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Living law, legal pluralism, and corruption in post-Soviet Uzbekistan

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This paper aims to explore the multifaceted meaning, logic, and morality of informal transactions in order to better understand the social context that informs the meaning of corruption and bribery in post-Soviet Uzbekistan. It will be argued that the informal transactions in Uzbek society reflect different cultural and functional meanings from those in most of the Western world, and hence transactions that from a Western-centric perspective would be labelled as bribes can be morally accepted transactions in the Uzbek cultural context. If this is true, there may be reasons to re-evaluate the relevance of the Western-centric interpretations of corruption in the context of Uzbekistan, and possibly other Central Asian countries. These issues will be investigated with reference to observations and informal interviews from post-Soviet Uzbekistan. This study is based on three periods of ethnographic field research between 2009 and 2012 in the Ferghana Province of Uzbekistan. It draws on concepts of ‘living law’ and legal pluralism to provide a theoretical framework.

Keywords: Uzbekistan; Transparency International; corruption; living law; legal pluralism

Introduction

During the first period of ethnographic fieldwork in *Shabboda*¹ – a village located in rural Ferghana in Uzbekistan – we attended a *nikoh toi* (wedding ceremony) arranged by a local farmer. *Nikoh toi* starts at five o’clock in the morning with *nahor oshi* (morning *pilaf*² feast) at the groom’s house. Joyful sounds of *karnay* and *surnay* (traditional Uzbek musical instruments) reach far from the house and signal to the whole *mahalla* (local community) that the wedding ceremony has begun. At the threshold of the house, the head of the family himself greets each guest on arrival by shaking hands or embracing, after which the guests are politely offered seats at the guest tables. Each guest is giving *toyana* (gifts such as carpets or cash) while shaking hands with the family head. The singer sings traditional Uzbek songs, while the guests enjoy their table laden with bread, different candies, fruits, nuts, platters of *pilaf*, pots of tea, locally produced beverages, and a bottle of vodka. Guests leave the tables as soon as they finish their *pilaf*, and the tables are hurriedly cleaned up to welcome new arrivals. We sit at a nicely decorated table with the *oqsoqol* (informal leader of *mahalla*)³ and *mahalla* residents, eating *pilaf* and talking about the role and importance of weddings in the lives of Uzbeks. Spontaneously, the *oqsoqol* begins to tell an anecdote related to weddings:

There is an anecdote widely circulated in Uzbek society. Three men – American, Japanese, and Uzbek – met in a restaurant for dinner. After some drinks, they all started boasting about their countries and cultures. The American said arrogantly that life in the United States is

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very good; every month, he earns \$10,000, enough to buy a new car. The Japanese man laughed sarcastically and said that the United States is nothing compared to Japan's hi-tech society where robots carry out all tasks. He added that he earns \$15,000 a month and has a robot at home that does all the housework. When it was the Uzbek's turn to describe his country, he modestly said that the majority of people in Uzbekistan earn \$200 a month, but can spend more than \$10,000 a month. The Uzbek man also added that even poor people in Uzbekistan are able to invite up to 1,000 guests to their weddings, while in the United States and Japan, only rich people can afford such events. These stories left both the American and Japanese men wondering how Uzbeks could spend more than they earn and arrange such expensive weddings when the average monthly salary does not exceed \$200.

The last phrase was accompanied by a loud laughter and nodding, showing *mahalla* residents' awareness of the 'getting things done' philosophy slyly hinted at in the anecdote. This anecdote indicates that there are a plethora of 'hidden' informal transactions in Uzbek society that are widespread but enigmatic to outsiders. There are different versions of this anecdote, but all give us a clue to the existence of informal rules and practices (living law) in Uzbekistan that dominate everyday life and help individuals 'get things done'. The anecdote also fits the central idea of the international reports and policy documents that characterize Uzbekistan as one of the most corrupt countries in the world. According to the 2012 Corruption Perceptions Index, released annually by Transparency International (TI), Uzbekistan is among the 10 most corrupt countries in the world (TI 2012). The control of corruption indicator of the World Bank Governance Studies shows an extremely high level of corruption in Uzbekistan and other Central Asian countries (Libman 2008). Also, much of the scholarly literature, especially anthropological accounts, demonstrates that the laws and symbols of the state are virtually absent in everyday life, while 'informality' is quite an omnipresent phenomenon in both 'state' and 'non-state' arenas (e.g. Wegerich 2006; Ilkhamov 2007; Kandiyoti 2007; Trevisani 2007; Markowitz 2008; Rasanayagam 2011). The anecdote thus begs questions of whether there is a 'living law' in Uzbekistan, and if so, how it works, how it is interpreted by the local population, and what implications it has for understanding corruption in the local context. What are the relations between formal and informal structures with regard to corruption in Uzbekistan? In which ways do these relations manifest themselves in everyday life? This study seeks to address these questions.

This paper aims to explore the multifaceted meaning, logic, and morality of informal transactions in order to better understand the social context that informs the meaning of corruption and bribery in Uzbekistan. According to international bodies such as World Bank and Transparency International (TI), corruption is defined as: 'the abuse of public office for private gain' (World Bank 2013a, 2013b) or 'the abuse of entrusted power for private gain' (TI 2012). In this study, we argue that the aforementioned international definitions of corruption are often interpreted from a Western-centric perspective and then problematic when dealing with the local categories and needs and multifaceted meanings of power relations and exchange in different cultural settings such as the Uzbek. We emphasize the need to take into consideration the critique by scholars such as Nuijten and Anders (2007), Haller and Shore (2005) and Tanzi (1998) who argue that the boundaries between 'public office' and 'private sphere' are not clear-cut and even the meaning of the word 'abuse' varies according to local legal and cultural standards (see also Gupta 1995; Werner 2000; Humphrey 2002; Polese 2008). Hence, in this paper, we suggest that the more the focus moves from the Western-centric perspective to ethnographic (contextual) analyses of everyday life and socio-economic conditions, the more it becomes discernible that the bulk of informal transactions in Uzbek society are simply manifestations of

coping (survival) strategies, deeply embedded social norms, and traditions. Thus, there is a need to make a distinction between the informal practices of kleptocratic elites, which have nothing to do with ‘survival’, and the informal coping (‘getting things done’) strategies of the ordinary citizens and low-level officials.

The rest of the paper is organized in the following manner. The next section, part two, focuses on previous research that situates this study within ‘corruption’ research and presents an analytical framework for understanding the perspective we take on corruption. Part three provides the theoretical framework of the study by using the legal pluralism perspective and concept of ‘living law’. In part four, we discuss the methodological considerations and present the results of our ethnographic fieldwork conducted between 2009 and 2012 in rural Ferghana, Uzbekistan. Finally, part five draws out the implications of the ethnographic material for the Western-centric perspective, and highlights the most important findings of the study.

Review of the relevant literature

Corruption has become, without any doubt, a fashionable topic of research in the anthropological literature (Olivier De Sardan 1999; Ries 2002; Gupta 2005; Haller and Shore 2005; Hasty 2005; Schneider and Schneider 2005; Blundo 2006; Nuijten and Anders 2007). The most relevant example is the literature on ‘anthropology of corruption’ that stems from Haller and Shore’s (2005) work on ‘Corruption: anthropological perspectives’ where the authors challenge the validity of universal definitions of corruption, presented by, e.g. World Bank, IMF and TI, for the analysis of so-called ‘corrupt practices’. As Haller and Shore (2005, 16–17) argue, these international definitions of corruption are in conflict with local categories and practices, especially where gifts are distinguished from bribes. Also, Haller and Shore claim that the universal definitions are in conflict with the fulfilment of local needs; for instance, in many cultures, gifts and bribes establish social bonds that help secure informal networks for people (like the Kazakh) ‘with few economic resources, insufficient state welfare benefits, and/or limited access to goods and services’ (Werner 2000, 12, quoted in Haller and Shore 2005, 16–17). Based on these arguments, Haller and Shore suggest that ‘a key task for anthropology is to explore the way people classify behaviour as appropriate/inappropriate, moral/immoral and legal/illegal in the specific cultures we study, and analyse these in the context of local standards and practices’ (2005, 16–17). In this study we will utilize Haller and Shore’s aforesaid analytical framework when analysing the ethnographic data from post-Soviet Uzbekistan, which will be presented in the subsequent sections.

There is another scientific field of importance to our study that situates corruption within discussions on law and morality. The most pertinent literature that comes to mind in this respect is Nuijten and Anders’s (2007) edited volume on ‘Corruption and the secret of law: a legal anthropological perspective’. In their study Nuijten and Anders (2007) put forward the perspective that does not conceptualize corruption and the law as opposites, but rather treats them as constitutive of one another. As Nuijten and Anders argue, this perspective allows us to investigate the moral and legal complexities pertaining to practices that are often simply labelled as illegal. In arguing so, they acknowledge the importance of considering legal plurality within a social setting, i.e. many situations in which the people distinguish behaviour that is justifiable on moral grounds but prohibited by the state law. From this point of view, Nuijten and Anders (2007) emphasize the coexistence of multiple sets of rules in society that influence people’s actions and thereby suggest that

there might be reasons to focus also on informal (non-legal) forms of normative ordering (e.g. traditions, moral codes, values) when studying corruption.

Many of these insights have been confirmed in the analysis of post-Soviet societies. Anthropological studies have demonstrated the existence of local perceptions of moral codes and values of informal transactions that significantly differ from Western morality and standards (Abramson 2000; Werner 2000; Kurkchiyan 2000; Humphrey 2002, 2012; Wanner 2005; Sneath 2006; Markowitz 2008; Polese 2008; Ledeneva 2009; Rasanayagam 2011; Urinboyev 2011b; Urinboyev and Svensson 2013). This literature is based upon a theoretical understanding of money, gifts, and the morality of exchange (Mauss 1924; Parry and Bloch 1989; Thomas 1991), as well as empirical studies concerned with different kinds of transactions between citizens and state officials. At first glance, many of these transactions may come across as bribes; however, the research shows that when taking the cultural context and local moral codes into consideration, these transactions may very well be considered to be morally acceptable gifts. Humphrey (2002) describes the multifaceted morality of various, illegal transactions with numerous examples of custom and police officers involved in dubious transactions. It leads her to argue towards rethinking bribery in some spheres in Russia. In the context of Russia, Ledeneva (2009) has also showed that there is a need to differentiate between ‘supportive’ and ‘subversive’ functions of informal practices: from sociability, safety nets, survival kits, and forms of social capital to means of access, diversion of resources, bridging formal organizations, and subverting formal procedures. Similar patterns have been observed in other post-Soviet states as well (e.g. Werner 2000; Polese 2008; Rasanayagam 2011). These studies focus on the ‘blurred boundary between gifts and bribes in Kazakhstan’ (Werner 2000), illustrate the existence of local morality in Uzbekistan ‘little corruption does not hurt anyone’ (Rasanayagam 2011), and suggest the local definition of corruption in Ukraine: ‘If I receive it, it is a gift, if I demand it, then it is a bribe’ (Polese 2008). One possible inference from these studies is that the Western-centric perspective needs to be re-contextualized when talking about corruption in non-Western societies.

Despite the existence of a large diversity of scholarly explanations for and approaches to corruption, one question commonly raised is whether it is possible or even desirable to formulate a universal definition of corruption. However, in this paper, we do not attempt to offer a universal definition of ‘corruption’, but in line with the aforementioned scholarly context (e.g. Haller and Shore 2005; Nuijten and Anders 2007), we aim to provide additional tools for re-contextualizing corruption and demonstrate the importance of local perceptions, social norms, and moral codes (living law) to better understand *what makes a practice ‘corrupt’ or ‘morally acceptable’*. This task, in turn, requires creating a relevant theoretical framework.

Living law and legal pluralism

As we argued in the previous sections, it may not be appropriate to utilize the Western-centric definitions of corruption in specific social settings where people’s actions are influenced by multiple, alternative (to the state law), and often conflicting normative orders. Such a normative pluralism is referred to as ‘legal pluralism’ in the legal anthropological scholarship (Merry 1988; Griffiths 1992; von Benda-Beckmann 2002; Nuijten and Anders 2007). Legal pluralism emphasizes the coexistence and clash of multiple sets of rules that mould people’s social behaviour: the law of the nation-state, indigenous customary rules, religious decrees, moral codes, and practical norms of social life (Nuijten and Anders 2007). From this point of view, state law is just one among many other

normative orders in society. Hence, informal transactions that would be labelled as corruption from a state law perspective may very well be considered to be morally accepted gifts according to the informal norms and local moral codes. Accordingly, in a place such as Uzbekistan, where society is mostly based on informal economy, patronage networks, and collectivist traditions (see e.g. Poliakov 1992; Ilkhamov 2007), the study of corruption should be sensitive to the legally pluralistic nature of everyday life and socio-economic relations.

There is strong support for the legal pluralism perspective in the field of sociology of law where Eugen Ehrlich was one of the first scholars to fully recognize the plurality of normative orders and that his theory of ‘living law’ still remains a useful tool for studying normative pluralism inherent in different working normative orders. In *Fundamental Principles of the Sociology of Law*, Ehrlich (2002) distinguishes between the law created by the state (juristic law and statutes) and informal norms produced by non-state social associations (living law). However, for Ehrlich, it is not the state law, but it is actually the ‘living law’ that dominates everyday life itself, even though it has not been posited in legal propositions and has emerged independently of the state law out of the inner order of associations (Banakar 2008; Svensson 2013). Ehrlich (2002, 493) states there are various types of and names for ‘living law’, such as rules of law, of morals, of religion, of ethical custom, of honour, of decorum, of tact, of etiquette, of fashion, etc. Ehrlich advises that if we want to better understand the coexistence and clashes of different normative orders, we should attentively observe everyday life, relations of domination, actual habits of people, and inquire into people’s thoughts on the opinions of relevant people in their surrounding environment, and on proper social behaviour. Ehrlich in this sense stresses the importance of considering the local context and moral codes when examining the role and rule of state law.

Thus, equipped with the concept of ‘living law’ and the legal pluralism perspective, it could be inferred that we cannot satisfactorily explore the nuances of corruption in Uzbekistan without considering the local practices, categories, needs, and moral codes.

Methodological considerations

This paper is based on three periods of ethnographic field research between 2009 and 2012 in the Ferghana region of Uzbekistan. The first field research was conducted during April–May 2009, the second field research lasted three months between June and August 2010, and the last was undertaken during June–July 2012. The field site was chosen based on contacts and social networks available to the authors. The first author, being a native Uzbek, had the advantage of knowing the language and possessing a pre-understanding of the local conditions and situations, whereas the second author, from Sweden (non-native), added an external perspective to the study. Our fieldwork in this sense combines both ‘internal’ and ‘external’ perspectives, the strategy that may provide more holistic view on the field site in question. Both authors arrived in Uzbekistan for the first fieldwork period in 2009 and stayed in the field site together. The first author was alone during the second and third field trips in 2010 and 2012.

During these field trips a rich stock of ethnographic material was collected mainly through observations and informal interviews. Our interviews and observations were conducted in the Tashkent city and Ferghana region. More specifically, we were interested in exploring the role and rule of law in everyday life and, directly or indirectly, in both ‘state’ (e.g. traffic police) and ‘non-state’ arenas (e.g. *mahalla*), looking at, for example, how state officials enforced and talked about laws, to what extent people conformed to

laws when dealing with state officials, and how people think about the proper social behaviour and law.

For this specific paper, we have chosen to present four informal interviews and some examples of the most relevant observations. Hence, this paper focuses on a small segment of the empirical data collected within the larger project. A more comprehensive description of the ethnographic project and its results can be found in previous publications (Urinboyev 2011a, 2011b, 2013a, 2013b; Urinboyev and Svensson 2013). The results of observations and informal interviews will be presented in the following sections.

The four informal interviews utilized in this paper were conducted during the third field trip (June–July 2012) and they focus on a traffic policeman, a minibus driver, a midwife, and a local teacher. These four key informants were selected on the basis of their daily involvement with the law and/or state officials, knowledge, willingness, and communicability. In order to enhance the reliability of the data, we have cross-checked our findings through informal interviews with other informants. The interviews were more free-flowing, and focused on such questions as the role of law in everyday life, people's perceptions of bribery, local definitions and interpretations of 'licit' and 'illicit', everyday coping strategies, values and moral obligations, and the perceived role of the state in everyday life. Questions were mainly used as a guide and were adapted according to the pace of the interview. The interviews lasted from 45 minutes to 2 hours, depending on the informants' status, location, and time available. The interview with the midwife took place at a maternity hospital in the Ferghana region, while the other three interviews were conducted in a *choyhona* (teahouse) or in private places. Safety precautions both for researchers and informants forced us to avoid all types of apparent documentation methods, such as recording and taking notes. Instead, immediately following an interview, we wrote down our recollections. To protect the anonymity of our informants, their names have been changed.

Examples of observed informal economic practices

In search for empirical clues in April 2009, we travelled to Uzbekistan for ethnographic field research. The evening flight from Riga to Tashkent airport on AirBaltic took just under six hours. We arrived at the Tashkent airport in the middle of the night and checked into the Radisson Hotel. After taking rest and breakfast, we walked through the streets to a nearby market, *Alay*, to observe informal transactions in the black market for foreign currency. We were welcomed by a group of money changers who immediately approached us, offering their currency exchange services. What struck us was that there were several policemen around; none of them, however, bothered about illegal transactions in the black market, thereby de facto 'decriminalising' the informal practices of money changers. We observed many similar incidents in the Ferghana Valley as well. What is evident is that it is almost impossible to buy foreign currency at the official exchange rate in the banks of Uzbekistan, and that is why the black market was the only available source where people could acquire foreign currency. We next turned our attention to the informal taxi sector. One of our fascinating findings was that almost anybody in Tashkent could work as a taxi driver. As we had some official meetings with the administration of one of the universities in Tashkent, we regularly used taxi services. There were no taxi stops and we did not have to order a taxi. Waving your hand at the side of the street was sufficient to find a taxi in a minute. Observing the magnitude of the informal taxi sector, we came to realize that it has become a major source of self-employment and an income-generating opportunity for many of the urban unemployed in Tashkent.

The interaction between the taxi drivers and traffic police is also based on informal rules. During our observations we noticed that taxi drivers often shake the hands of traffic police with money when they break traffic rules, such as exceeding the speed limit. These observations reminded us of the 'living law' of the Bukowina that Eugen Ehrlich described a century ago in his groundbreaking book *Fundamental Principles of the Sociology of Law*. One interesting insight we gained was that the laws and regulations of the state are not the only regulators of political, social, and economic life in Uzbekistan; there are many other competing (informal) normative orders or 'living law' that influence social behaviour and everyday life more effectively than the laws of the state.

Our field trip to rural Ferghana provided us with important insights into corruption's hidden connections with local moral codes. Our field site *Oqtepa*,⁴ where we conducted observations in April–May 2009 and June–August 2010, is one of the *mahallas* in the *Shabboda* village in rural Ferghana and has a population of more than 2000 people. Most of the residents in this *mahalla* were *dehqonlar* (farmers) involved in cucumber and grape production. However, due to our research focus, we were particularly interested in two *mahalla* residents, *Sardor* and *Rahmon*, who were both state officials and the centre of 'everyday *mahalla* talk'. *Sardor* was a very high level state official and worked as the deputy chief of Ferghana region police, whereas *Rahmon* was a district-level traffic policeman (a low-level official). However, in everyday *mahalla* life, *Sardor*, despite having such a high official status, did not have decent reputation and was often described as a 'communist', the term that carries negative meaning and is used in relation to law-abiding state officials who do not share their political influence and resources with their kin and *mahalla*. As a high-level police official, *Sardor* had an enormous power and he could easily divert the resources to *mahalla*, but he always rejected the requests of *mahalla* and asked them to solve their problems through formal channels. Because of his attempts to keep his public office separate from the private sphere, *Sardor* was regarded as a 'communist' in the words of many *mahalla* residents we encountered. On the other hand, a low-level official *Rahmon* was a 'man of respect' and enjoyed a very high social status and reputation in *mahalla*. Unlike *Sardor*, *Rahmon* provided patronage to *mahalla* residents, for instance, by helping *mahalla* residents to avoid or manoeuvre around the state law. *Rahmon* was especially praised for his ability to act as a bridge between high-level state officials and ordinary residents in terms of negotiating the amount of informal payment for job or university admission issues, and bending state laws to meet the interests of *mahalla* residents. Therefore, when invited to weddings, *Rahmon* was always offered a 'best table' and served more quickly than others. Thus, according to *mahalla*'s living law, *Sardor* was neither a good person nor a good state official due to his law-abiding behaviour and unwillingness to help *mahalla* people, while *Rahmon* was the 'pride of *mahalla*', due to his sensitivity to the needs and concerns of *mahalla*.

These observations seem to support Nuijten and Anders's (2007) argument that the universal definitions of corruption are often in conflict with local moral codes. As discussed above, the state officials in rural Ferghana are torn between loyalty to their family and *mahalla* networks, and honesty at work. Therefore, maintaining loyalty and respect for such networks often comes at the expense of formal structures, thereby leading to an omnipresence of informal practices in formal arenas. This indicates that behavioural instructions promoted by the 'living law' influence the implementation of state laws and regulations. Although the 'living law' described here may seem illicit or abnormal according to the Western-centric perspective, it is, however, accepted within rural communities in Ferghana as a legitimate coping strategy – regardless of whether they are licit or illicit. Seemingly, the analytical divide between public office and private sphere is not

useful in the context of Uzbekistan where the society is mostly based on collectivist traditions and kinship networks. Although it is always risky to draw parallels to other socio-political contexts, a similar situation can also be observed in Lomnitz's (1995) study of 'correct' (i.e. acceptable) and 'incorrect' corruption in rural Mexico where corruption was morally accepted by the local population if patrons demonstrated generosity and solidarity with their people and financed local fiestas.

Another relevant observation of the 'living law' is the incident we experienced in May 2009 while travelling by a taxi from Tashkent to the Ferghana Valley. There is only one route to the Ferghana Valley via a mountain pass called *Kamchik*. Since *Kamchik* is the only route connecting the Ferghana Valley to the rest of Uzbekistan, it is heavily guarded, and there are many checkpoints where police and border officials check passports. One can also notice the large number of traffic police at the *Kamchik* pass. When we reached the pass, the driver asked us to unfasten our seat belts, as it was uncommon at that time to use seat belts. At least the traffic police did not impose any fine for driving without fastened seat belts.⁵ Hence, any use of seat belts by the driver or the passengers could be a clear signal that there was a foreigner/non-native in the car, which may easily attract the attention of the traffic police, always seeking reasons to stop cars. In requesting us not to use the seat belts, the driver was actually trying to avoid any unnecessary attention from the police. However, out of concern for his personal safety, Måns Svensson, the second, Swedish author of this paper, did not unfasten his seat belt. As the driver predicted, our car was soon stopped by the traffic police. As usual, they checked the driver's documents. Due to the presence of a foreign citizen in the car, the police also wanted to check the car's luggage compartment. Måns Svensson, suspicious of the actions of the police, demanded that he be present while they checked the luggage compartment. This was an open challenge to the traffic policeman's traditional authority. Trying to avoid conflict with a foreign citizen, the policeman decided not to check the luggage compartment and politely asked Måns Svensson to sit in the car. Instead, the policeman ordered the driver to follow him to his small office to discuss some minor details in his car documents. After 10 minutes, the driver returned to the car with an angry face and told us that he had to pay 15,000 soum because of Måns Svensson's failure to 'show proper respect' towards the policeman. Not wanting the driver to take the consequences of his action, Måns Svensson later covered the costs of the driver.

This observation provides useful insights into local meanings of informal transactions in Uzbekistan. The power of the traffic police is rarely challenged in Uzbekistan, and ordinary people always show maximum obedience when they interact with the police. Unlike in the West, when stopped by the police, citizens in Uzbekistan get out of the car and hand over documents to the policeman, addressing him as 'commander'. Thus, the relations between the traffic police and citizens are very hierarchical. As we showed in a previous paper (Urinboyev and Svensson 2013), such hierarchical relations between citizens and state officials can also be observed in everyday life such as weddings, where the 'people of influence' get the best tables. As a foreigner, Måns Svensson was unaware of local social norms and hierarchies (or 'living law' in Ehrlich's terms). By demanding to be present during the luggage check, Måns Svensson challenged the traditional authority of the policeman as the one who dictates the rules. According to Uzbek law, Måns Svensson's actions were entirely legal. However, from a 'living law' perspective, his actions were not consistent with prevalent social norms and hierarchies, which resulted in the indirect imposition of a 15,000 soum fine. Certainly, the incident described was a clear instance of corruption, since the police officer forcibly extorted money from the driver. However, what struck us was that corruption was triggered by Måns Svensson's

failure to show due respect to the policeman. Consequently, this observation may provide a starting point for us to reconsider the nature and context of informal transactions in Uzbekistan not only as instances of illegality, but also as manifestations of power relations, hierarchies, status contestations, and coping strategies. Thus, in line with Nuijten and Anders (2007), we argue that even the pettiest forms of corruption may reflect structural power relations in society. Therefore, when measuring corruption in societies such as Uzbekistan, the emphasis should also be placed on the recalcitrant complexity of local social life and hierarchies which assign cultural meaning to informal transactions that may be different from the West.

Thus, our observations provided us with important insights into the nature of everyday life and coping strategies prevalent in Uzbekistan. It struck us that in Uzbekistan, informal economy has become the basic means of survival where both ordinary citizens and state officials are involved in the exchange and reciprocation of material goods, favours, money, and services. Wherever we looked – at institutions such as markets, banks, hospitals, traffic police – we observed the existence of a multitude of informal rules governing economic and social relations. Despite the almost mythical coercive power of the political regime in Uzbekistan, especially the regime's ability to withstand internal and external challenges, we found that the state and its legal system have limited meaning in everyday life, and the coping strategies of ordinary citizens are mainly informal. Even the behaviour of state officials (e.g. traffic police) was more influenced by the 'living law' than the law of the state. We realized that it is not the law but the informal rules and norms (living law) that have more meaning and influence in everyday life in Uzbekistan. We have thus come to the conclusion that there is a 'living law' in Uzbekistan that dominates social and economic life itself even though it has not been posited in legal propositions. Thus, our specific focus on traffic police and maternity hospitals was not the outcome of a pre-designed fieldwork, but rather a spontaneous choice, since we continuously adjusted our focus and research questions as we became more intimately immersed in the field.

Informal interviews

In this section, we present the results of four informal interviews with key informants. Our aim is to illustrate how things get done and how they are perceived by the ordinary citizens and low-level state officials, and their implications for understanding corruption in the local context. The interviews were conducted in the Ferghana region of Uzbekistan and focus on two state arenas/institutions: (1) the practice of traffic safety enforcement; and (2) the practice of maternity services. The first interview is centred around *Dilshod*, a traffic policeman, the second focuses on *Zokir*, a minibis driver who drives between Oltiariq and the Ferghana city on a daily basis, the third focuses on *Umida*, a midwife at a maternity hospital in Ferghana, and the fourth presents the views of *Salim*, a local teacher, about informal transactions at maternity hospitals. In the subsequent sections, *Dilshod*, *Zokir*, *Umida*, and *Salim*, the real 'authors', speak in the first person, and the authors' comments are provided to explain and analyse the context.

Dilshod, a traffic policeman: How should I feed my kids when the state does not pay me any salary?

It is not so easy to work as a traffic policeman in Uzbekistan. We have to communicate with more than a hundred people on a daily basis. We do not have fixed working hours. If you

want to get a job with the traffic police, you have to pay a bribe, around 6000–7000 USD, to top officials of the traffic police. The biggest problem is, actually, that we do not get paid a salary for our work. The official salary for traffic policemen is 900,000 soum⁶, but in fact, we do not receive any salary. In rare cases, we might receive 10% of this salary, 100,000 soum. Of course, you may wonder how we survive. Here is the reality for you: Instead of paying salary, our administration provides us with traffic tickets which we may sell to drivers to earn a salary.⁷ We usually sell these tickets to drivers who drive without having their seat belt fastened and/or drive cars which do not meet technical safety standards. The price of one traffic ticket is 12,500 soum. So we earn our salary by selling traffic tickets to drivers. Since we do not get any salary, we are not required to return ticket receipts or reports to our administration and can keep the revenues made from the ticket sales.

This is not the end of the story. Our bosses give us the order (i.e. set the standard) to sell at least twenty tickets per day. However, drivers do not violate traffic rules every day. How can we sell twenty tickets per day? If I do not sell twenty tickets per day, I might get a warning from the administration or even lose my job. Under these circumstances, we are under strong pressure to find drivers to sell tickets to. There is also an informal monthly payment called ‘gruz’ (burden) which we have to pay directly into our bosses’ pocket. The amount of this monthly payment ranges from 50,000 to 100,000 soums. We have to make this payment if we want to keep our job. These circumstances compel us to sell tickets even to drivers who act legally. Ordinary people do not know about these problems and therefore hate us. It is politics. We cannot talk about these problems openly.

I know many people look upon traffic police as the most corrupt profession in Uzbekistan. Since we do not receive any salary from the state for our work, the money we earn through selling tickets is completely legal. I am also an ordinary man, like everybody else; I have a family, kids to feed! Instead of giving salary, our bosses force us to earn our salary through selling tickets to drivers. So tell me, how should I feed my kids when the state does not pay me any salary? Had I received a normal salary, I would not bother selling tickets to law-abiding drivers.

Authors’ comments

There are three main issues that need to be elaborated on in this context. First, the interview shows the existence of a shared language among traffic policemen that serves to reconstruct the meaning and application of traffic laws. When describing his informal practices, the traffic policeman tends to use the expression ‘selling tickets to drivers’ rather than saying ‘imposing a fine on drivers’. This expression also reveals that traffic police look at traffic tickets as a commodity for earning income rather than a means to enforce state traffic laws. Thus, the linguistic representation is useful to understand the local context of informal transactions, as it reveals how the absence of formal income earning opportunities influences the moral code and legal culture of traffic police.

Second, the traffic policeman’s reasoning is important to better understand the functional role and meaning of bribery in Uzbekistan. His illicit practices are completely legal, he claims, since he does not receive any salary from the state for his arduous work. Accordingly, his informal practices are driven by the ‘norms of survival’, which are not comparable to kleptocratic intentions of the high-level traffic police officials who force low-level officials such as *Dilshod* to ‘sell tickets to drivers’. However, from a legal positivist perspective, both these practices fall within the interpretation of corruption adapted from Western moral and juridical codes. Such interpretation is quite normal and legitimate in the context of Western welfare states where public authorities provide formal means of survival. However, is it appropriate to interpret the low-level policeman’s actions as illicit in the context of Uzbekistan, where the state fails to provide even a basic salary to traffic police? In light of these problems, one conclusion could be that informal

practices allow low-level state officials such as traffic police to survive in the absence of decent salaries. This situation reminds us of Polese's (2008) anthropological study on Ukraine in which he concluded that corruption needs to be redefined, at least when dealing with cases in which it helps people to survive.

Third, it is also necessary to acknowledge the fact that corruption has different meanings and logic within different levels of society, and that there is a difference between masses of low-level officials, on the one hand, and the smaller group of state elites, on the other. During the interview, the traffic policeman expressed concerns for his working conditions and criticized the unreasonable demands of his administration. He frequently mentioned that he has to follow the unwritten rules (or living law in Ehrlich's terms) of his organization in order to keep his job. In this connection, the elite-level corruption, rent-seeking, and 'clan struggles' described by scholars such as Ilkhamov (2004) and Collins (2006) are not the same as the everyday 'getting things done' practices of low-level traffic policemen.

Zokir, a minibus driver: You have to make a distinction between 'good' and 'bad' bribery

As you know, there are different types of traffic violations such as speeding, red light crossing, driving under the influence of alcohol, etc. According to law, if I am caught running a red light, traffic police can fine me around 60,000 soum. If the traffic police stop me for exceeding a speed limit, I have to pay a fine of 100,000 soum⁸. Now, I will tell you how I usually avoid paying fines when I am stopped by traffic police. For example, if I am caught driving too fast, I will, of course, try to not pay the official fine. Instead, I put 15,000 soum into my car documents and hand them to the policeman, and apologize for driving a bit too fast. Obviously, the policeman is more interested in accepting my 'gift' (kongildan chiqqani in Uzbek) rather than following the law and giving me a speeding ticket. If I pay the official fine, all the money goes to the state budget and the policeman does not benefit from this transaction. I have heard they pay at least 5,000 USD in bribes to get a job with the traffic police. Many people say they have to please their bosses with nice gifts every month. Also, they have to feed their children. Of course, due to these circumstances, they have to earn extra money in order to cover these costs. Therefore, the police gladly accept my 'gift' and do not give me a speeding ticket. Now let's count: The official fine for speeding is 100,000 soum, but I can get away with 15,000 soum. So, this is a win-win situation as I save 85,000 soum and the policeman earns 15,000 soum for his family. As you see, bribery can be also a good thing. I would not use the word *pora* (bribe) in relation to these transactions, because I voluntarily offer a 'gift' to the policeman. So, you have to make a distinction between 'good' and 'bad' bribery. A bad bribery could be described as the following: if the police stop and force me to pay when I do not break the law, then we can talk about real bribery. In this case, the police are abusing power. This is a bad bribe.

Authors' comments

This interview highlights two main issues:

- (1) The minibus driver uses the expression 'gift' when describing his bribe to the policeman. This example indicates the blurred boundary between gift and bribe in Uzbekistan. Unlike in English, there is no single generic term for 'gift' in the Uzbek language, but there are numerous terms that are used depending on the context and type of event, such as *toyana* (wedding gift, usually given by guests to the wedding host), *sovg'a* (birthday gift), *ko'rmana* (gift given to a person or

household for showing something new, such as a new baby, new bride), *suyunchi* (cash gift usually given to midwives and nurses at maternity hospitals), and *ko'n-gildan chiqqani* (gift given to state officials such as traffic policemen). The gift–bribe dilemma has also been studied in the context of Ukraine (Polese 2008), Russia (Ledeneva 2009), and Kazakhstan (Werner 2000). The most relevant example is Werner's (2000) anthropological work on the blurred boundary between gift and bribe in Kazakhstan. She argues that the anti-corruption legislation promoted by powerful global organizations should be sensitive to local settings where gift exchange is an integral part of culture. In that sense, our research seems to support the findings of previous research, suggesting that the Western-centric perspective should be re-contextualized when dealing with corruption in Uzbekistan and recognize local understandings of gifts, moral codes, and values of informal transactions.

- (2) The minibus driver makes a distinction between 'good' and 'bad' bribery. When making a distinction between 'good' and 'bad' bribery, the driver refers to the voluntary nature of the informal payment he makes to the police. According to his moral code, there is no element of bribery if he himself voluntarily offers a 'gift' to the police as compensation for a traffic law violation. As he himself states, this is a win–win transaction for both the driver and the policeman, since the former saves money, while the latter makes extra income for his family. At the same time, the driver uses the word 'bribe' in relation to 'gifts' he is forced to give, even though his actions are in compliance with the law. Nevertheless, both these described transactions are considered to be corruption in Uzbekistan's law, as well as in the Western-centric perspective. According to Uzbek law, the voluntary nature of informal transactions between citizens and state officials does not change its illegal character. Thus, the way the driver distinguishes between 'good' and 'bad' bribery indicates the existence of dual morality in bribery and reveals the multifaceted meaning and morality of informal transactions in Uzbekistan. A similar situation has also been described in Rasanayagam's (2011) study in which he, through an ethnographic case study of a local teacher in Uzbekistan, showed the clashes between social norms and law where the local teacher believed that a 'little corruption' does not hurt anyone.

Umida, a midwife: I will not be able to feed my kids if I follow the law

I know maternity hospitals are often criticized for being one of the most corrupt places in Uzbekistan. But those people and organizations who label us 'corrupt' are unaware of the serious problems we face in our daily working life. I think all problems are connected to the state and system. During the Soviet era, the state provided everything for hospitals and physicians received a good salary. But, after independence, the state significantly decreased financing for hospitals. There is a serious shortage of medical equipment. Hospitals are overcrowded. Electricity and gas cuts are very common. The state does not supply us with necessary medicaments.

According to law, all maternity hospitals are state-owned in Uzbekistan, which means giving birth in a hospital must be free of charge. But this law is rarely enforced in practice. Almost everyone pays for maternity services. Of course, we accept their payment informally through hand-shaking. Often, people themselves slip money into our pocket. Such informal payments are called *suyunchi* (literally 'joy' in English), where the father or relatives of the new born baby give cash (or sometimes expensive gifts) to the midwife and nurses who deliver the baby. *Suyunchi* is usually given after the birth of a child. The amount of *suyunchi* varies

from one case to another, ranging from anywhere between 50,000 to 500,000 soum. If it is an uncomplicated vaginal birth, people give us suyunchi of around 50,000–100,000 soum. In cases of complicated vaginal births or C-sections, we receive a lot more suyunchi, approximately 300,000–500,000 soum.

I know my actions are illegal according to law, but real life circumstances force me to accept suyunchi from patients. Law and real life are completely different things. You will understand what I mean after I explain my work conditions. First, it is very difficult to get a job at a maternity hospital. For instance, if you want to work as a nurse at our hospital, you must pay a bribe of at least 500 USD to top health officials. Second, our salaries are extremely low. A midwife's monthly salary is 280,000 soum, around 100 USD, and a nurse's salary is 180,000 soum (65 USD). Isn't it frustrating when you pay a 500 USD bribe in order to get a job with a 100 USD salary? Our salary is very low, but I have to feed my kids. I studied for seven years to become a midwife, but I do not receive a high enough salary to live on from the state. Due to my good education, I believe I should earn more money than people who sell potatoes at the bazaar. I, too, have my own dreams, so I want to have a good salary. Everything is expensive at the bazaar. For example, one kilo of meat costs 17,000 soum and one sack of flour is 60,000 soum. I have to buy clothes for my kids. So, you see, it is impossible to survive on my 280,000 soum salary. Since the state does not reward me properly, I have a full right to supplement my salary through suyunchi. I do not force anyone to give suyunchi, but people themselves voluntarily reward me. This is the only way to feed my kids and I do not see any other alternatives. I will not be able to feed my kids if I follow the law. Therefore, it is quite understandable that we expect people to reward us for our efforts.

Authors' comments

To what extent are the stories of midwife and traffic policeman comparable? In our opinion, they are comparable with respect to their 'making-ends-meet' character. The professional sphere, amounts of informal payments, ways of bending law, and other details may vary, but the contextual factors, reasoning, and substance are similar. In this connection, there are two main issues that need to be emphasized:

- (1) The midwife's story shows that the gap between law, which states that maternity services should be free of charge, and actual delivery (the lack of state financing for hospitals and low salaries) forced maternity hospital workers to frantically search for informal coping strategies that help them survive in the absence of decent salaries. As the midwife asserts, she would not have been able to feed her children had she followed the law. Seemingly, since Uzbek authorities fail to secure the basic needs of its citizens, so the state officials such as the midwife and traffic policeman do not feel any moral obligation to act in compliance with the law. According to the midwife's moral code, her informal practices are completely 'legal', and she has a full right to reap the benefits of her good education. Subsequently, informal transactions that are interpreted as corrupt in the Western moral and juridical codes could be regarded as a morally acceptable behaviour according to the 'living law' of maternity hospitals in Uzbekistan. This example illustrates the existence of dual competing notions of morality in Uzbekistan, since the actions and working practices of hospital workers are more shaped by the living law rather than the juristic law.
- (2) As seen in the traffic policeman's case, the midwife's story indicates that kleptocratic practices of high-level state officials (elites) should be distinguished from the informal practices of ordinary citizens and low-level officials that have a different meaning ('to get things done'). Hence, the midwife's informal practices significantly differ from the predatory practices of kleptocratic elites, such as 'the

rent-seeking strategies among local prokurators (prosecutors) in Uzbekistan' (Markowitz 2008) or the 'battle for cotton' between the central government and regional elites in Uzbekistan (Ilkhamov 2004). In this regard, the rent-seeking strategy of local prokurators is not comparable to the *suyunchi* midwives and nurses receive from ordinary citizens. However, both transactions are illicit according to the Western-centric perspective. This leads us to the conclusion that when studying corruption in a social setting such as Uzbekistan we should analytically distinguish between functional redistributive informal transactions and more predatory transactions where resources go from weak to strong.

Authors' notes

In Uzbekistan, it is usually the husband who makes informal payments to the midwives and nurses at maternity hospitals. With regard to this fact, we conducted an informal interview with the male informant *Salim*, a local teacher and father of four children, and asked about his *suyunchi* experience at the maternity hospital. During the interview, he also talked about the difference between bribery and 'gratitude'. This interview is presented in the next section.

Salim, a local teacher: Don't confuse minnatdorchilik (gratitude) with bribe

I have a big family consisting of my wife, three daughters, and son. As I have four children, I can say that I am very knowledgeable about *suyunchi* and other hospital related informal payments. First of all, before telling you my opinion on bribery, I would like to say some words about the general work environment at maternity hospitals. When you enter the hospital premises, you unequivocally notice the 'hopeful eyes' of the midwives and nurses. Even the cleaners (usually women) expect something from you. They look at every visitor as a potential *suyunchi* giver. So, it is not too difficult to read their 'hopeful eyes' – they have very low salaries, and they want to earn additional money in order to meet their living costs. When you see such 'hopeful eyes', you feel some kind of moral obligation to give *suyunchi*. I can understand them. They have to find some way to live.

I will now tell you about my personal experience. As I told you, I have four kids. I gave *suyunchi* to the midwives and nurses after the birth of all my four kids. I know giving birth is a very difficult process. In particular, my son Nozim's birth was very complicated as he was not lying in the proper position. The midwife and nurses worked very hard during labour. I do not know how, but they eventually succeeded in delivering him without a C-section. This was a miracle for our family, as both my wife and baby were healthy. Besides, having a boy after three girls was great news for me. Because of my joy and happiness, I gave 500,000 soum *suyunchi* to the hospital workers, namely, the midwife, nurses and even the cleaners. As you see, nobody forced me to give *suyunchi*. Instead, it was a voluntary act and I wanted to express my gratitude to the midwives and nurses for their great work. Therefore, I would not call this transaction a bribe. It was purely an expression of gratitude. Besides money, some people express their gratitude to midwives by giving cognac and flowers or inviting them to pilaf. Hence, we should distinguish between expressing gratitude and bribing.

I have so far described one side of the coin to you. Let's now turn to the other side of the coin. There is a widespread belief among people that midwives will not treat your wife properly if you do not state the amount of *suyunchi* during childbirth. Therefore, people now give *suyunchi* before the delivery. In doing so, people are themselves spoiling midwives, thereby creating new unwritten rules at maternity hospitals. Because of this, many midwives today are spoiled and demand that people 'thank' them before childbirth. In this case we can talk about *pora* (bribe), because the midwife demands you give her money before childbirth. Unfortunately, this is a rapidly developing trend in maternity hospitals today. We all complain about

corruption in Uzbekistan and ascribe the blame to state officials. But at the same time we ourselves trigger corruption, for example, by giving *suyunchi* to midwives and nurses at maternity hospitals. So, you see, corruption is closely connected to the mentality of the people.

Authors' comments

Three relevant factors emerge from the local teacher's story:

- (1) We see from the teacher's story that hospital workers are as dependent on informal coping strategies in order to survive as the ordinary citizens. In this regard, there is an expectation from hospital staff that patients should make up for their low salaries. Hence, such expectations create norms of informal remuneration at maternity hospitals. For instance, when talking of the 'hopeful eyes' of maternity hospital workers, the teacher himself acknowledges that he feels moral obligation to support hospital workers. This example is important because it illustrates the importance of informal practices as a 'palliative' mechanism that allows hospital workers to survive in the absence of decent salaries.
- (2) The teacher's story is also instructive in helping us to understand the difference between 'expressing gratitude' and 'bribing'. In the teacher's understanding, by paying money to a midwife, he was paying respect both to the midwife and to himself. A similar situation can also be found in Rivkin-Fish (2005) study of maternity hospitals in Russia where paying for health care was regarded as a moral action that conveyed respect both to doctors and patients.
- (3) According to the teacher's moral reasoning, the transaction can be considered as an 'expression of gratitude' if voluntarily given after the childbirth. According to his reasoning, such transactions should not be called a bribe as they occurred spontaneously after the delivery. Interestingly, the teacher shifted to the term *pora* (bribe) when talking of the cases where the midwife demanded payment before the delivery or the amount of *suyunchi* was specified in advance. This implies that when trying to distinguish maternity hospital transactions as corruption or an expression of gratitude, the attention should be paid to whether the *suyunchi* was demanded/specified before or given voluntarily after the delivery. Nevertheless, both these transactions are corruption according to the Western-centric perspective, irrespective of their context and logic. This last point reminds of Polese's (2008) definition of bribery in Ukraine: 'If I receive it, it is a gift; if I demand it, then it is a bribe', the definition that is more culturally-sensitive and relevant to the local context in Uzbekistan than the Western-centric perspective.

Discussion and conclusions

We have argued that universal definitions of corruption presented by international bodies such as World Bank and TI are Western-centric and therefore fail to reckon with the local categories and needs and moral codes in cultural settings such as Uzbekistan. As our findings indicate, the informal transactions that are interpreted as 'corrupt' by international bodies such as TI are not necessarily named or recognized as such by the local population. Hence, our observations and all four interviews demonstrated the existence of local morality and norms that significantly differ from the Western juridical and moral codes. Similar points have been made before by anthropologists such as Nuijten and Anders

(2007), Haller and Shore (2005), and Werner (2000). In that sense, our research could be said to empirically support the findings of previous research, calling for a more nuanced analysis of corruption in developing countries. Our research differs in one aspect from previous research by bringing together and comparing the perspectives of both state officials and ordinary citizens, and exploring informal transactions through the concept of 'living law'. By utilizing this concept, we question the relevance of the Western-centric perspective, and underline the importance of understanding the 'living law' of the social associations forming society, in which corruption is being discussed and/or measured.

Our data show that the informal practices serve as a 'palliative' mechanism, making up for the incapacity of the state that fails to finance the infrastructure of welfare systems. Although Uzbekistan inherited the infrastructure of welfare state after the Soviet collapse, it did not have enough funding to run the system. As a result, the people of Uzbekistan have created alternative informal ways to run the welfare infrastructure, as we described in the four interviews. Since the state does not pay them, the state officials such as traffic policemen and midwives do not feel any moral obligation to follow the laws of the state, and therefore opt for informal means of survival and service provision. In Uzbekistan where the central government fails to meet the basic needs of its citizens, informal coping strategies such as *suynuchi* are possibly the only way to 'make ends meet'. However, these informal coping strategies are interpreted by international bodies such as TI as corruption, whereas they are more like an ad hoc solution that has been devised by ordinary people in order to keep the welfare infrastructure running. These practices could thus be regarded as an 'informal wealth redistribution system', as this is the system in place that keeps, for example, the health care system and traffic enforcement running.

Even though the state in Uzbekistan may appear to be omnipotent due to its infrastructural and coercive capacity, as our results show, it has very little meaning in everyday life at the local level. When observing local-level interactions in Uzbekistan, it becomes difficult to experience the state or its laws as an ontically coherent entity: What one confronts instead is an enormous degree of informal exchange and reciprocation of money, material goods, and services that are carried out through non-codified, but socially reproduced informal rules – 'living law'. Both people and public officials are increasingly reliant on the informal coping strategies, since it is the sole provider of welfare in the absence of a protective welfare state. From this perspective, the apparent resilience of informal economic practices in Uzbekistan resides in its embeddedness in informal forms of coping strategies, and might be viewed as a reaction to the state's inability to secure the basic needs of its citizens. Hence, the informal economy may not only be a social evil that undermines the efficiency of public policies; it may very well also be a welfare structure when the state fails to meet the needs of its citizens.

Our results can be summarized in the following three points. (1) The global anti-corruption initiatives should be sensitive to local categories, practices, and moral codes (i.e. 'how things get done' and how they are perceived by the various salient actors); (2) informal transactions are deeply embedded in coping strategies; and (3) any discussion on corruption should be set in context. If this is not taken into consideration, informal transactions that are not corrupt run the risk of being labelled as illicit. Our study has shown that informal transactions that are considered to be corruption from the Western-centric perspective have little to do with abuse. Rather, informal coping strategies are incorporated into the Uzbek culture as a rational way of 'getting things done'. Hence, anti-corruption measures are not simply a matter of getting people to obey the juristic law. They are, more importantly, about understanding the 'living law' and promoting socio-economic change.

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Notes

1. The name of the village has been changed to protect the anonymity of the informants.
2. Pilaf is a festive Uzbek rice.
3. The *mahalla* is administered by both formal (elected according to *Mahalla* Law) and informal leaders (informally chosen by residents).
4. The name of *mahalla* has been changed to protect the anonymity of our informants.
5. The seat belt use was not mandatory in Uzbekistan until 2010.
6. *Soum* is the national currency of Uzbekistan. 1 USD was equal to 2700 soum (black market rate) in June 2012.
7. The expression 'to sell tickets to drivers' is a slang widely used among traffic policemen in Ferghana which means 'to impose a fine on drivers'.
8. Due to an extremely high inflation rate, Uzbek authorities annually raise the monthly minimum wage. This means that the increase of monthly minimum wage automatically raises the amount of traffic fines, because the rate of fines is determined with reference to the monthly minimum wage. Since we conducted interviews with informants in June 2012, the fine amounts mentioned in this paper reflect the June 2012 levels.

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