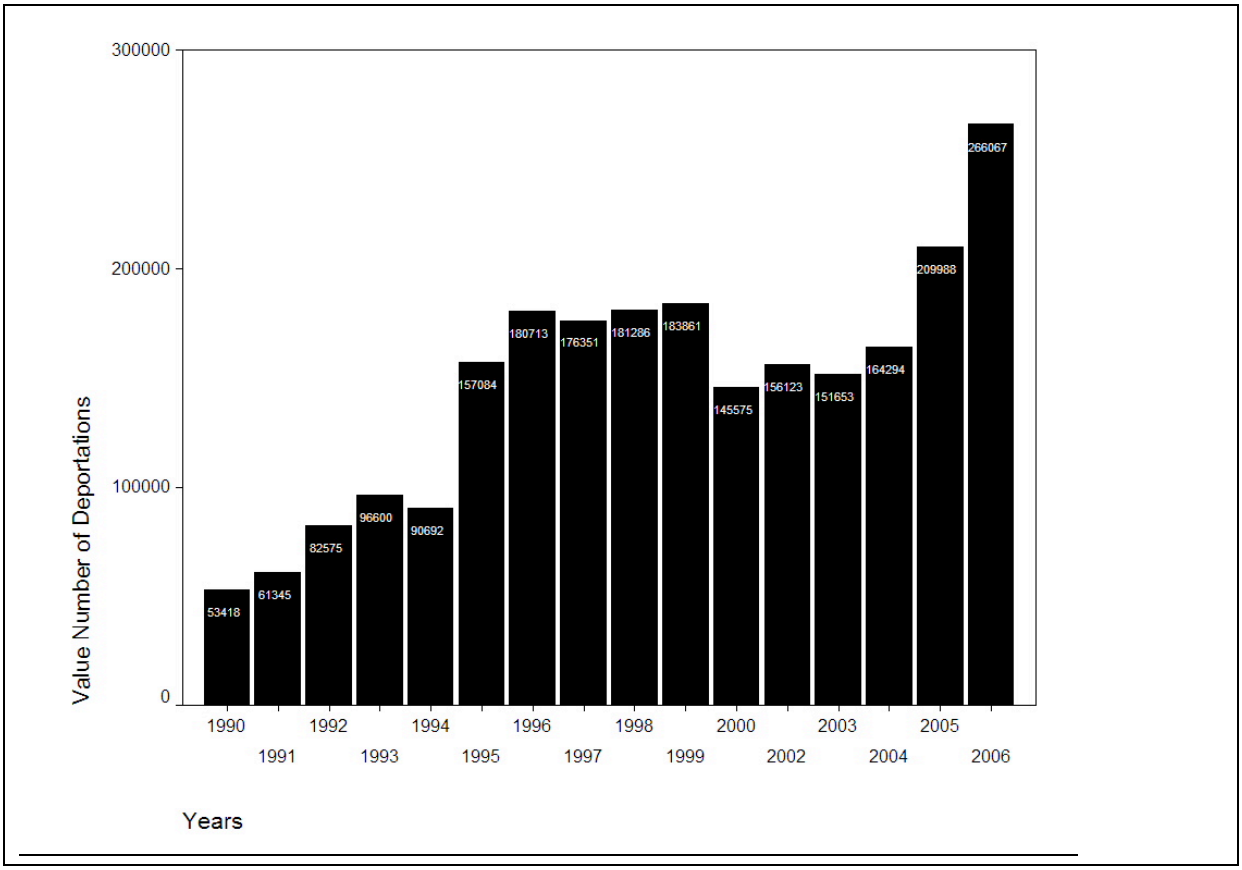


Fig. 11: South Africa's Annual Deportations, 1990-2006

However, the fact that these 'arrests' are lucrative provides a strong motivation for officers to exploit them. Here is an example

> Two officers are patrolling a busy area not far from their rendezvous point. They meet two Zimbabwean young men, whom they ask for a bribe when they fail to show their documentation. This exchange marks the beginning of a pattern that continues for some time during the day. After a while, the officers break from the patrol and sit down inside a snack shop to buy themselves a drink, and to check on progress on the amount they have accumulated. One officer is not impressed with the amount. As they go out of the shop they argue about accepting very low bribes, and being generally lenient to 'suspects'. After the argument, where one officer reminds the other that other officers make up to a thousand Rands a day, it becomes clear that for the two officers, and many others, extortion is the primary motivation in policing immigration. As they take their patrol to another part of the sector, they meet two men who are standing by the side of

the road with a young girl (say 5 years old) whose parents have left her alone in a car for a long while. The girl had gotten frightened and got out of the car and started crying. On seeing the approaching officers, the men ask them to handle the situation and immediately leave the scene. The officers then wait with the girl for more than two hours until the man that was driving the car comes. At this point, one officer explains that they have wasted so much time looking after the baby and that the man could at least show some appreciation for their work. The man thanks them but also points out that he has nothing to give them, and adds that it is part of their job anyway. The officer cannot hide his dejection. He tells the man that they could have left the kid alone because they have other work to do. A few moments later, the officers intercept six suspected illegal immigrants all from whom they expect to ask for bribes. However, because of their numbers, the officers cannot cope. So as they interview the other five, who are all Mozambicans, the other suspect flees. Immediately, one officer begins to accuse the other of not taking the policing job seriously, and that he is having second thoughts about having him as his partner.

The worthiness of irregular movement is quantified for personal purposes through time spent away from interaction with it, and through monetary return that such interaction provides, as estimated by the officer. The comment by the civilian in the above scene that officers should not be transacting their services for money, is a reminder, however estranged from the objectives of the officers, that they are have shifted their motives, and with them the state, towards the private realm. The power that lies within the state has been appropriated by individuals, and is being transacted for private gain.

4.4.3.3 'The One That Got Away': The Illusion of Enforcement

Enforcement in principle demands equal application of the law. When migrants have contravened the immigration act, they are in the wrong and should ideally be apprehended pending their deported from the country. In practice, although this is the guiding principle

and standard, it may not obtain for various reasons. A sense of purpose in immigration enforcement, for instance, may be counteracted by a lack of both material and emotional resources to accomplish it. The policing job aspires to oversee order in society, and its objective is evident in the structure of the policing organization, the distinctness of the police official from the rest of the community, and the continuous aspiration for best conduct as inculcated in everyday parade sessions. It is for this reason that one of policing organization's main objectives is to stand against delinquent behaviour in society, and not be part of it. This is the ideal. Enforcement of this ideal may come against certain obstacles. These obstacles may drum up resilience among those committed to their job, but may prove too much for those that see the job as too demanding.

Police parades are where the ideals of policing are laid out, while work in the field is where they are actualised. When the community, from which the police should gain support in order to accomplish their objectives, is unresponsive, the police may wish to stamp their authority by means of force. Experienced officials are usually best positioned to stamp this authority, as the following scene shows.

> A senior superintendent visits a parade session for an impromptu inspection. When he speaks, he expresses his worry about an Ethiopian businessman who runs a shop on Troye Street. The man in question is accused of insubordination and lack on manners, having been visited by police officials several times already. As a trader who also plays a sound system during his trading hours, he is accused of causing noise pollution. The superintendent voices his wish to visit the shop again and close it down. He explains that on several occasions the man had been asked to turn off his sound, to no avail. He also encourages the officers to not think twice about arresting the individual if he refuses to cooperate again, and that were he to be arrested, he will be charged accordingly, and his sound confiscated. As a parting note, the superintendent exclaims that; "these foreigners feel nothing for us, but we will teach them a lesson"

The senior official is aware that the shop owner may not only be disturbing the peace in the community as understood by the police, but may also be undermining the authority of the state by refusing to follow the order to desist from undesirable behaviour. The official clearly wishes to preserve the authority of the police, and in the process shows the resilience of the police and of the state. The personal comment about migrants betrays a general predisposition that may or may not affect the eventual application of the law towards them. Where the police may not be sure how to apply that law, other ways of stamping the authority vested in the official may be used for different outcomes. (See next section)

Ideas about migrant predisposition to crime or wrongdoing, as planted by the superintendent during parade, may affect eventual enforcement in the field. The following scenario illustrates;

> During a routine patrol, an officer, while patrolling downtown Johannesburg, decides to stop a car in front of him because he believes that the driver might be a Zimbabwean. As experience will prove it for the officer, the driver turns out to be Zimbabwean. However, the driver's residence permits, driving licence and the vehicle are all in order, and finding nothing to arrest the driver for, the officer leaves the man.

While the officer's hunch is correct, and proves good detective skill, the idea that a motorist can be stopped for looking foreign betrays a preoccupation with migrants that may proceed from a number of preconceived ideas about them. There is no reason to believe that migrants are worse drivers than citizens. Neither is there proof that citizens always adhere to road rules. Preying on migrants may however reinforce the notion that, are they to be found on the wrong side of the law, they can then justify a seeming diversion of resources towards immigration enforcement, and that they are easy to extort for money.

Sometimes enforcement becomes elusive when a lack of adequate resources makes the policing job daunting. The effect may be felt first in the inability to make effective arrests of offenders, but may eventually suppress immigration enforcement altogether, and the gap it creates may be taken by other enforcement objectives, such as extortion and soliciting for bribes. For instance, the less densely populated sectors of the precinct are the biggest in terms of land area. However, because of a smaller number of people, including migrants, enforcement personnel are fewer, more resources having been diverted to more densely populated areas. As an example, fewer vehicles are available for these sectors, and officers end up patrolling huge tracks of the sectors on foot, having not enough trucks to keep the suspects in, and effectively not carrying out any enforcement. In such cases, officers, as a result, just maintain visibility in the area. The downside is that they may end up having too much idle time. This may open them up to certain ways of keeping themselves, such as seeking opportunities of personal gain.

Effective immigration enforcement may be affected by lack of experience in enforcement. This may be aggravated by indifferent training, with the result that the law may be applied partially. Cases deserving arrest may go unpunished, while time may be spent on those that do not. The following example illustrates this.

> On the way to their posting (a caravan stationed next to one of the busy taxi ranks in the policing sector), officers begin routine stop and search operations. As the interaction with people continues, a debate ensues on the legality or illegality of the different asylum seeker permits that officers were encountering. A woman, after being questioned about the authenticity of her asylum seeker paper, is adamant that her permit is legitimate, while a police officer insists again and again that the paper is a fake. One thing is clear, the paper has a Department of Home Affairs stamp all over it, and even though the permit is an old issue and is already dirty and worn, there is no denying from the Home Affairs stamp that the paper has to be legitimate. At the end, the

police officer lets the matter slide, but insists that she is not convinced the paper is an original issue. A few more cases like these begin to wear the officer down, and she voices her tiredness, although it appears more like resignation and disinterest. An incident a few moments later does not elicit much interest from the officer, and it appears that she just questions the man that she has stopped more out of absent minded routine. The officer lets the man go without even asking to see his documentation. When she rejoins the other officers, they ask her if she asked to see the man's documents, since they are convinced that the man was a foreigner. The officer first hesitates, and then says that she is not feeling very well today, and that she is not going to apply herself as well as she should. A few moments later, she points out, rather shockingly, that she dislikes having to move up and down the staircase at the police station to the cell where she will have to charge the suspects, if she catches any. The other officers express their disbelief, but one by one they start to share in the other officer's sentiment, describing the numerous steps at the station as representing relentless workouts.

Police work requires a certain level of both physical and mental fitness, and officers do well to understand this. Fitness may however not result in effective work if it is not accompanied by good training, experience and mental aptitude. In this case, the officer becomes demoralised at having to get her judgement proven wrong. Lacking success, she resigns from applying herself to her job, and this eventually manifests itself in a disinterest that eventually affects her colleagues. The work-rate of the group eventually suffers as such.

A similar lack of will is evident in the following scene.

At about 11h00, two officers receive a radio call concerning an incident of 'mob justice' that is currently underway in another part of the city within their policing sector. The two officers are identified to respond to the incident because of their proximity to the incident. The radio call informs the officers that a thug has been caught, and that the people were beating him up. The officers undertake to drive in the direction of the incident, but take a detour instead towards a corner of Troye and Albert streets, where they engage in a conversation with one of the shop

owners there. One of the officers buys some traditional medicines or 'muti', from a man called 'Shukela' (Zulu for 'sugar'). The shop owner explains how the officer should use the portions, all the while smiling and winking at the officer. It is not clear what the wink or the 'muti' is for. After having some fizzy drinks, given to the officers by the shop owner, the officers engage in more talk, seeming to forget about the incident awaiting their attention. They drive to the location of the 'mob justice' scene several minutes afterwards. The crowds have however dispersed when they arrive; all that is left are two SAPS vans and two JMPD vehicles.

It is not clear why the officers felt that they did not need to attend to the scene as specified by the radio call. In light of their behaviour regarding their general enforcement activities, it may be plausible to suggest that there was no incentive or potential gain from attending the incident. Instead, the officers decide to network more and strengthen their standing with the shop owner who has something to gain from their business and visibility in his shop. They in turn strengthen their social network and invest in relationships.

The 'illusion of enforcement' is usually not immediately evident, and may appear contradictory in nature. The visibility of police officials in the policing sectors is enough to deter would-be criminals, and also works to reassure the communities of their safety. Nonetheless, unproductive officers ensure that visibility is all there is to enforcement. In this way, the state reproduces itself in society in a passive manner, manifesting itself in an outward show of visibility that is however fragmented by a lack of application that is exhibited by uncommitted officers.

4.4.5 Informalization: Criminality or Social Norm?

4.4.5.1 'The Silent Admission Inherent in Denial': Official Encounters with the Law

Edwin Delattre (1994:10) has written that "a police officer's fitness to wear the badge depends on the acquisition of habits of just behaviour". Just officers are lauded for their ability to strike a balance between respect for justice and the use of coercive force to achieve it. In immigration enforcement, officers understand that undocumented migrants are in contravention of the law, and generality feel and act out of a professional duty to redress the situation, as expected of them. In enforcing immigration laws, however, the police have been especially singled out as engaging in various extortion strategies of personal material gain (Algotsson 2000; Lubkemann 2000:58-59; Madsen 2004; Templeton and Maphumulo 2005).

Field experience from this research has widely confirmed such practices. Nonetheless, police officers also demonstrate a keen understanding of the standing of their actions in view of official interpretations of expected police conduct. As they carry out their duties, police officers utilize every opportunity to a) ensure that behaviour that they themselves regard as irregular remains hidden, or b) to deny any involvement when questioned about such behaviour. This author's first encounter with one of the field supervisors is telling in this regard.

> Matlaila is what you could term the complete non-conformist among the police officers. Likable, young (I'd say perhaps below 35 years old), humorous, and easy going, Matlaila is eager to help the researcher settle in. When asked to elaborate on what has come out of the other sectors concerning the directive that 'illegal immigrants' should not be arrested, Matlaila explains that the reason why they have been instructed not to arrest illegal immigrants is that they (migrants) bring police officer into temptation and disrepute, in the sense that they offer to pay for their freedom each time they are caught. At first, this sounds like an admission that senior officers have no mechanisms for curbing corruption among the ranks, or that they have no interest in doing so.

> Matlaila later resigns his case by saying that he is Christian and is personally not inclined towards arresting migrants for any other reasons unless if they commit crime.

The denial appears less about the principle of arresting undocumented migrants as stipulated in law and more about shying away from talking about its widespread practice among officers. With regards this issue, officers tend to bury their heads in sand. When Matlaila mentions that immigration enforcement leads officers into temptations, he not only admits to the fact that officers offer to exchange 'suspects' freedom for material gain, but also that by so doing, officers are enticed into contravening the law. In his admission, he simultaneously denies any (personal or collective) culpability in the wrongdoing.

Alternatively, official encounters with the law may be evident through what officers are choosing not to do in response to various circumstances during the course of their work. As a way of example, there was an occasion where officers in the field, after a whole day's patrols, started discussing towards close of day whether they should arrest suspected undocumented migrants or not. After a brief debate, they agreed to go ahead and arrest them. Promptly, four female 'suspects' were apprehended. Those that had been arrested were mainly people that operate sidewalk hairdressing businesses. Further down the road, another four males were apprehended. So, after about five minutes, at least eight 'suspects' had been arrested. All this happened a few hundred meters from the police station. The question, one realizes, was to charge or not to charge. As things turned out, none of these people were taken to the station; the officers just kept turning from one corner to the next. As they were walking in circles, rigorous interviews were being conducted, the 'victims' being threatened with hefty fines and lengthy processes were they to let 'this thing' reach the station. All of these suspects had been apprehended for matters relating to possession of fake documents to having no documents at all. The suspects were in fact undocumented migrants.

The charges that were outlined for them included identity theft, failure to produce legal documents of stay in the country, possession of forged documents. About two hours was spent waiting for some suspects to call for friends to bring them money or documents to prove their legality. In most cases, the suspects had already been 'won over', in that they had been shown that they were guilty and that unless they pay some money, they were going to be taken into custody. There was one suspect, a Mozambican young man, who was let go because he had been arrested a number of times and was already known to some officers. On release, the suspect exclaimed; "you see, you cannot arrest me because I have earned my citizenship already".

It could be that the debate was not exactly about whether officers should arrest suspects or not, but rather a debate on whether the presence of this author/researcher would have been a problem, since arresting suspects would invariably lead to cases to bribery or extortion or both. The encounter with the law was evident in the way in which the officers were hesitant to engage in extortion activities. Not objecting to them as they made the decision to proceed with the arrests served as a way of assuring them that this author/researcher was not a part of the process of law. The ease with which they arrested undocumented migrants soon afterwards confirms that having got the go-ahead, officers could carry on without fear of facing the law.

At times, the distinction between right and wrong may be articulated in justification of certain decisions, or through collective conduct. Two examples may be used to illustrate both these aspects.

(Case 1) Police officers decide to accompany a colleague to a bank. There are not so many branches of this particular bank he is looking for in the policing sectors, but officers resolve to

find one branch, even if it is located outside the sector. They walk around town a lot. The officer who is seeking the services of a bank assures everybody that there will be no problem with 'patrolling' as long as the group does not run into trouble; 'no one should know!' are his words. They eventually find one branch well outside their sectors of jurisdiction; in fact well into the adjacent sectors. When they eventually find the bank, the bank client disappears inside while the rest of the group waits outside the banking hall. After about an hour, he comes out, rejoins the group and they leave for their sectors.

(Case 2) During the course of a trip to the field, officers recall an incident where a known group of police officers were exposed for asking undocumented migrant women to offer sex in exchange for their freedom. The story goes that when officers rounded up prostitutes, they decided to ask for sex using methods of intimidation. Some men are said to have proceeded to engage in unprotected sex with the women. When the named officers were called for face parade, the guilty parties skipped it. One officer recalls how dangerous it had been because there was a good risk of innocent officers being named for what they had not done. Another officer however exclaims that he can never offer money for sex, or ask for free sex from a prostitute when there were so many women that were 'illegal' immigrants. The officers round up by saying that it was a close call although at the end no one was arrested for it, but that officers should try and not mix alcohol with reckless behaviour because that might just have serious consequences.

In both examples, there is a combination of awareness of law in terms of distinguishing between right and wrong, that is however accompanied by a significant disregard for it. In the first instance, officers know that their behaviour must never be known by those outside their circle, although they continue to engage in such behaviour for extended periods of time. In the second instance, while some officers recognized the consequences of their actions to the extent that they missed work in order for them to not be found, some still 'crave' the excitement of predatory authority.

In both instances, denying the truth only works to clarify the awareness for the wrong. Just like in extorting for money, officers know that there may be observers, and by covering their action, testify to the presence of the law. Official encounters with the law may be registered by officers through speech, body language, as well as omission. The above examples, although they are varied in scope, however work to present a compromised state. Those that have been entrusted with looking after its interests consciously and sometimes routinely violate it. All these traits speak to an embedded knowledge and value system that has spread the roots of the reconstitution of state within criminal enclaves where they are thriving.

Awareness of the law positions police officers precariously within the state society divide. In situations where they could easily stay neutral, or protect the interests of the state they serve, such officers opt to consciously do the opposite by engaging in illegitimate behaviour. This is particularly evident when officials seek to hide or deny the behaviour that they otherwise frequently engage in. By indirectly submitting that they engage in these forms of behaviour, police officials also admit their complicity in the informalization of the state. In such a case, although officials may have proceeded, as they are aware, to strengthen their own position (and therefore the distinctness of the state) in relation to society, they nonetheless aid the blurring of that divide.

4.4.5.2 Everyday Informality and the State

Stronger trends from bigger studies are yet to emerge with regards to the extents of the existence and dimensions of corrupt practices within immigration enforcement in South Africa. For the present study, however, in the words of one police officials, for instance, bribery and extortion in exchange for avoiding arrest ‘is so common it is boring to talk

about'.[43] Scholars from other fields have, however, studied the interaction between informal and formal sectors. Their insights may be helpful here.

One may use the example of financial gain by public officials who engage in bribery and extortion to elucidate on Douglas Marcouiller and Leslie Young's (1995) model of economic interaction. If the difference between the potential gain from asking for bribes far outweighs salaries of government officials, such officials will exploit immigration laws to both arrest migrants as sacrificial lambs but also to aggressively collect bribes from an even bigger number of susceptible migrants, with the result that decent arrests become fewer and fewer, thus justifying less investment in the exercise. However, more and more bribes are collected, thus indirectly sustaining and justifying the formal exercise of immigration enforcement. The state's main incentive in carrying out such enforcement exercises is to justify budget allocations from its treasury, which may in any event be low, in relation to the official output/arrest levels. The potential gain from 'officially' arresting fewer migrants may far outweigh official pay for carrying out the exercise, such that extortion and bribery increase. The result is that the formal enforcement exercise may 'disappear down the "black hole" of graft (Marcouiller and Young 1995: 631).

In our case, it may be premature to propose an entrenched interaction between formality and informality, and a purposive subsidisation of state funding of formal enforcement programmes through informal material exchanges between migrants and state officials. Senior police official attitudes towards their juniors' known penchant for the 'cold drink' in exchange for sidestepping enforcement procedures may reveal the state's complicity in these forms of exchanges. Asking junior officers repeatedly to desist from taking bribes while taking to concrete action to abate the practice works as a strategy of absolving oneself of culpability while actually letting the practice continue and grow. "The tolerant and

[43] This came out during regular field work with police officials

occasionally supportive attitude toward the informal economy that state officials exhibit may well reflect, not a rare lapse into benevolence, but enlightened self-interest" (ibid).

After the successful insertion of this author into the fieldwork, an opportunity to witness such informality as discussed above in relative proximity presented itself, so that the following experience was recorded later on the same day;

> All I could see (in terms of extortion and bribery) can only be described as carnage. At this point, for the first time since I started the field work, it downs to me how seriously the officers approach their patrol duties for the potential rewards it presents. For this particular patrol, it was as if the officers were competing with each other for the highest returns. I recall maybe ten instances where they stopped and temporarily arrested suspects. None of these instances yielded any arrests. For me personally, watching the scene unfold at such proximity was an eye opener, so much so that at some point it felt a bit overwhelming. I came to the conclusion that money was their primary motivation, although officers were willing to 'go soft' on those that they knew (especially the traders that we encounter everyday). Migrant passers-by were just basically free game, and the biggest players in the random, on-the-spot encounters raked in the biggest rewards. This pattern continued for some time during the course of the day, and I noticed a tendency for police officers to disappear into the crowds, only to reappear at 'The Circle'. It was striking to see that there is no control or accountability over what individual officers do. This is more so to the officers themselves. On the one hand, foot patrols are the best method (at least they appear to be) to cover the furthest reaches of this densely populated policing sector. On the other, foot patrols mean that officers can disappear the whole day, and can appear towards close of day, and nothing will be wrong with that. A good example was when, on one of similar patrols along the same route, we met with about three plain clothed officers that I had not seen before either at parade or at The Circle. I must say that at first I thought that maybe they were not on duty, but they duly joined in and patrolled with us. When you come to think of it, there can be no problems as long as they stay out of serious trouble that will draw the attention of the seniors. They can extort for

bribes, and disappear again without anyone asking them anything. Since most of these men and women work as volunteers, not one keeps a real register of who should or should not come to work, only that if they come, then they should fill in the 'fifteen form', so that in any eventuality, they will be covered by the state.

It may be that this behaviour does not proceed from official sanction, or is not 'by the book'. The manner in which it has come to define both enforcement and police official-migrant interaction suggests that it may have become entrenched in everyday practice. Although not actively encouraged, that it has been condoned to the point where official procedures in enforcement, such as foot patrols and impromptu 'in-the-crowds' interviews may be revealing of the extent to which official policy is complicit in these forms of informality.

As such, a notion of a state that is actively reconstituting itself in the realm of the informal (and perhaps even the criminal) warrants a strong consideration. Such informality locates itself neither in the social nor official realms. It exists adrift of the two. If the police service benefits from the manpower of reservists that it however does not have a duty to regulate closely, then a general state of everyday informality may be used as an approximation of the attitude of police officials towards enforcement.

4.5 Conclusion

The proposition of informality in immigration enforcement does not envisage a state that is overrun by criminality or social norms, although these may strongly influence its more mundane manifestations. This discussion recognises the resilience of the state, and its continued proliferation in everyday practices of police officials. The distinctness of the state has rested in part on its ability to ritualize its performances through every day practices such

as the police parade. Even when social conditions have changed and have demanded an adaptation of the policing methods, the state has shown its ability to respond to these changes. The state's prerogative over coercive force has also ensured that enforcement officials retain the ability to micromanage the state's interactions with society, at one level guaranteeing its autonomy over society.

Sometimes interactions between state officials and migrants may be explained through social logics of negotiation, gift-giving and solidarity that are also culturally embedded. Such interaction may be nothing more than individuals being social beings, where both the state officials and migrants are merely engaging in acceptable social behaviour. The main critique of such behavioural norms, as Olivier de Sardan (1999) has shown, is that they have not only become monetarized and materialistic, but they have opened the way for various other 'corruption-type' activities such as predatory authority. Particularly in relationships that are unequal, such as those of the migrants and the police official that are heavily skewed in favour of the police officer, such relationships may be hi-jacked by partisan, private, and exploitative interests. For lack of a category in which to classify these relationships, which are neither inside the scope of the state or the dictates of social norms, such relationships lie within the grey area of informality.

However, in the everyday enforcement activities of police officials, the state has demonstrated its complicity in, and willingness to, fund its enforcement responsibilities and activities through various forms of social indebtedness, kickbacks, moonlighting that elevate the importance of those is seeks to exclude from its own polity – undocumented migrants. Through the informal everyday enforcement practices of police officials, the state has been able to construct itself by reconstituting itself within the very margins by which it seeks to delimit itself. Such instances may lend credence to notions of a state that may become criminalized.

As such, the informalization of the state has manifested itself in such practices as enforcement that is only effective as window-dressing, the arrest of a variety of soft targets, the fragmentation of discipline among junior officers, as well as the rise of enforcement transactions. Where enforcement assumes a semblance of determination, a shortage of staff, equipment and other resources has resulted in the illusion of enforcement and the continued bloom of conditions of informalization.

5

CONCLUSIONS

Woe betide the man who knows no one, either directly or indirectly – Jean Pierre Olivier de Sardan, 1999

5.1 Introduction

Increased migration into South Africa is engendering new forms of statehood. While migrants have, in increased numbers, sought to eke out a living in the streets mainly through informal livelihoods, the state has increased its efforts to regulate their movement. This has led to various forms of interaction between migrants and law enforcement officials, in the form of SAPS police officers, at the street level, presenting immigration enforcement as an everyday reality in urban South Africa. Such forms of immigration enforcement, which are also a part of social interaction, have helped present the state in its everyday character. Of interest to these political economies is how the state is being constructed and reconstituted in everyday practices.

This study is a result of approximately four months of participant observation of immigration enforcement in inner city Johannesburg. The unit of the study has been junior police constables, who act on behalf of the state. Additional data has been gathered through the analysis of SAPS and DHA documents, as well as through a few in-depth interviews with migrants working and/or living in the inner-city. The focus of the study, and the methods used, has shaped this study in the following manner. First, the state in the classical (neo) Weberian sense has been discussed. Second, the anthropological perspective, from which the

method of the present study took its cue, is also debated. The state's apparent determination to regulate movement in the city, as attested to by the numbers of arrests and deportations of undocumented migrants, supports the idea of the state's ability, through the police, to intervene in and govern social life. The nature of immigration enforcement, as well as the interactions between state officials and migrants, on the other hand, questions such an ability of the state, presenting a state that may be significantly immersed in society.

The findings of this research suggest something that falls in between these two poles. While state theory constantly seeks to construct a boundary between state and society, anthropological approaches have sought to show how this boundary is either blurred or absent. In our case, the state's ability to exercise its monopoly over legitimate movement in the city, in various forms, in a way attempting to construct this state/society boundary, sometimes manifests in unpredictable ways, distorting the boundary in various ways, sometimes blurring it, or erasing it altogether. One may explore this further.

5.2 The State as Constructed through Everyday Practice

State theory has mainly concerned itself with state power, and how the state wields this power in governing society. For centuries, the state has persisted, enduring into the current times mainly because, in an international system of anarchic states, it retains the monopoly over the use of organized violence. However, in order for the state to succeed in governing social life within is territorial space, it has had to have a detailed organizational and bureaucratic structure that has distinguished itself as monolithic, unitary and quite removed from society. The state has thus been posited in this tradition as rational, technically astute and professionally well developed. The policing organization, such as the SAPS, is one example of the bureaucratic organization of the state. The SAPS offers a good example

because it not only illustrates how the state is technically developed, but as an organization that governs civil order, it also demonstrates how the state intervenes in social life.

Within this tradition, other scholars such as Steven Krasner (1999; 2001), have pointed out how in reality the application of state power is in fact mostly inconsistent, contradictory and self violating. This is what has partly fuelled the debate on the state among its theorists. Whether the debate has been about the structure and functions of the bureaucracy, or about political and economic interests of the different classes that constitute either the state or society, the major drawback of the debate has been its inability to escape the basic state-society dichotomy. The debate has thus moved towards drawing the line between the state as ideal and the state as material. It appears that what constitutes the state at the conceptual level (something that however has sustained the very idea of the state) is a challenge to realise through material institutions (that nonetheless have to put to practice this idea of the state). The state has thus become visible through the officials (and civil servants) who serve under these institutions. The idea is nonetheless that even through the inconsistencies that characterise state practice are seen through the work of state employees such as police officials, one is still able to observe and critique these manifestations of the state.

At a general level, one way of critiquing these manifestations of the state is to observe specific institutions such as the SAPS through the conduct of its officials. The rallying point of the theory of the state is the ability of the bureaucratic organization to realize its objective through the internalization of professionalism and discipline among those in its employ. A rudimentary method of checking for the efficiency of any such bureaucracy would be to observe if such discipline and professionalism have been observed in the organization. Ideally, this would show in the manner in which bureaucrats carry themselves in the execution of their duties. This research has demonstrated how discipline works to structure

the conduct of police officials in the field. When Mhlekazi moves swiftly into action to quell inflamed public emotions and to model public behaviour, one can have no doubt that the objectives of the bureaucratic organization have trickled down the hierarchy and do guide bureaucratic conduct. A few other examples have also shown how the state continues to model behaviour and social conduct, in a way retaining its ability to govern social life.

However, when the arrest of, say, the robbers on Smit Street (see section 4.3), is coupled with physical violence and a lack of clarity on whether the robbers are in fact themselves being arrested, or extorted for money, then the state, in the same way that it is producing itself in everyday practice, is simultaneously violating itself. It is this inconsistency in the behaviour of state officials that has left the statist theories unable to account fully for the institutional development upon which they are hinged. As a result, anthropologists (in particular) have proposed theories that seek to study the state from a social perspective in order to account for such inconsistencies in the behaviour of those that represent the state.

5.3 The Role of Society in the Construction of the State

The idea of the state, or 'the state effect' (Mitchell 1999) becomes more apparent (and contestable) when one looks closer at the application of laws and objectives of the state in everyday practices of state officials. The official, the individual, is the agent of the state, and therefore a focus on this unit, as opposed to the institution itself, is more rewarding if one wishes to gain a nuanced understanding of the 'state'. This approach has become fashionable in the study of non-western states, since they are considered to have taken their own developmental trajectory (Martin; Gupta 1995; Sharma and Gupta 2006). If one considers that bureaucrats themselves are a part of society and either intervene in social life or carry out

their duties in environments of social interaction, then it becomes plausible to suggest that the state is in fact 'an everyday social construction' (Mountz 2003). Entrusting individual members of society with 'matters' of the state, through employment, compels one to relate such individuals to two domains; that of the 'state' on one hand, and that of 'society' on the other.

Yet, society, just like the state, has its own 'rules of engagement'. Behavioural norms, as Olivier de Sardan has called them, most of them embedded in culture, dictate that members of many societies across the third world (and one would venture to suggest that this may in fact be the case the world over) behave in a particular pattern towards each other. In many states of Africa, such interaction is punctuated by such behavioural norms as negotiation, gift-giving, cultivating and nurturing networks of solidarity, among many other forms of interaction. When Mhlekazi, Netshifefe and other police constables are willing to invest so much time in helping out strangers they meet and get acquainted with in the inner-city during the course of their everyday duties, this at the official level points simply to the execution of their designated duties. At the social level, such investment exemplifies the kinds of negotiation and solidarity that characterise everyday life in general. From this angle, everyday immigration enforcement, a function of the state, carries an added benefit for those entrusted with enforcing it of the potential for meeting many people that through interaction (sometimes repeated) will develop and substantiate such forms of reciprocal friendships.

Such social forms of interaction, however, have had the negative consequence in many societies of fostering corrupt practices that involve various forms of kick-backs, favouritism, moon-lighting, 'dipping one's hand into the official coffers', redistributive accumulation, etc. For police officials who have taken advantage of the vulnerability and desperation of migrants, this has also involved the abuse of state power to enforce predatory authority. For such cases, many of them observed during this research, there appears to be a

tendency towards both the informalization and criminalization of immigration enforcement. A thesis of criminalization however still requires further qualification, since it does not come out as a result of uniform patterns of enforcement among migrant communities in the inner city. In some cases, for instance, immigration enforcement that takes this nature represents an overzealous enforcement method that in the process overstep the bounds of the law. One has reason to believe that intermittent incidents of physical violence that accompany enforcement represent nothing much more than inculcating a respect for the law among those that such violence has been visited upon. This however does not seek to condone such acts of violence. In other cases however, and many of these accompany the everyday work of police officials, such enforcement represents a conscious effort by officials to use (much rather abuse) state power for partisan and private gain. Such enforcement patterns need not be mutually exclusive, and in most cases they have taken place successive to, and simultaneous with, each other, and indeed many follow upon very exemplary official conduct.

The main proposal of this research incorporates these forms of enforcement. Many police officers have participated in all these forms of immigration enforcement. In a deft way, many officers shift between these different forms of conduct, appropriating different registers, from law, to socio-cultural norms to personal reasons in order to justify their conduct at any particular given moment. This accounts for the unique way in which everyday immigration enforcement proceeds on the street of inner-city Johannesburg.

5.4 Everyday Immigration Enforcement and the Reconstitution of the State

A statist approach to the critique of immigration enforcement in the city does well to explain the inculcation of discipline and the concept of among state officials, as well as the

exemplary forms of official conduct in the day-to-day conduct of police officials. Such an approach would be able to attribute such disciplined conduct to an efficient bureaucratic mechanism (or technique) that is able to pass these norms down the chain of command. One might, however, want to draw attention to an experience during my fieldwork of a particular incident during parade when police officials laugh off a threat by a senior official to monitor their everyday conduct. This incident is vital for a critique of the statist approach in two ways. When officials laugh at their superior, this is symbolic of a break in the chain of command within the bureaucratic structure. Secondly, the officers laugh not so much at the difficulty senior officials would have in monitoring their conduct in the field as at the futility of such an exercise, were it to be carried out. In other words, officers are aware that there will be no way of ensuring that they stick to protocol in immigration enforcement.

And yet they do sometimes stick to bureaucratic protocol, as the data presentation section has suggested. However, they sometimes do so in ways that side-step the law. A statist theory that seeks to describe these types of enforcement practices may fail to adequately account for the behaviour of state officials that does not align with specified laws, policies and codes of conduct as prescribed by the police organization. Junior officials may model themselves to act in ways that nonetheless preserve the state's monopoly over regulating movement through immigration law enforcement. They may also appeal to socially recognised forms of interaction with migrants that neither reflects their official mandate of, for example, arresting undocumented migrants, or exemplify criminal behaviour. They may, however, at times simultaneous abuse state power through this process, such as when such power is used to extort for bribes from undocumented migrants. A way of making sense of all these forms of behaviour may not rely on (neo-) classical political science theory of bureaucratic organizations as effective agents for modelling individual behaviour and governing social life.

The ethnographic method of (in our case, non-)participant observation is thus particularly helpful in describing the actions of state officials in immigration enforcement. Some of the more tacit behaviour of officials, some of it mainly explainable through culturally embedded logics, come into view, something that would be difficult to see or understand if one were to adhere to approaches that study the institution itself. Anthropological methods are also able to unearth the different forms of justification for individual behaviour, which enriches our understanding of immigration enforcement. The anthropological method is able to, for instance, categorise and differentiate more criminal methods from those that are more culturally embedded.

Nonetheless, quite importantly for the research, the ethnographic method has not been able to substantiate the often held notion of the state that becomes cannibalized by society. Another ethnographic study of the police conducted in a similar area proves this point. Hornberger (2007) finds that detectives, who form the unit of her study, orient their work more towards society than they do towards the bureaucracy and the state. This is somewhat surprising, since they are more senior officials who perform a significant part of their work at the office, away from the field. The findings of the present study suggest that the opposite obtains for the junior officers who work mainly in the streets. As state officials who are constantly in interaction with members of 'society', one would expect them to orient themselves towards society. The findings of this research suggests that although they become deeply involved within social practices, they a) constantly shore up the authority of the state in conduct that sometimes proceeds to violate the same laws that they seek to enforce, and b) they mostly retain responsibility for the interactions and friendships they nurture with migrants. Thus, on the one hand, they overzealously enforce immigration laws, sometimes in ways that incorporate criminal behaviour. On the other hand, they seek mutually beneficial friendships with migrants, although they have the power to withdraw these as they please.

That way, they are able to project the state into the everyday lives of migrants through these interactions.

This brings us to the following proposition that; *at least at the enforcement level, there exists on the one hand a bureaucratic norm that may be passed down the hierarchy through chains of command, although such a norm is conditioned by social contexts in which it is applied. There also exists on the other hand 'informal' norms that are either socio-culturally informed or criminal in nature, that govern immigration enforcement in ways that appear divorced from the objectives and aims of the state. Ultimately, the art of immigration enforcement straddles both state and society in line with the registers that are called to use at any given moment according to need.*

Such forms of immigration enforcement result from an appropriation and re-appropriation of the various registers, with the effect that at a theoretical level, the boundary between state and society is at times constructed in a distorted fashion, since it is constantly under reformulation in line with the various ways in which immigration enforcement proceeds. At other times, this boundary either becomes blurred or disappears altogether in practices that simultaneously appeal to both state sanctioned, and socially embedded practices. Thus, the discretionary application of immigration laws may also appear as socially acceptable ways of friendly interaction. Alternatively, gift-giving, in the form of the proverbial 'cold-drink', may simultaneously appear as 'greasing' the hand of the state official. Still, a sanctioned use of force may also appear as overzealous enforcement of immigration laws.

5.5 Conclusion

The theory and empirical evidence presented here suggest the agency of official laws, social norms and informality in immigration enforcement. The ethnographic method used, however has not been sufficiently able to present a state that is completely immersed in social and informal practices. If anything, the method has been useful in pointing out the various non-formal ways in which the state is able to achieve its prerogatives of regulating movement in South Africa's urban spaces. The defiance of senior officials by enforcement officers in pursuing both official as well as private interests says something important about the enforcement regime: that while it may not be fully governed by the objectives of the state, it is nonetheless able to fulfil such objectives, even if in informal ways. On the other hand, the involvement of state officials in social relationships with migrants sometimes works to project the state into society more effectively. Thus, as South Africa continues to attract international migrants, these forms of immigration enforcement will continue to take root and evolve, reconstructing and reconstituting the South African state in the process.

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Appendix 1 : Crime for the Johannesburg Central P olice Precinct in Gauteng for the period April to March 2001/2002 to 2007/2008

Johannesburg Central was previously named John Vorster Square

Crime category	April 2001 to March 2002	April 200 2 to March 200 3	Ap ril 200 3 to March 200 4	April 200 4 to March 200 5	April 200 5 to March 200 6	April 200 6 to March 200 7	April 20 to Marc 200 8
Murder	123	191	90	103	87	64	
Attempted murder	101	164	146	118	122	109	
Due to changed definition of sexually - motivated crime resulting from the implementation of Act 32 of 2007 on 16 December 2007, rape and indecent assault figures are only provided for the period April to December							
Rape April to December	174	126	128	111	124	109	
Indecent assault April to December	12	29	43	3 7	29	21	
Assault with intent to cause grievous bodily harm	801	916	846	1,099	1,191	1,089	
Common assault	1,234	1,206	1,390	1,527	1,369	1,155	1
Common robbery	1,559	1,431	1,306	1,545	1,512	1,616	1
Robbery with aggravating circumstances	2,03 9	2,567	2,327	2,509	2,436	2,382	2
Car -jacking (subcategory of aggravated robbery)	165	172	166	132	154	175	
Truck hijacking (subcategory of aggravated robbery)	24	7	8	9	13	10	
Robbery at residential premises (Subcategory of aggravated robbery)	-	60	62	42	52	24	
Robbery at business premises (subcategory of aggravated robbery	-	278	244	238	343	406	
Arson	22	20	17	20	19	15	
Malicious damage to property	693	699	633	702	663	714	
Burglary at residential premises	209	300	290	214	213	178	
Burglary at business premises	1,036	1,076	902	624	782	1,012	
Theft of motor vehicle and motor cycle	1,302	1,414	1,196	1,251	1,428	1,524	1
Theft out of or from motor vehicle	1,362	1,091	1,053	1,026	883	958	
Stock theft	0	0	0	0	0	0	
Illegal possession of fire arms and ammunition	79	84	75	59	76	166	
Drug -related crime	134	60	81	128	161	194	
Driving under the influence of alcohol or drugs	64	47	52	70	145	100	
All theft not mentioned elsewhere	6,691	6,884	6,975	6,980	6,116	4,653	3
Commercial crime	2,172	2,192	2,344	2,212	2,721	2,853	2
Shop lifting	1,642	1,498	1,581	1,471	1,623	1,408	1
Culpable homicide	21	26	18	21	20	21	
Kidnapping	42	12	14	22	29	34	
Abduction	28	84	58	82	62	32	
Neglect and ill - treatment of children	5	16	40	58	29	35	
Public violence	1	1	3	3	3	9	
Crimen injuria	156	160	177	184	175	128	

(http://w ww.saps.gov.za/statistics/reports/crimestats/2008/_provinces/gauteng/pdf/johannesburgcentral.pdf)

APPENDICES

Appendix 2: Crime for the Cape Town Central Police Precinct in the Western Cape for the period A

to March 2001/2002 to 2007/2008

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Crime Category	April 2001 to March 2002	April 2002 to March 2003	April 2003 to March 2004	April 2004 to March 2005	April 2005 to March 2006	April 2006 to March 2007	April 2 March
Murder	19	19	24	11	14	15	17
Attempted murder	34	34	31	23	16	9	10
Due to a changed definition of sexually-motivated crime resulting from the implementation of Act 32 of 2007 on 16 December 2007, rape and indecent assault f are only provided for the period April to December							
Rape April to DECEMBER	55	55	49	62	55	42	32
Indecent Assault April to DECEMBER	17	30	30	57	41	32	28
Assault with the intent to inflict grievous bodily harm	291	301	306	274	347	270	246
Common assault	854	759	892	1,064	881	803	704
Common robbery	1,208	1,557	1,042	811	717	628	584
Robbery with aggravating circumstances	545	338	541	702	796	831	647
Carjacking (subcategory of aggravated robbery)	7	10	19	23	17	32	22
Truck hijacking (subcategory of aggravated robbery)	0	1	0	0	0	0	0
Robbery at residential premises (subcategory of aggravated robbery)	-	7	7	9	5	3	13
Robbery at business premises (subcategory of aggravated robbery)	-	6	1	1	2	0	34
Arson	5	4	10	5	2	7	2
Malicious damage to property	569	765	874	988	1,217	1,168	1,027
Burglary at residential premises	939	1,104	957	1,128	839	974	810
Burglary at business premises	697	579	590	411	396	480	437
Theft of motor vehicle and motorcycle	935	921	921	691	732	715	631
Theft out of or from motor vehicle	4,595	4,229	3,371	2,997	3,471	2,925	2,333
Stock-theft	0	0	0	0	0	0	0
Illegal possession of firearms and ammunition	30	29	16	30	26	27	25
Drug-related crime	932	785	808	1,012	1,184	1,303	1,458
Driving under the influence of alcohol or drugs	139	142	157	221	241	274	273
All theft not mentioned elsewhere	5,210	6,122	7,264	7,709	6,749	6,391	6,014
Commercial crime	828	702	758	868	992	987	1,110
Shoplifting	1,143	1,236	1,100	1,065	1,154	1,012	1,048
Culpable homicide	7	12	7	10	9	11	13
Kidnapping	11	4	5	6	5	8	7
Abduction	9	31	25	29	24	13	20
Neglect and ill-treatment of children	0	2	5	7	8	5	8
Public violence	1	2	0	2	2	3	4
Crimen injuria	181	199	225	262	220	140	142

(http://www.saps.gov.za/statistics/reports/crimestats/2008/_provinces/w_cape/pdf/capetowncentral.pdf)

Appendix 3:

Crime for the Durban Central Police Precinct in KwaZulu-Natal for the period April to March 2001/2002 to 2007/2008

Durban Central was previously named C R Swart Sqaure

Crime Category	April 2001 to March 2002	April 2002 to March 2003	April 2003 to March 2004	April 2004 to March 2005	April 2005 to March 2006	April 2006 to March 2007	April 2007 to March 2008
Murder	89	93	108	94	91	92	77
Attempted murder	97	126	155	94	90	104	87
Due to a changed definition of sexually-motivated crime resulting from the implementation of Act 32 of 2007 on 16 December 2007, rape and indecent assault figures are only provided for the period April to December							
Rape April to DECEMBER	129	127	125	119	122	130	111
Indecent Assault April to DECEMBER	34	29	40	31	47	40	37
Assault with the intent to inflict grievous bodily harm	484	567	533	552	543	519	513
Common assault	995	1,007	1,073	1,186	1,137	1,024	1,016
Common robbery	1,461	1,719	1,414	1,278	847	858	678
Robbery with aggravating circumstances	1,589	1,873	2,396	2,295	2,721	3,215	2,136
Carjacking (subcategory of aggravated robbery)	71	119	158	129	178	165	144
Truck hijacking (subcategory of aggravated robbery)	26	4	1	2	2	2	2
Robbery at residential premises (subcategory of aggravated robbery)	-	4	4	1	1	4	8
Robbery at business premises (subcategory of aggravated robbery)	-	87	5	6	5	42	194
Arson	9	5	9	10	7	6	4
Malicious damage to property	752	689	749	741	808	863	587
Burglary at residential premises	355	393	362	339	316	369	245
Burglary at business premises	989	906	792	659	733	884	677
Theft of motor vehicle and motorcycle	1,994	1,622	1,794	1,784	1,925	1,842	1,271
Theft out of or from motor vehicle	2,220	1,724	2,092	1,327	1,178	1,250	967
Stock-theft	0	0	0	0	0	0	0
Illegal possession of firearms and ammunition	64	55	85	70	64	104	87
Drug-related crime	239	278	289	514	753	577	718
Driving under the influence of alcohol or drugs	127	295	176	375	240	296	370
All theft not mentioned elsewhere	7,686	6,737	6,844	5,881	4,213	4,551	3,527
Commercial crime	2,064	1,550	1,624	1,417	1,387	2,196	1,278
Shoplifting	2,446	2,499	2,671	2,290	1,802	1,517	1,481
Culpable homicide	61	70	60	67	77	74	59
Kidnapping	34	24	49	43	43	40	48
Abduction	12	37	20	23	17	23	9
Neglect and ill-treatment of children	8	10	15	27	15	16	11
Public violence	7	1	7	4	4	10	7
Crimen injuria	192	192	209	223	283	228	231

(http://www.saps.gov.za/statistics/reports/crimestats/2008/_provinces/kzn/pdf/durbancentral.pdf)

Appendix 4

QUESTIONNAIRE NO. _____

QUESTIONNAIRE ON EVERYDAY IMMIGRATION POLICING IN JOHANNESBURG

To be read to all before beginning interview:

Good morning/afternoon/day/etc. my name is _____ from the Forced Migration Studies Programme at the University of the Witwatersrand, Johannesburg. I am conducting a study that seeks to understand everyday practices of immigration policing in inner-city Johannesburg. I am a student, and I do not work for the government or any other organization.

If you agree, I would like us to talk about your experiences of law enforcement Johannesburg. I do not have a specific way in which I expect you to speak to me; anything we discuss is valuable for me. You are free to not answer questions and to stop the interview at any time. Your opinions will help me better understand the various ways in which enforcement is achieved. What we discuss in this interview will be kept confidential, and will be used solely for academic purposes. Apart from my appreciation, I do not promise you anything for your participation.

1. Date of interview

Day (XX)	Month (XX)	Year (XXXX)

2. Time of interview

Start time	Finish time

Total time spent on interview	

3. Are you ready to go ahead? Yes □ No □ (mark with (√) whichever is applicable)

Demographics and profile of respondent

1. Name:……
2. Age and Sex:……..
3. Ethnicity…….
4. Marital status……..
5. Organization for which respondent works.……....

(Ask law enforcement officials)

6. Rank ……...……...
7. Length of service with the organization...……..
8. Length of service at current station…...…….

Questions about the individual

9. What is your highest level of education?

10. Do you have any other form of training?

11. Are you or anyone in your immediate family involved in any other form of income generating activity?

12. How would you describe your current economic situation?

13. If you had your way, what would you be doing with your life?

14. Where do you see yourself in 5 to 10 years time?

Questions about social situation

15. In which part of Johannesburg do you live?

16. Do you live with your family? How big is it? If no, where do they live?

17. Are there other people that you look after/that depend on you for a living? If yes, how many? How old?

18. How would you describe the community in which you live? How involved with the community are you?

19. What are the main problems that affect your community at the moment?

20. How would you describe the work that your community leaders are doing in your community?

21. What do you think are the main challenges facing your community at the moment?

Questions related to place of work

22. Why did you decide to be involved in this job?

23. Describe for me a typical day at work?

24. How would you describe your relations with other colleagues at work?

25. (For police officials) What do you see as the main role of your organization in this community?

26. (For police officials) During the time that you have worked here, what are some of the improvements that you have seen in relation to the delivery of your duties?

27. What are the main challenges that you face at work?

28. How do you think your work situation can be improved?

Questions on social interaction

29. Can you describe for me the different kinds of people that you meet and interact with mostly during the course of your work/duties

30. What is the interaction like?

31. Do you have any friends who are not members of your nationality?

32. What are some of the challenges that you face during your interaction with these people?

33. How do you usually get past these challenges?

34. Would you put yourself in danger defending the following;

    1. South Africa
    2. Country of origin

3. Your tribe/ethnic group
4. Your religion
5. Your family
6. Your South African friends
7. Your immigrant friends

35. What do you think is the role of the community in resolving the challenges that you mentioned earlier?

36. What is the biggest threat to the proper carrying out of your work/duties?

37. How do you deal this challenge?

38. What do you think is your contribution to the development of the country in general?

39. What do you see as the role of the government in making your work/duties easier?

40. In relation to your current social interactions, what do you think is likely to change in future?

THANK YOU

END OF INTERVIEW