MANIFESTATION AND SOCIAL CONSTRUCTION OF CORRUPTION IN KENYA'S PASSENGER SERVICE VEHICLES IN THE FACE OF BLASÉ PASSENGERS

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Abstract

The traffic department of the Kenya Police Service is perceived to be the most notorious establishment for taking bribes. Respondents to annual surveys on corruption conducted by Transparency International always rank Kenya's police service as one of the most corrupt among Kenyan institutions. This study used the Discourse Historical model as adapted by KhosraviNik to scrutinize the communication in the Public Service Vehicles (PSVs), with a view to investigating the manifestation and social construction of corruption in PSVs, the attitudes of passengers towards corruption, and to make suggestions as to how passengers can help eradicate it. The type of research was qualitative using focus group discussions to examine attitudes and power relations. Topoi as presented in Toulmin's argumentation scheme demonstrated ideological representations in lexical selection and schematic organization that aid proliferation of corruption in Kenya. There are diverse, ever mutating ways of corruption manifestation in PSVs such as the traditional 'extra page' in the driving licence and now the vogue electronic money transfers. Passengers need to wake up from their blasé position and contribute to corruption eradication.

Keywords: **Argumentation; Critical Discourse Analysis,Topoi;Corruption eradication;Passenger action.**

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1. Introduction (10pt)

Corruption is an endemic disease in Kenya[i]. In fact Kenya was ranked the second most corrupt country in Africa in a survey by Transparency International (Transparency International, 2009). In spite of the Constitution of Kenya 2010 establishing new institutions such as the Independent Police Oversight Authority for corruption eradication in the Kenya Police, The East Africa Bribery Index 2013 (Transparency International, 2013) still ranked the Kenya Police as the most corrupt institution in Kenya. They conducted a study focusing on five indicators of corruption to form a composite index. The final score was an aggregate of the individual scores in the five indicators. The Kenya Police received an aggregate score of 70.7 with the next most corrupt institution (The Lands services), scoring 46.7 on the same scale. The probability of a person paying a bribe to the police was placed at 71.8%, with the probability of bribery in the next institution being only 39.5%. The Police in Kenya also had the largest share of the national bribe at 33.1%. Town and Municipal Councils followed by Land Services came in second and third at 14.4% each.

Recently, (March, 2016) the Kenyan President's motorcade was delayed in traffic in Mombasa ostensibly because some corrupt traffic officers were extorting money from motorists and passengers causing him to be very furious.

In 2015 Kenya was among countries with the highest rate of road traffic accidents in the world, with an average of 3000 lives being lost on Kenyan roads every year. Corruption in the police service has been cited as a major contributing factor to this high number of traffic-related deaths. This is because traffic police officers often receive bribes and allow un-roadworthy or overloaded vehicles to proceed on with their journeys, only for them to cause accidents further along the road resulting in injuries and loss of lives.

Kenyans are known to complain about the diverse effects of corruption and wish for a time when there will be no corruption. One of the most the most visible manifestation of corruption occurs at police road blocks whereby Commuter Service Vehicles also referred to as Public Service Vehicles (PSVs) bribe police officers. The crew are accused of real or imagined faults with their vehicles, speeding or overloading among other ills, and police officers extort bribes from them

presumably to escape the long arm of the law. The passengers in the vehicles exhibit a variety of responses to these incidents ranging from, mute silence or knowing smiles, to impatience when 'negotiations' appear to be taking too long. Many of these passengers are professionals and appear nostalgic for the 'Michuki days[ii]' when order seemed to have been restored and corruption eradicated for the first time ever in what had been assumed to be impossible chaos, but what do they do towards restoring those good old days? Like Lot in Sodom (Genesis 14, 19) many are grieved by the corrupt practices around them but seem to do nothing about them.

This paper examines the discourse in the Public Service Vehicles, in particular, the '*matatus*' (usually ten to fourteen seater vans), with a view to investigating the manifestation of corruption in PSVs, the discursive construction of corruption, the attitudes of passengers towards this corruption, and to make suggestions as to how passengers can help eradicate it.

The Problem of Corruption

Corruption is an enduring vice here in Kenya, particularly in Public Service Vehicles. Many passengers do nothing to deal with this problem that they witness daily in their travels. There is need to investigate the nature and extent of corruption in Kenya that leads to loss of lives and damaging injuries year after year. The aim of this research was to contribute towards corruption eradication in PSVs in Kenya through sensitising on the need for positive passenger involvement in eradicating it. The researcher endeavoured to explore the ideological representations in lexical selection and schematic organization (argumentation) that bring out the conceptualization of corruption in Kenyan PSVs. This undertaking was to contribute to the awareness of the obligation passengers have in averting corruption. It was to help minimise the problem of corruption when passengers are shown how their nonchalant attitudes contribute towards propagating this problem and that they have a role to play in effecting positive change.

The specific objectives were: to examine the nature of corruption in PSVs in Nakuru, to explore the social construction of corruption in PSVs, and to appraise the attitudes of passengers manifested in the rhetoric used to construct and negotiate hegemonic ideology interwoven in the discourse of corruption in PSVs. The following research questions were asked: What is the nature of corruption in PSVs in Nakuru? In what ways is corruption in PSVs socially constructed? What attitudes do passengers have towards corruption in PSVs as manifested in the

rhetoric used to construct and negotiate hegemonic ideology interwoven in the discourse of corruption in Kenyan PSVs?

The study was justified because the Traffic department of the Kenya Police Service has been perceived to be the most notorious for taking bribes (Anassi, 2004:32). Respondents to a survey of 2405 citizens from all walks of life sampled across the eight regions (former provinces) in Kenya 2013, conducted by Transparency International (TI) saw the Police in Kenya take the lead as the sector most affected by bribery. This was followed by Land Services and the Judiciary (TI, 2013:16). The police are known to station themselves in strategic places on highways and other roads and target '*matatus*' and buses from which they openly demand bribes. They are able to find fault even with brand new vehicles and so drivers feel obliged to give them the bribe rather than risk being sued in corrupt Kenyan courts. This enhances risks to passengers' lives because the PSV crew feel they can drive un-roadworthy vehicles and pay the bribe, leading to numerous accidents on Kenyan roads.

The police and PSV crew are also adopting new methods of corruption as technology develops so it is important to research these and capture them in the corruption eradication scheme .They have devised ingenious ways such a use of mobile money transfers like Safaricom's M-PESA. This was necessitated by passenger action when some recorded the corruption transactions on their mobile phones and forwarded them to the anti-corruption agency. In fact, there is concern that senior police officers deposit up to Ksh 100,000 in their several accounts every other day, yet their salaries are known to be around Ksh 30,000 per month (Unnamed Correspondent, Daily Nation, Wednesday 2nd March 2011)

This scenario points to an endemic problem, as senior officers are not known to personally collect bribes on the roads, yet seem to be beneficiaries. Junior officers appear to be given 'targets' of money to be deposited in their accounts per day. It is therefore imperative that the nature and extent of this corruption be investigated and established to help create awareness of the real danger to the lives of road users.

The government is often quick to refute reports that place Kenya high on the corruption index, so it is important to collect and document scientifically collected data that cannot be easily disputed. Rhetoric is a useful tool that helps us to deconstruct the reasoning that forms a central part of police corruption. In particular rhetorical topoi are employed to suggest possible ways to deal with the corruption in PSVs.

Some Related Literature

The Anti-Corruption and Economic Crimes Act, 2003 defines corruption as

Bribery, fraud, embezzlement or misappropriation of public funds, abuse of office, breach of trust, and any offence involving dishonesty, in connection with any tax, rate or impost levy levied under any Act or dishonesty relating to elections of any persons to public office [is corruption]. The Act also makes provisions for corruption offences under a wide range of situations involving principals and agents, secret inducement for advice, conflicts of interest, improper benefits to trustees for appointments, abuse of office and fraudulent deals in regard to public property. (Qtd. in Anassi, 2004:16).

This might sound like a mouthful, but considering Anassi's legal background it is the nature of lawyers' discourse to try to cover every possible detail. Anassi (*ibid*) describes corruption in various institutions but my interest here is in his portrayal of the Kenya police, especially the traffic section. If people lose faith in their institutions to protect them, militia gangs such as the *Sungusungu* gain ground (Heald 2007).

Zhang & Huling (2014: 1417) used topoi to assess the social construction of HIV-Aids in USA and China as captured on blogs. By comparing the types and frequencies of the topoi used in the study they untangled the reasoning strategies behind different social constructions. They followed Berger and Luckmann (2011) who defined the social construction of reality as a dialectic between social reality and individual existence. A social construction is "a symbolically based tension between commonly accepted knowledge and personal understanding" (Sharf &Vanderford, 2003: 10, qtd. in Zhang & Huling, 2014:1417).

Arrigo and Claussen (2003) try to suggest solutions to corruption in Australia. They suggest that potential police recruits be screened to see if they have traits that make them susceptible to corruption. This implies that some people are corruption prone and should not be recruited into positions that make them susceptible to temptations. I assess their recommendations to see if Kenya can adapt some suggestions on police recruitment that they make for Australia.

Khosravinik's (2010) Approach to the Discourse Historical Approach of Critical Discourse Analysis

The theoretical framework used in this study is the Discourse Historical Approach which recognizes the importance of power and power relations in language, and language is seen as gaining and maintaining power through the "powerful use people make of it" (Reisigl & Wodak, 2009). This theory has undergone many proposed refinements in application and the one that captures argumentation best is the proposal by KhosraviNik (2010). He recommends that analysis starts from three main intra-textual elements (analysis of social actor, social action and argumentation) in terms of representation of Self and Other and shows how these (mainly) intra-textual elements link with higher-up levels of textual repertoire and then to discourses. For purposes of this paper our focus is on the third element: argumentation, but I will briefly highlight its position in the whole schema. Figure 1 below shows the first level:
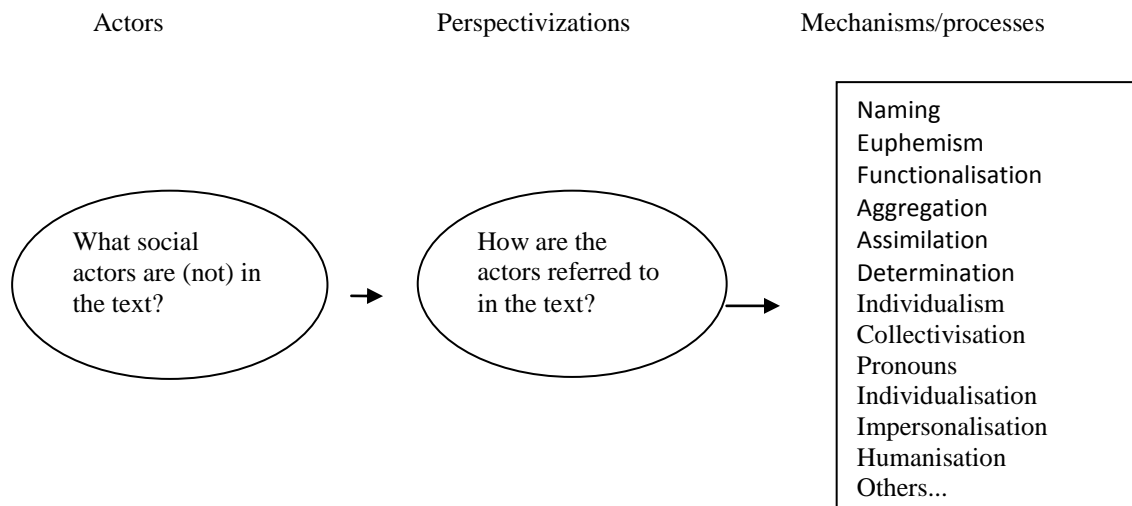
The first level of analysis is to analyse the presence and qualities of presence of the social actors.That is, on the one hand, it is to examine what social actors are (not) present in the text and explicate why and on the other hand, to see what the qualities of such presence are, and what linguistic mechanisms are employed in *perspectivizing* this presence. There are certain linguistic processes or mechanisms which can have an impact on the qualities of referential strategies employed by the text producers. In terms of the representation of the out-groups, analytical categories, e.g. *naming* (how certain social actors are called), *functionalization* (if the social actors are referred to by their functions, i.e. 'entrants')*, aggregation* (if the actors are referred to as a collective entity) along with the positioning of us/them categorization through the use of pronouns (popular in the tabloids) are among important aspects to consider in the process of *perspectivization*. The list provided by KhosraviNik here is not meant to be exhaustive and there can be other aspects or linguistic mechanisms which may impact the referential strategy of the social actors (Figure 1 above).

The second level is the analysis of the qualities of social *actions*. That is, *what* actions are (and are not) attributed to the actors (for both in or out-groups) and mentioned in the text against the variety of choices available. The linguistic processes that can be employed in the *perspectivization* of such actor/action associations contribute to the manipulation processes in the realization of certain ideology in the text as shown in (Figure 2 below).
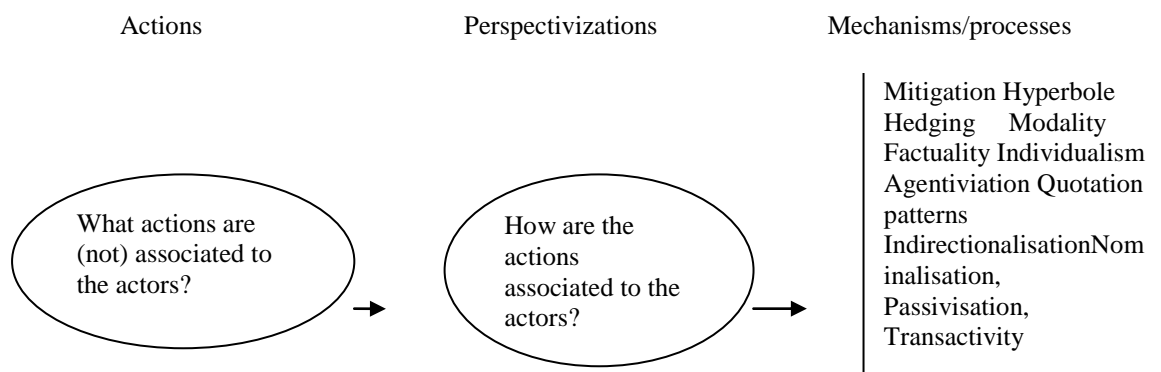

Actions   Perspectivizations   Mechanisms/processes

What actions are (not) associated to the actors?

How are the actions associated to the actors?

Mitigation Hyperbole Hedging Modality Factuality Individualism Agentiviation Quotation patterns IndirectionalisationNominalisation, Passivisation, Transactivity

Figure 1 Actions attributions analysis (Source: KhosraviNik, 2010:65)

The third level of analysis is argumentation as shown in Figure 3 below:

Actions   Perspectivizations   Mechanisms/processes

What are the arguments for/against social actors? → How are the arguments put forward? →

Mitigation/hyperbole
Implicit/explicit
Inductive/deductive
Induced/blatant
Common/emerging
Factuality
Metaphors
Allusions
Fallacies,
Paradoxes
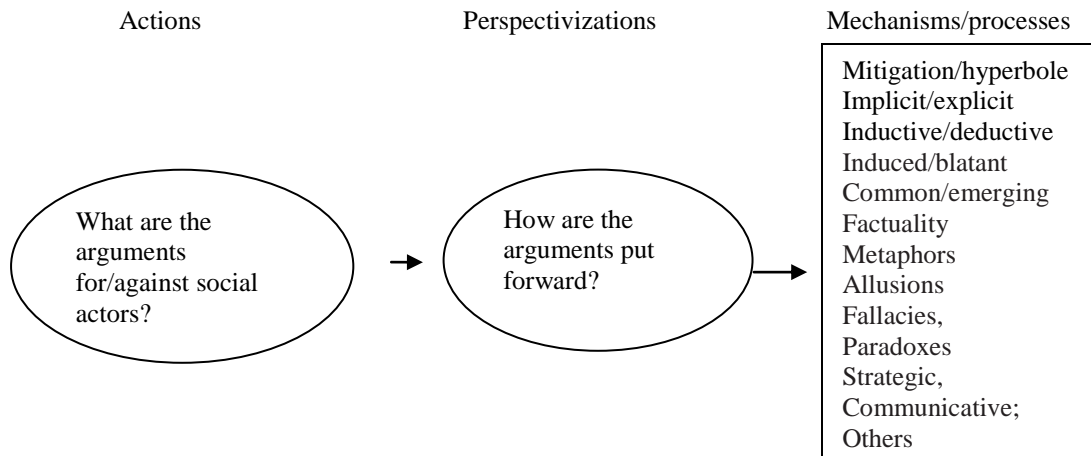Strategic,
Communicative;
Others

Figure 2 Argumentation analysis (Adapted from KhosraviNik, 2010:66)

DHA explores latent power dynamics and the range of potential agents by integrating and triangulating knowledge about the historical sources and the background of the political and social fields within which discursive events are embedded. To help achieve this DHA makes extensive use of argumentation theory among other strategies by the analysis of topoi in the discursive practices. Within argumentation theory, Wodak (2006:74) says:

Topoi or loci can be described as parts of argumentation which belong to the obligatory, either explicit or inferable premises. They are content-related warrants or "conclusion rules" which connect the argument or arguments with the conclusion, the claim. As such, they justify the transition from the arguments to the conclusion (qtd. in Keinpointer, 1992:194).

Richardson (2004:230) further defines topoi as "reservoirs of generalised key ideas from which specific statements or arguments can be generated." Van Dijk (2000:98) understands them as standard 'argumentation schemes' which represent 'common-sense reasoning'. These definitions give the impression that topoi is an easily understood concept, but according to Zagar (2010:5) topos/topoi is/are one of the most controversial, even unclear, concepts in the history of rhetoric

and argumentation. He goes on to critique these uses of the term in many DHA works: are topoi "content-related warrants" (Wodak, *ibid*) or are they "generalised key ideas? (Richardson, *ibid*)". He avers that warrants are much more than just ideas so they demand much more to be able to secure the transition from an argument to a conclusion than just being "generalised ideas", namely, a certain structure or mechanism, in the form of an instruction or a rule.

DHA analysts provide lists of topoi such as 1. *Topos* of Burdening 2. *Topos* of Reality 3. *Topos* of Numbers 4. *Topos* of Authority 5. *Topos* of Threat 7. *Topos* of Definition 8. *Topos* of Justice 9. *Topos* of Urgency (Wodak, 2009:44)

Zagar (*ibid*:8) contends that these recipe-like lists are not clear at all and there seems to be no theoretical justification of why there should be lists at all, or how we should proceed when checking the possible argument schemes "against the background of the list of *topoi*". He asks how these *topoi* were "identified," and what makes them "**the** *topoi*" – and not just simply "*topoi*".

He argues that what is especially important for the use of topoi in critical discourse analysis, is that though they were primarily meant to be tools for finding arguments, topoi can also be used for testing given arguments. This seems to be a much more critical and productive procedure than testing hypothetical arguments "against the background of the list of topoi". But in order to dothat,DHAanalystsshould:

1. clearly and unequivocally identify arguments and conclusions in a given discourse fragment,

2. show how possible topoi might relate to these arguments.

 Zagar proposes a more illustrative way of using argumentation to capture these negative representations of groups on assumed arguments. He proposes recourse to Toulmin's Argumentative Framework (Toulmin, 2003) that allows one to follow each point of argument and even allows for rebuttals to cater for fallacies. Indeed, he points out that this sounds like a good research agenda for DHA, as far as its interest in argumentation is concerned: to find out what views and values are dominant in different societies, and characterize these societies by reconstructing the *topoi* that underlie their discourses. But in order to be able to implement such an agenda that is actually very close to DHA's own agenda – DHA should dismiss the list of

prefabricated *topoi* that facilitates and legitimizes its argumentative endeavour somehow beforehand (i.e. the *topoi* are already listed, we just have to check our findings against the background of this list of *topoi*), and start digging for the *topoi* in concrete texts and discourses (Zagar, *ibid*: 22).

This framework is used in this paper to analyse the communication in PSVs as the crew and police transact their bribery interactions. The role of the apparently noncommittal passengers is also carefully observed and their participation (if at all) appraised within the three level schemata of actors, actions and argumentation.

2. Research Method

The main type of research indicated here is Qualitative: evaluation research, in combination with a cultural research approach to examine attitudes and power relations. The study used a descriptive research design. Six Focus Groups were created for discussions, consisting of 7 stakeholders (three of *matatu* passengers in vehicles, three for drivers and conductors and one for police officers). The researcher was thus able to interview 42 respondents in FGDs. They consisted of heterogeneous groups in terms of gender and age, with the researcher as moderator. Observation and participant observation were also used to assess language use and attitudes particularly within the *matatus*. The dialogue around police road blocks was observed and recorded as well as para-linguistic communication such as facial expressions, sighing, disgust or resignations. Content Analysiswas used to examine the attitudes expressed by constant occurrence of a word or synonyms.

3. Results and Analysis

Manifestation of corruption in PSVs

The researcher's first objective was to examine the nature of corruption in PSVs in Nakuru. Findings indicate that corruption manifests itself in various ways in PSVs in Nakuru and Kenya as a whole. The classical/traditional mode is the one in which as soon as the vehicle is stopped the traffic police officer asks to see the driver's driving licence. This is handed over to her/him and s/he makes pretence of looking at it and also at the insurance stickers. Then the note of money is extracted and the licence promptly returned and the driver waved on.

During this transaction the passengers mostly remain silent as they watch the unfolding drama. When waved on they will smile wryly and one or two may comment on it. For example one was heard to ask 'umemchotea? (Have you 'contributed' to him?)

'Lazima! Wanasema ni sheria. (Obviously. They say it is the law).

No further comment.' [Data from observation by researcher in a *matatu*]

With this kind of silence the practice goes on endlessly.

Sometimes passengers in the '*matatu*' (PSV) do not get to see the actual transaction since the tout/driver is taken to the back of the *matatu* for 'questioning' where he hands over the money.

Level 1: Actors

From Figure 1 above we find three main groups of actors that are present: The 'matatu' crew, the passengers, the police officers. The crew mainly consists of a driver and an optional conductor/tout. The number of passengers depends on the particular type of 'matatu'. In this study there were mainly the ten, eleven and fourteen seater 'matatus' as well as buses and mini buses. The actors, not physically present, are the owners of the 'matatus' who come into perspective only in special cases such as if the bribe demanded is too much for the crew. We also occasionally have proxies who collect money for the police. For instance, in a discussion forum the case was reported of police using a fellow who might be roasting maize to collect the money on their behalf. He might approach the crew and ostensibly 'ask for change'. If the bribe is one hundred shillings he will give out one hundred and the change will be two hundred, carefully noted by the hawk-eyed police officer nearby.

The most commonly named actors , however, are the police officers. They are referred to by a continually changing series of names e.g. 'mapai, makarau, maponye, mabonga, jamaa,…'. This perspectivisation of the police by the crew as seen in the nicknames demonstrates the diverse attitudes they have towards the police. They demonstrate power relations ranging from hate, despondency, resignation and even acquiescence. For instance 'jamaa' (fellow) almost implies an innocent associate, yet it was used in one instance while inquiring whether the 'fellows' were round the corner. The driver then carefully folded a fifty shilling note and stuck it in the door for the police officer to collect. It also shows how common and routine the bribe giving exercise has become. There is a lot of perspectivisation and aggregation in pronoun use especially, **'they'** as

the referents are well understood if one crew member asks 'are **they** on the road up there?' If the answer is in the affirmative then it means they have to prepare their bribe discreetly so as to save time and also avoid the peering eyes of snooping passengers.

The passengers are usually not referred to at all and they also do little referring, if at all. Their role will usually be seen in their paralinguistic presentations. Some may complain that they are being packed like bags of beans with varying reactions from fellow passengers and the *matatu* crew. There was case whereby a complaining passenger was promptly asked to buy their own car if they are not happy with making room for extra people in an already overloaded vehicle.

Euphemisms are also used, for instance, to refer to bribe as 'tea', 'something small', 'haki yao' (their due/rightful share), 'kahamsa' ('a little fifty bob'), 'ka mia' ('a little one hundred shillings') etc. This downplaying of exploitation adds to the feelings of benign acceptance of an oppressive situation. One of the FGD members in the group of drivers expressed concern that whenever he drives to Nairobi from Nakuru he has to budget for and set aside Ksh 300 (USD 3) for the police. There are police roadblocks in numerous places for the 156km stretch and at each he has to hand over KSh 50 concealed in the driving licence. This, in spite of driving for a well-respected company that is well-known for obeying traffic laws!

Level two: actions

This is the second level according to KhosraviNik (2010). At this level actions show hegemonic power relations overtly or covertly. The actions associated with the crew (and how they are associated to the actors) include, among others: 'Kukanja (to bribe)' going to the back of the matatu and giving the police officer the bribe, folding the note and sticking it on the door sill/window sill; folding and dropping the note discreetly as they drive past the police-who then proceeds to pick it up; driving licence 'page', 'paying upfront (in conjunction with the PSV owners, and 'organising' passengers to overload by providing 'airtime' (an extra wooden seat to fill up the space between seats) .

The actions associated with the passengers include murmuring, smiling knowingly, complaining, 'justifying', for instance informing a disgruntled passenger who does not want to move and make

space for an extra person: *hii inabebaanga nne-* 'this one carries four'-(instead of three). During the Michuki days passengers could conduct a 'citizens' arrest', and take photos of the corrupt practices on their mobile phones, but they quickly reverted to being silent onlookers. Sometimes they even encourage the bribe to be given out quickly so that they proceed on their journey. One passenger was heard to remark to a conductor after a ten-minute wait at a police road block when negotiations were ongoing:

'*Muwahi haraka twende. Tunachelewa'* (Sort him out quickly; we are getting late). [Observed data].

The traffic department is the one of the most notorious in corruption, with tens of officers being caught on camera receiving bribes in different incidences during the Michuki days. In a bid to weed out this evil, the Ethics and Anticorruption Commission stepped up efforts to apprehend and prosecute corrupt traffic officers. The Kenyan public became vigilant, with more and more Kenyans using their cell phones to take videos of traffic officers receiving bribes. This forced traffic police officers to go digital by using mobile money transfer methods to avoid being caught in the act. This was made possible since most officers are usually located along the same route for a considerably long period of time. *Matatu* operators along that route are required to pay a daily bribe to be allowed uninterrupted operation throughout the day. All they have to do is send the required amount to a number provided by the police officer and they are free to operate un-roadworthy or overloaded vehicles the whole day. In a further attempt to avoid self-incrimination, police officers use a third party to receive the bribes and withdraw the money and deliver it to the officer at the end of the day, at a small fee of course. This agentiviation is one of the processes indicated in Fig 2 above demonstrating how actions are associated to actors and their pespectivisations. The data from focus group discussions also pointed out that the traffic police can also engage a third party such as a man selling roast maize nearby. Touts go to him ostensibly to buy maize but leave their bribe-money there. At the end of the day the officers collect it from him with some commission. These demonstrate Indirectionalisation , Passivisation, and Transactivity that are actions associated to the actors involved in the syndicates and their perspectivisations of each other.

There was also the case whereby there was a stone nearby that touts were asked to go and deposit their notes there and run back to their vehicles. Since all that the officers could see from the distance was some paper being dropped and covered by the stone, some clever touts started depositing papers instead of money! Also a passer-by was once shocked to turn a stone and find forgotten thousands in fifty shilling notes that had been left by police that must left in a hurry or had collected too much to remember that which was under the stone.

Level 3: Argumentation

In light of the criticisms highlighted in section 4 above, Zagar (2010) proposes adopting Toulmin's argumentative scheme illustrated below in accounting for topoi in DHA. Most argumentation research has employed, as a basis of analysis, schemes which refer directly or indirectly to Toulmin's framework (Simosi, 2003). To be clear up front, the term *argumentation* is not used to refer to a debate, although that is one form of argumentation. Rather, it is a process of thinking and social interaction in which individuals construct and critique arguments (Golanics & Nussbaum, 2008). O'Keefe (1982) distinguished between two senses of the word argument, argument-1 ("argument as product"), which consists of a series of propositions in which a conclusion is inferred from premises, and argument-2 ("argument as process"), which refers to the social processes in which two or more individuals engage in a dialogue where arguments are constructed and critiqued (qtd. in Nussbaum, 2011).

Our second and third objectives are both dealt with through the analysis of argumentation as demonstrated in the rhetorical enthymeme below:

1. If a specific action can avoid leading to one spending more money, one should perform actions that diminish the costs (topos connecting argument with conclusion)

2. Not paying a bribe will cost too much (argument)

3. Bribes should be paid to the police (conclusion)

To deduce the topos underlying such a claim certain questions are asked as demonstrated here below. The data was from the reasoning of one of the drivers interviewed in the FGD:

A. *Claim (assertion one wishes to prove):* Bribes should be paid to the police. (Conclusion)

What have you got to go on?

Datum (Evidence): Not paying a bribe will end up costing too much. (Argument)

How do you get there?

Warrant (topoi): If not doing a specific action can lead to one spending more money, one should perform actions that diminish the costs (topos connecting argument with conclusion)

Is that always the case?

Rebuttal (potential objection to the claim): No, but it very often is. Unless you are taken to court and you get a fair judge who can slap you with a lighter fine.

Then you cannot be so definite in your claim?

Qualifier (additions to the claim that add nuance and specificity to its assumption, helping to counter rebuttals): The traffic penalties in Kenya are usually very stringent.

Backing (tells us why the warrant is a rational one):

The history of police corruption shows that those that refuse to pay bribes usually end up paying more money in the courts. The ever-tightening traffic laws that are enacted every now and then in Kenya end up making it more and more difficult to adhere and the cost of non-adherence is very high. For example 'driving through a petrol station' (sic) was made to cost up to Ksh 30,000 (USD 3000)! This provided an easy source of money (one of the interviewees referred to it as an 'ATM for the police') as for many motorists it was easier to pay the bribe of Ksh 5000 than to be taken to court and pay such an exorbitant fine.

If one were to give a name to this particular topos then one could possibly conclude that it would comfortably overlap in many such as the topos of 'Burdening, weighting, Finances or even Reality' as per Wodak (2006: 74). Since such an enterprise will not add value we will discard it and simply present the argumentation scheme and by 'Text mining', (to borrow an expression from computational linguistics) which would bring the text's or discourse's own topoi to the surface, not the prefabricated ones (Zagar, 2010). Besides, with Toulmin's rebuttal some 'topoi' are found to be actually fallacies meaning they show underlying hegemonic ideologies that have coerced the weak into submitting to imbalanced societal power relations.

Topos concerning avoidance of suffering

1.   *Claim:* Always pay the bribe the police officer requires or demands.

2.   *Datum:* Not paying a bribe will make you suffer abuse and waste your time

3.   *Warrant:* If not paying a bribe can lead to one suffering abuse and wasted time, one should do something to diminish the suffering.

4.   *Rebuttal:* One may have verystrong personal principles or a religious stand which does not allow them to engage in bribe-giving and bribe taking. Actually in very rare cases one is lucky (or has prayed enough) and may find an understanding officer that may warn them not to repeat the mistake and get away with it. In that case the warrant does not apply and one may not bribe.

5.   *Qualifier:* True: it is only *usually* but it is easier and faster to save time and suffering by paying the bribe.

6.   *Backing:* The level of police corruption is so high that those that refuse to pay bribes usually end up wasting a lot of time and suffering. The police are notorious for arresting people on Friday evenings with the knowledge that there are no courts operational till Monday morning. Thus it is very scary to spend a whole weekend in the miserable Kenyan remand cells with horrible food and a bucket for a toilet. The floor will be full of lice and other terrible vermin and you will be locked up together with drunkards and drug addicts who would somehow find their *marijuana* and start smoking it in the tiny, congested room leading to near suffocation. Due to these conditions many motorists prefer to pay the bribe even if they are completely innocent just to avoid this suffering. [Comments of tout in FGD].

There are several reasons for the wide gap between corruption in the police service and in other institutions. An example would be a motorist who sets out on a long journey and is stopped by traffic police for speeding. In normal circumstances, the motorist is asked to park their vehicle by the roadside for some time, before being asked to follow a police vehicle to the nearest police station. Once at the station, the motorist would be subjected to a long and tedious process, often going on for several hours. Eventually, they would be given a date on which they should appear in court to face charges and pay a fine. Such a motorist would be inconvenienced as their journey would be greatly delayed. Paying a bribe presents an easier way out, as the motorist would immediately proceed with their journey, and the amount paid as a bribe may be as little as 10% of the fine they would pay in court [as explained by PSV driver in FGD].

The Traffic Amendment Bill – 2014 sought to address this problem by seeking to eliminate the requirement for motorists to go to court, by allowing them to plead guilty via writing and pay the fine for the offence to which they pleaded guilty through approved electronic money transfer methods. Despite this, most persons caught violating traffic rules prefer to pay the bribe because the police officer asks for or because they are not aware of due procedure in their circumstance and how long it would take them to go through it. Kenyan police have been known to falsify charges against citizens, leading most people to prefer paying a bribe to being presented in court to face trumped up charges. Many drivers in the FGD told of how the police even let off the guilty and implicate the innocent in case of an accident. So long as the guilty party pays a bribe the case is turned around and the victim becomes perpetrator.

Topos on Traffic rules

1. *Claim:* There is no need to adhere to traffic rules. (Conclusion)

2. *Datum:* Following all the traffic rules will still not prevent trouble with the police

3. *Warrant:* If having everything in order and following all the rules will still lead to getting in trouble one might as well not have things in order.

4. *Rebuttal:* Usually the police officers will check if the traffic rules are being adhered to. In that case if one has everything in order they might be flagged on to continue on their journey as the police stop the next car. In such cases the warrant does not apply and we have a fallacy in the claim.

5. *Qualifier:* It is even good for personal safety to obey traffic rules. However, the police must receive 'something small' whatever the state of rule obedience.

6. *Backing:* The history of police corruption shows even a car straight from the workshop will still be found faulty by the Kenyan police. As Codreanu (2010)points out in law, *topoi* related to the way something ought to be done according to one value position (normative), can conflict when values according to which norms are made conflict themselves. Thus, the good brought about by complying to the laws devised to curb, dissuade, punish crime is evil from the point of view of the protection of the right to freedom, in case a conviction has been wrongful.
This is an example of a fallacy-not a valid argument since breaking rules often leads to traffic snarl-ups, accidents, and other risky ventures.

Another reason for high bribery levels in Kenya is the stiff penalties imposed for traffic violations. Amendments made to traffic rules in Kenya in 2012 increased the fines for traffic violations to staggering amounts which most Kenyans cannot afford. For example, the fine for overlapping, obstruction, driving over a pavement or through a petrol station is between 100,000-300,000 Kenya shillings and/ or a one year jail term. Overlapping, driving over a pavement and through a petrol station are common practices for motorists seeking to get through the traffic snarl ups that are common in the capital, Nairobi and towns like Nakuru. *Matatu* drivers, in particular, are notorious for this as they try to make the maximum number of trips possible during the morning rush hour. Paying a fine of 100,000 shillings would undoubtedly drain the *matatu* owner's profits for months. On the other hand, *matatu* drivers feel pressurized by the passengers to drive them to work as fast as possible, and by their employers to make as much money as possible. Consequently, paying a bribe when apprehended by police is temptation most cannot resist.

The police in Kenya recorded the highest probability of a respondent actually paying a bribe upon encountering a bribery situation. The gap in the score between the police and the next institution was very wide. Perhaps this is an indicator of the latent abilities of the police to extract bribery from citizens based on their powers of arrest and interaction with offenders/ law breakers. (TI, 2013:17).

Topos on 'see no evil, hear no evil, speak no evil'
[Data from observation of passengers in several *matatus* in Nakuru]
Claim: Keep silence and do not report corrupt crew/ police officers.
Datum: Reporting corrupt crew/police officers will not lead to their being disciplined.
Warrant: If you report the corrupt police officers or *matatu* crew you will achieve nothing.
Rebuttal: The Anti-corruption Commission has arrested some corrupt police officers.
Qualifier: They may arrest a few but they will soon release them.
 Backing: It is a reality that bribe taking is endemic in the *matatu* industry in Kenya. The word out there is that the actual money collected at the end of the day is not even wholly the police officers'-it is shared out among the ranks up to the highest officer. In fact, there are cases of officers bribing their seniors to be allowed onto the road, those that do not collect enough are

taken off the road and instead taken to collect corpses (preferably those rotting) and to exhume bodies where required. [From police FGD].

When asked whether they reported the bribery incidences they encountered only 7% of Kenyan respondents said they did so (TI, 2013:20). When asked why they did not report the bribery incidences encountered, most respondents (27%) said that they knew no action would be taken on such reports. As an exasperated reformer once remarked 'our systems are secure but the people we are working with **ARE** people!' the sad belief that 'everyone has a price' really beats the fight against corruption.

My opinion, however, is negated by an experience I once had on the border with Uganda. It was going to six pm and the border was soon going to be shut. The vehicle heading to Busia Kenya was full. The tout pleaded with passengers to make room for one lady so she wouldn't be late. Immediately she made to board the vehicle, however, all the other passengers alighted and refused to be 'packed like sardines' in the vehicle. The tout had no option but to drop the extra passenger. He was, however, warned that they would refuse to board his vehicle next time if he behaved like that.

4. Conclusion

Corruption at police road blocks is very rampant in Kenya and is a cancer that is eating away at Kenyans' lives and time. Bribery is either done by crew discreetly placing money on the door or window, placing it in their driving licences that they hand over to the police or even going electronic and transferring it through electronic mobile phone transfers such as Safaricom's MPESA. Passengers are usually mere observers to these vile transactions but have a moral obligation to help eradicate this corruption. They should be proactive by ensuring rules are followed first of all. They should not accept to board a vehicle without proper seatbelts and should not accept to be overloaded. Passenger action has been observed to work if all co-operate. A case in point is when a tout in Nairobi suddenly inflated the fare by 100 percent. All the passengers alighted and he was forced to reduce the fare to the normal fare before he could get any aboard. Similarly, passengers should express their agency once more to eradicate corruption. They should go back to the good old 'Michuki days' when passengers would video-tape

incidences and perform citizens' arrest when needed. The complacency should not be encouraged since accidents cost a lot in lives and treatment of injuries. PSVs carry persons thus commuters have the power to take charge of their safety and eradicate corruption.

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[ii] When Mr John Michuki was the minister in charge of the transport docket he enforced public service vehicle etiquette that ensured the commuter got the best possible service from the service providers. All vehicles were required to provide seat belts, carry a reduced capacity that ensured comfortable seating, install speed governors for safety and generally provide decent conditions for the passengers. He was very strict with corrupt traffic police and even dismissed a few guilty ones, making the rest reluctant to take bribes.