

## **'Is my Cousin a Mass Murderer?'**

### *The Case of the Oil-Trading Company Trafigura and Relatives' Perceptions of a 'Crime of the Powerful'*

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#### **Abstract**

'Crimes of the powerful' often seem remote from us, carried out by faceless 'others'. In fact, however, all 'powerful' individuals exist not in isolation but in a family-context. Discovering that one is related to a white-collar criminal provides a rare insight into how family-members respond to illegal and profoundly immoral behaviour. This article uses the example of the dumping of toxic waste in Africa by the international oil company Trafigura in 2006, outlining the background and responses to this incident, including challenges by Greenpeace and Twitterers, before turning to an exploration of how those in the family-circle responded to the news. These family responses are considered within the context of the processes of silencing and the article concludes by considering the implications of the findings for other 'crimes of the powerful', and also for more quotidian crimes such as child sexual abuse or domestic violence.

**Key Words:** White-collar crime, Oil industry, Family responses, Processes of silencing, Whistle-blowing

#### **Introduction**

'Crimes of the powerful' often seem remote from us, carried out by faceless 'others', but in reality all 'powerful' individuals exist not in isolation but in a context of family, friends and colleagues. What if we discover that we actually know the alleged perpetrator; indeed, that they are a family-member? Such a situation provides a rare opportunity for insight into how those around a perpetrator respond to allegations or disclosures of illegal and profoundly immoral behaviour.

This paper uses the example of one such situation. It is based on the case-study of the dumping of toxic waste in Africa by the international oil company Trafigura in 2006 - an episode which had very significant effects

on many thousands of people and which led to major financial settlements in three countries. This paper briefly outlines some key facts about Trafigura and the toxic dumping incident in order to set the context, then moves on to explore responses to this incident, first sketching the responses by organisations including governments and NGOs, before offering an exploration of how those in the family-circle around a particular Trafigura executive responded to the news. The paper discusses these family responses in the light of theory on the processes of silencing. It concludes by considering the implications of the findings from this brief and exploratory empirical study for other 'crimes of the powerful' and also for more quotidian crimes such as child sexual abuse or domestic violence.

Before looking at Trafigura itself, it may be worth pausing to consider the language used in the title of this paper. It may appear somewhat controversial, even unnecessarily sensationalist and confrontational, but was carefully chosen to highlight key issues arising from the incident. The question posed - 'Is my cousin a mass-murderer?' - is in quotation marks to avoid potential libel while also being able to represent the sorts of questions running through the minds of relatives when considering the toxic dumping incident. The word 'cousin' is used here to indicate a broad constellation of family relationships and connections, thereby preserving anonymity and avoiding any direct description of exact family relations. The reference to 'murder' (as opposed to, for example, the concepts of 'industrial accident' or 'manslaughter') has been the most contested while researching this paper. While the death of individuals (due to industrial accident, for example) has contested legal definitions, for lay people the word 'murder' is used and understood colloquially as untimely death caused by another person, whether deliberately intentional or caused by reckless indifference and conscious disregard of risk. Mass murder can be defined as the murder of four or more victims at one location and within one event (Aggrawal, 2005). The incident described here fits within a colloquial lay definition of murder (untimely death caused by another) and, since it is thought that around a dozen or more people died in relation to this incident, the phrase 'mass-murder' seems apposite in this context.

## **Trafigura**

This paper focuses on the case-study of the dumping of toxic waste by the oil-trading company Trafigura. We thus begin with a brief description of Trafigura.

Trafigura is a privately-owned international oil-trading company. It has been described by Greenpeace as 'the largest multinational you've never heard of' (Greenpeace, undated: online) and by *Business Week* as one of the world's top trading companies (Vickers, 2005), declaring profits of \$1bn in 2009. Headquartered in Switzerland, it operates in 36 countries. It is the world's third largest private oil and metals trader and was set up in

1993 by Graham Sharp, Claude Dauphin and Baron Eric de Turckheim, all of whom previously worked under oil trader supremo Marc Rich.

Trafigura is not only extremely powerful and wealthy, it is also very secretive. It is part of what *Business Week* terms, 'the ultrasecretive informal network of traders who dominate global independent oil trading': these traders 'operate in the world of onetime fugitive billionaire Marc Rich, the most-wanted white-collar criminal in U.S. history until his controversial pardon on President Bill Clinton's last day in office in 2001.' (Vickers, 2005: online).

Trafigura and other independent oil traders are known for their tactics which have been described as 'combat trading' and which can be seen as the psychopathic face of capitalism - getting trading rights from countries in turmoil regardless of human ruin. According to Vickers (2005), Trafigura's actions include buying oil from countries where corruption is extensive, acting as go-betweens to sell oil to mainstream US refiners from pariah states which back terrorism and engage in genocide, and sanctions-busting during the Iraqi Oil for Food programme - all 'hyper-aggressive' but, in most cases, legal tactics. As Vickers (2005) explains, Trafigura and similar companies apparently use 'front companies' based in secretive tax havens to disguise deals. Such tactics are only visible when they become the subject of legal challenge. As one example, according to Leigh and Evans (2007), in 2004 Trafigura and several other firms stood accused by Nigeria of inflating shipping costs by doctoring documents, for which the Nigerians demanded repayments of more than \$100 million. Other scandals in which Trafigura has been involved include smuggling and bribery during the Oil for Food programme in Iraq (Leigh and Evans, 2007), resulting in a fine of almost \$20 million (Knauer, Thielke and Traufetter, 2006). In 2006 Trafigura apparently gave \$31 million to the Jamaican People's National Party (Manning, 2010) in some kind of deal involving Nigerian oil (although the company denied bribing public officials or any other wrongdoing); and in 2007 an explosion of chemical waste in Sløvåg, Norway, in which a thousand people were made ill, led to a 50-minute documentary titled *Dirty Cargo* (dir. Bakke, 2008) broadcast by the Norwegian Broadcasting Corporation (NRK, 2008). Further investigation into the Norwegian disaster also provided evidence that Trafigura was deliberately adulterating high-quality European petrol with illegal sulphurous waste and then exporting the resulting dangerous 'fuel-like substance' to Togo, Cameroon, Côte D'Ivoire, Nigeria and Ghana for sale as petrol (Afrol News, 2009), in contravention of the 1992 Basel Convention which, together with European directives, forbids EU or OECD nations from dumping hazardous wastes in poorer countries (see <http://www.basel.int>).

Trafigura can therefore be characterised as a wealthy and powerful company with a reputation, stretching back over many years, for secrecy, hyper-aggressive 'combat trading' and apparently shady dealing.

Oil companies in general are very much in the public eye at present, with the leak by BP of oil into the Gulf of Mexico during 2010; but, as the

journalist Johann Hari has commented, the activities of the 21st century 'oilgarchy' affect all of us in myriad ways:

It's not just the pelicans of Louisiana that are flapping and flailing in an oil slick – it's all of us. We live permanently doused in petrol. Every time we move further than our feet can carry us, or eat food we didn't grow, or go shopping, we burn more barrels. Petrol pours off each of us like an invisible sweat (Hari, 2010: online).

The extraction, refining, trading and using of oil - and the disposal of its waste-products – become increasingly salient in a world in which fossil fuels are the dominant source of energy. We have become 'addicted to oil' (Friedman, 2006). The frantic scrabble for more oil leads inevitably to reliance on more technically-challenging sources, such as deep undersea, and treatment of dirtier oil, such as 'coker gasoline' which requires 'sweetening' or 'washing' by toxic chemicals before it can be used. The following case-study of toxic dumping therefore illustrates an increasing trend of what the social commentator George Monbiot has termed 'global fly-tipping' (Monbiot, 2009) and Gerd Leipold, Executive Director of Greenpeace International, has characterised as 'toxic waste colonialism' (Knauer et al., 2006). It is thus a phenomenon which can only increase as the world becomes more desperate in its search for supplies of this vital but diminishing resource.

### **Dumping of Toxic Waste**

The details of the incident are still contested; but, according to leaked Trafigura documents made publicly available by Guardian journalist David Leigh (2009a), the story began in 2005 when Trafigura was offered the opportunity to buy up thousands of tonnes of "bloody cheap" dirty oil from Mexico. Company traders exulted: "This is as cheap as anyone can imagine and should make serious dollars". However, to clean the dirty oil and make it available for sale, they needed to 'wash' it by adding caustic soda to absorb sulphur contaminants: this process is banned in most countries as the resulting waste is toxic and hard to decontaminate. As the internal emails noted, "We should be talking to specialist chemical clean-up companies". However, specialist clean-up companies are expensive. Rather than go down a conventional route, they preferred "lateral thought" about "paying a disposal company to take the process waste away"; the CEO "wants us to be creative". After all, if they could find a way round the problem of washing and subsequent waste-disposal, "each cargo should make 7m".

They were fully aware of the nature of what they were about to do since, according to the internal emails, 'washing' with caustic soda "is no longer allowed in EU/US and Singapore. Caustic washes are banned by

most countries due to the hazardous nature of the waste ... Under EU law you [are] no longer allowed to transport such waste across EU borders”.

They could not find any refinery which would allow them to clean the oil. They hired two tankers, the Probo Koala and the Probo Emu. In the Probo Koala, they ‘washed’ three cargoes of dirty oil, storing the ‘slops’ in its tanks. At this point, according to the emails: “We ... still haven't tackled how we will dispose of the washings on board the vessel”. They tried to get rid of the waste in Rotterdam, Amsterdam, Estonia, Tunisia ... but there were problems. A fax notes that they needed to “perform a PR Exercise to reassure guys about Odour during a recent caustic wash operation” and emails reveal, “They desperately need someone down there [in Tunisia] tomorrow”; “We need something for the govt. guy later today for the current problem” and “kindly do not, repeat do not disclose the presence of the material [the caustic wash] to anyone at Laskhira [La Skirra, Tunisia] and merely declare it as tank washings [i.e. gasoline mixed with sea-water]”.

Finally, having processed the coker gasoline using caustic soda and having chosen not to pay the costs of waste disposal in Europe, on 19th August 2006 they took the Probo Koala to Abidjan on the Côte D’Ivoire. Abidjan is the largest port on the African Atlantic coast but it is mainly concerned with fishing vessels (Port Autonome D’Abidjan, 2009). Although there is a large oil refinery in the city (part-owned by French interests), the port does not have any waste recovery or disposal or treatment facilities. Nevertheless, despite the lack of specialist facilities, a small company, Compagnie Tommy, obtained a permit to ‘recover waste oil’. Tommy had never done work of this type before: its permit was obtained just ten days before the Probo Koala docked and its Ministry of Transport certification, issued on 12th July, covered only refueling. How did this company obtain the necessary permits? “It was all very quick, which is most unusual”, said an inside source. “Corruption is so widespread that you can buy absolutely anything” (Bernard et al., 2006: online). This company had no equipment, not even its own lorries (Dunt, 2009), but it was cheap – twenty times cheaper than the specialist waste-disposal facilities in Europe.

Over several nights, they took the waste and dumped it, untreated, around Abidjan, a city of four million inhabitants, pouring the stinking waste into vegetable fields, water-courses, and outside a baby-food factory. In total, some 581 tons of waste, around 530 cubic metres, were dumped illegally in up to eighteen different sites around the city (Ziriyo, 2007).

Over the next days there are, ‘at least 15 deaths, 69 people hospitalised and more than 107,000 medical consultations with treatment’ for respiratory, digestive, skin and eye problems, according to the Ivorian authorities (Ziriyo, 2007:29). The deaths include children. Autopsy reports suggest that the bodies of twelve people showed high levels of hydrogen sulphide, a poisonous gas which it is claimed was present in the waste (Leigh, 2009b).

One resident, a mathematics professor named Guy Oulla, reported that he was unable to work for four months after a truckload of sludge was

emptied into a dam near his house. He spent hundreds of pounds on private medical treatment. He explained, “To me it smelled like rubber burning. I began to shiver, and then began to throw up, before the stomach pain started ... We need to be told what was in the waste and how this is going to affect us in the future” (Rice, 2009: online).

Although the UN provided some \$64 million to deal with the resulting health care crisis, and a proportion of the waste was recovered and transported to France for specialist decontamination, there was no quick solution to this toxic dumping incident. Reports in 2009 showed that problems continued and apparently included “an increase in premature births, early menopause and miscarriages since the dumping occurred” (CIEH, 2009: online).

## Responses by Organisations

Within a matter of weeks, the entire cabinet of the Government of Côte D’Ivoire resigned in the wake of this scandal and two Trafigura executives, investigating the incident, were imprisoned for several months. In February 2007, Trafigura arranged an out-of-court settlement with the President of Côte D’Ivoire in which they paid \$198 million (£152 million) for damages suffered by the State, but without accepting liability. As Marietta Harjono of Greenpeace Nederland commented, “Trafigura bought off the prosecution ... as a result of the deal the public will never know what actually happened and who was responsible, and won't be able to ensure that such a disaster never happens again” (Dunt, 2009: online).

Both Greenpeace and Amnesty International worked hard to expose the human and environmental cost of the toxic waste dumping. Meanwhile, Trafigura denied all allegations of wrongdoing and began a process of aggressive legal counter-challenge. A British legal firm, Leigh Day, represented 30,000 Ivorian claimants in the largest group injury claim in UK legal history and, late in 2008, Trafigura agreed that it would no longer defend its conduct in transporting toxic waste to the Côte D’Ivoire and it settled compensation claims with the claimants (Dunt, 2009). Finally, in July 2010, in a case brought by Greenpeace Nederland, Trafigura was fined one million euros for illegally exporting waste to Africa and concealing its hazardous nature, thus finally receiving a criminal conviction for its actions (Evans, 2010: online).

It thus took almost four years for Trafigura to be found criminally liable for its actions, having previously contested all claims strenuously – even to the extent of taking out injunctions against anyone who questioned their behaviour. Eric de Turckheim, as the representative of Trafigura, claimed in May 2009 in an interview with Jeremy Paxman on the BBC television programme *Newsnight* that the waste was “absolutely not dangerous to human beings ... smelly but not dangerous”, (Jones and MacKean, 2009). When *Newsnight* conducted its own investigation and disputed Trafigura’s official line, de Turckheim liaised with them in

December 2009 to retract their findings and apologise publicly. In a statement published on the Trafigura website (Trafigura, 2009), the company commented:

Speaking today, Eric de Turckheim, founder and director of Trafigura, said: Trafigura has always maintained that the slops cannot have caused the deaths and serious injuries alleged by the BBC. ... We are pleased the BBC has now acknowledged that it was wrong. ... Such is the international reach and high-regard [sic] of the BBC, we were left with little choice but to bring these proceedings – the only libel claim we have brought anywhere in the world against any media outlet.

Both *Newsnight* and *The Independent* newspaper were forced to issue apologies and retractions. However, this was not Trafigura's only brush with unwanted fame. Earlier, as revelations emerged from the BBC and other media outlets, Trafigura had employed Carter-Ruck, the 'reputation management' legal firm (famous to all readers of the satirical British magazine *Private Eye* as the rapacious Carter-Fuck) to place a secret injunction (a 'super-injunction') on *The Guardian* newspaper in September 2009. The super-injunction stopped *The Guardian* reporting a written question lodged in Parliament in October, mentioning both the secret injunction and a technical report on the chemical composition of the Probo Koala's cargo. *The Guardian* responded with a front-page article explaining that it was "forbidden from telling its readers why the paper is prevented - for the first time in memory - from reporting parliament".

The Carter-Ruck injunction on the British Parliament was, in fact, the first time in over three centuries in which freedom of speech had been threatened in such a way. The internet, and specifically Twitter, responded furiously. Among numerous others, the comedian Stephen Fry galvanized his more than 800,000 followers into action with tweets on the legal battle, commenting, "Outrageous gagging order. It's in reference to the Trafigura oil dumping scandal. Grotesque and squalid". Within hours, the editor of *The Guardian*, Alan Rusbridger, was able to tweet:

Thanks to Twitter/all tweeters for fantastic support over past 16 hours! Great victory for free speech. #guardian #trafigura #carterRuck (Mayer, 2009: online).

In response to the public outcry, Carter-Ruck were rapidly forced to climb down and remove (or 'discharge') their super-injunction, a result gleefully reported on 24th October 2009 by Ian Hislop, the editor of *Private Eye*, on the popular British TV show *Have I Got News For You*.

## **Responses by Family Members**

While the heavyweights - governments, NGOs, media, courts and 'reputation management' firms – slugged it out in the public arena, what of the human element, the micro-level of individual and interpersonal response? What happens in the lives and consciences of family-members when they become aware that a 'crime of the powerful' has been committed by a relative? The social circle around a white-collar perpetrator has been little examined or theorized to date, yet it may hold a key to challenging and attenuating such crimes by some of the most powerful individuals in society.

When I first read in 2009 about the toxic dumping incident and realised a family-member was directly implicated, I felt shock and rage. It reminded me instantly of Bhopal. When I had first learned about Bhopal, I remember thinking 'Why did the perpetrators' families do nothing? Why did they not side with the victims and insist on justice?' Now I myself was in a similar situation, albeit not as one of the closest members of the family-circle involved. What of the immediate family-members? The Trafigura executive to whom I am related is a married man. What of his wife? I recalled that the journalist and social commentator Jill Tweedie, in a study on love (Tweedie, 1979/2000), commented perceptively on the loyalty of wives, an attribute regarded positively by society even when such loyalty protects criminals. In an extreme example, Tweedie writes of Teresa Stangl, married to the commander of Treblinka concentration camp. When asked if her husband would have left Treblinka if she had asked him to, Frau Stangl replied, with tears, that if she had ever confronted him, "with the alternatives: Treblinka or me; he would – yes, he would, in the final analysis, have chosen me" (2000: 54). But she never did confront him: instead, she comforted and consoled him throughout the war as he continued his murderous work. Tweedie observes that a woman acting in this way, as a 'faithful dog', is normative behaviour, and she notes robustly, "A social conscience in a woman is not nice, it is a violation of her role" (2000: 60). Women are culturally sanctioned not only to be mutely loyal but also actively to shield men from the consequences of their actions, to stand by their man. Rewards for such acquiescence include social approbation and, in the case of crimes of the powerful, considerable personal luxury.

With these considerations in mind, I wanted to explore further how individuals connected to the Trafigura executive thought about the toxic dumping incident but, ever mindful of 'reputation management' legal firms, among other considerations, I sought to protect as far as possible not only the anonymity but also the privacy and absolute confidentiality of all respondents. I put a small prospective study to the University ethics committee on 'social network responses to "white-collar crime"', When this had been approved, I conducted a piece of very small-scale preliminary research to informally seek views from around half-a-dozen family-

members. All the way through, this project was fraught with both practical and ethical difficulties. Data-gathering from one's own relatives is rarely easy, and when the subject is the (disputed) wrong-doing of a family-member, one must tread with extreme caution both ethically and emotionally. Since family-members would be able to identify other members through the use of quotations, no direct quotations have been given in this paper. Similarly, details of the sample are not disclosed, in line with the Statement of Ethical Practice of the British Sociological Association (BSA 2004), in order to protect identities: the aim of the project is to explore sociological themes, not undermine relationships or expose specific individuals to public opprobrium. As the BSA Statement makes clear, social researchers have a responsibility, "to ensure that the physical, social and psychological well-being of research participants is not adversely affected by the research. They should strive to protect the rights of those they study, their interests, sensitivities and privacy" (paragraph 13). The research was very much in the tradition of mainstream classical sociology, using Blumer's notion of 'sensitising concepts', a way of being alert to nuances which "gives the user a general sense of reference and guidance in approaching empirical instances. Whereas definitive concepts provide prescriptions of what to see, sensitizing concepts merely suggest directions along which to look" (Blumer, 1954:7). I was also able to draw on my previous experience in using grounded theory (Glaser and Strauss, 1967; Glaser, 1978; Strauss, 1987; Strauss and Corbin, 1990, 1997) when conducting research on sensitive subjects ranging from addicted mothers to paedophiles (Goode, 1994, 2000, 2007, 2009). The methodology of the project was broadly ethnographic, relying on my role as a participant observer and making use of informal opportunistic sampling. The data-collection method was naturalistic in that there was no interviewing or other formal method of data collection and no use of recording instruments other than hand-written notes jotted down after conversations. I relied on everyday conversations to draw out as far as possible individuals' initial reactions and then their more considered views. Despite the constraints of this methodology, considerable material was generated, demonstrating the engagement of family members in thinking about this topic. What was notable, in fact, was the large number of responses generated by the half-dozen individuals and the heterogeneity of the views given. However, as discussed further below, this was in a context which typically silenced discussion. Individuals were initially often very reluctant to talk, and I found myself reluctant to open discussion or press for comments. The comments which were given tended to be presented in a sustained conversation which was then dropped and not referred to again.

Ruminating on and working with this data, I sought to categorize the wide range of responses into coherent groups, choosing a word or phrase which best summed up each view expressed. This process took several weeks and the categories gradually emerged from the data and were tested against the actual phrases used by the respondents and written down. Where feasible, they were also fed back to the respondents to see if they

accurately reflected their views, and drafts of this work in progress were also circulated for comment among family-members, creating an iterative process of reflection and discussion. This analysis resulted in seventeen broad categories, which I have placed under three main themes. The themes covered Outrage (containing one category), Family-Specific Responses (containing eleven categories), and Non-Family-Specific Responses (containing five categories).

The first category, 'Outrage', can be summarised as 'Shock and Anger', with comments such as, 'This is an appalling crime! I am disgusted. This is wrong on principle and we should do something to register our views.' In this reaction, there was a focus on the details of the incident, wanting to find out more information about the dumping, including its background, its effects and wider public reactions to it.

The next eleven categories, which have been classified under the theme 'Family-Specific Responses', broadly focused not on the incident itself but on the family context and on the potential impact on family-members of any discussion of the incident. The eleven categories under this theme are:

- Denial (Can't be the same person. The facts can't be true);
- Distancing (They are not that close. I don't know them that well);
- Separation (Business has nothing to do with family);
- Family Loyalty (Family should stick together);
- Embarrassment (Intense social awkwardness at raising painful subject);
- Avoidance (Don't want to "rock boat", might upset people);
- 'Protectiveness' (People's feelings would be hurt. We don't want to upset the older generation);
- Excluding (Attempting to muzzle discussion, excluding from family events);
- Scolding (Don't be a trouble-maker!);
- Collusion (The relative says it was just a regrettable industrial accident, so that must be how it really was. We don't need to know any more than that); and finally
- Sympathy for Perpetrators (Trafigura executives had a terrible time in prison in Côte D'Ivoire, so they are the ones we should feel sorry for, not those who died or were made ill).

The responses coded as 'Non-Family-Specific' addressed the incident as it if was not specifically relevant to the family, but was only of general interest and all provided reasons for inaction. This theme included the following five categories:

- Legal Proof (Trafigura have never been found guilty in a court of law in relation to this incident, therefore there's no proof of wrongdoing);

- Minimisation (The incident didn't do that much harm. We shouldn't say "murder", it was just a tragic mistake);
- 'Tolerance' (I don't want to 'play God'. We can't judge others. We shouldn't over-react);
- Indifference (I don't have time. It's important and I'd love to do something but ...); and lastly
- 'Helplessness' (Anything we could do would make no difference anyway).

In total, therefore, there were seventeen categories, ranging from a focus on the details of the incident (Shock and Anger) to a focus on the perpetrator (Sympathy for Perpetrators; Collusion); a focus on emotions (Family Loyalty; Protectiveness; Embarrassment) to a distancing of the incident (Denial; Distancing) or a rebuttal of its significance (Legal Proof; Minimisation; Indifference). Reviewing the responses, it was noticeable that there was little if any empathy voiced for the victims. The strongest expressions of empathy were reserved for the perpetrator and family-members close to the perpetrator.

## **Discussion of Findings**

An unexpected finding from this research was the overwhelmingly intense visceral reaction of social embarrassment and sense of helplessness that rose up when I was trying to discuss this incident with family-members. I found myself experiencing a very strong sense of displaced shame for raising the issue, with discomfort at my perceived 'disloyalty' towards family-members. As noted earlier, I found it difficult to initially open conversations on this topic and when I moved towards broaching the subject I experienced difficulty breathing, increased heart-beat, trembling, and difficulty speaking or making eye-contact. As a qualitative researcher, I was intrigued as well as perturbed by the very real psychosocial constraints which I experienced on raising the subject. Other family-members also seemed to share elements of this diffidence and reluctance either to raise the subject or to pursue it in any depth. If spontaneously raised at all, it was generally quickly dropped unless I persisted. Having expected that a relatively straightforward response of outrage, condemnation and activism would prevail, the responses I actually received (and experienced) appeared counter-intuitive and in need of explanation.

I wondered why we could not discuss the incident easily and openly and why the response of shock and anger (which one would assume would dominate, given the scale of the harm caused) was subsumed by other responses such as concern for the perpetrator and close family-members. The levels of embarrassment and reluctance to raise the subject seemed disproportionate and the shame and even guilt experienced appeared entirely misplaced: I felt ashamed to draw attention to another family-member's misconduct.

My discomfort led me to wonder if the intra-familial process of responding to a 'crime of the powerful' might have elements in common with other disclosure-related phenomena such as 'whistle-blowing' or with the 'processes of silencing' employed within families faced with other socially-taboo revelations, for example, child sexual abuse or domestic violence.

The psychiatrist Judith Herman, a pioneer into the study of post-traumatic stress syndrome, has studied the issue of social responses to perpetrators of abuse and has found that, regardless of whether the context of the abuse is State-sanctioned torture, or rape, domestic violence or child sexual abuse, the response is predictable. As she explains:

It is very tempting to take the side of the perpetrator. All the perpetrator asks is that the bystander do nothing. He appeals to the universal desire to see, hear, and speak no evil. The victim, on the contrary, asks the bystander to share the burden of pain. ... Secrecy and silence are the perpetrator's first line of defence. If secrecy fails, the perpetrator attacks the credibility of his victim. If he cannot silence her absolutely, he tries to make sure that no one listens. To this end he marshals an impressive array of arguments, from the most blatant denial to the most sophisticated and elegant rationalisation. After every atrocity one can expect to hear the same predictable apologies; it never happened, the victim lies, the victim exaggerates; the victim brought it upon herself, and in any case it is time to forget the past and move on. The more powerful the perpetrator, the greater is his prerogative to name and define reality, and the more completely his arguments prevail (Herman 1992: 7-8).

While Herman focuses on the role of the perpetrator in the silencing process, what is interesting in the Trafigura incident is that the perpetrator did not even need to participate. The silencing seemed not imposed from without but rather a form of self-censorship. The family-members seemed spontaneously to excuse, exonerate, justify and minimise. The 'predictable apologies', as Herman terms them, were trotted out not only by the perpetrator but by other family-members: it was just a tragic accident; perhaps it's been exaggerated; anyway, there's nothing we can do so we should just forget it.

Such behaviour appears motiveless: the bystander has nothing to gain by exonerating the perpetrator - other than, as Herman reminds us, the 'universal desire to see, hear, and speak no evil'. This desire may be the motivation for our self-censorship and the intense social embarrassment and shame I felt when I did choose to 'speak evil' of a relative. It may feel much more comfortable calling the toxic dumping incident a tragic accident, even though it is hard to explain logically how, in a situation where one takes illegal waste to a port without specialist waste treatment facilities and sells it to a company with no experience and no equipment,

the resulting mess can be described as accidental. Nevertheless, it is a wrench to 'speak evil' and challenge the comfortable view.

It is more comfortable, psychologically and socially, to be the person who 'does not judge' and who is 'tolerant' and 'loyal'. This applies whether we are the conventional wife described (and condemned) by Tweedie, or simply a bystander.

The processes of silencing are not only intrapersonal but also interpersonal. They involve those micro-processes of social interaction which are often conducted in the space where public and private intersect. Choosing the act of speaking about a crime challenges both 'the powerful' and also those who stand by, and the silencing processes engaged in by those around the perpetrator (accusations of disloyalty; scolding; excluding and so forth) send a powerful message that it is better to remain silent and not disturb the status quo. This is true in many other 'whistle-blowing' contexts, in which as a society we often have an ambivalent attitude, arguing for the necessary legal protection to 'speak truth to power' while at the same time frequently resenting or even despising the unfortunate person who does break confidentiality (Alford, 2001). It is clear that the concept of whistle-blowing "carries with it some very negative associations and anyone who does blow the whistle is seen as a sneak, a grass, a rat and all manner of other names" (Crook, 2000: 326).

At more macro levels, too, there is social inertia which militates against speaking out. As a range of recently-published books have demonstrated, from the violence waged by the West against Iraq (Gordon, 2010; Enloe, 2010) to the global injustice perpetrated by the wealthy on the poor (Pogge, 2010) to the continuing disaster of Bhopal (Mukherjee, 2010), a theme running throughout such tragedies is the indifference of the majority in the West – the very people who could step in to make a difference. As the philosopher Thomas Pogge argues, "our children should not grow up among killers" (2010, quoted in Subramanian, 2010: 56); but, in a global order structured by moral indifference, our children too often do.

Thus, at the intrapersonal, interpersonal and sociocultural levels, there are many factors contributing to the process of silencing. Paradoxically, while silencing processes draw on the rhetoric of indifference and helplessness, suggesting that ultimately the crime does not matter and we can do nothing about it, the very process of silencing is itself a powerful act and works to create a reality – a reality in which perpetrators are not challenged. The processes of silencing also work to reproduce and embed the stratification of credibility. As the sociologist Howard Becker identified, "credibility and the right to be heard are differentially distributed through the ranks of the [social] system" (Becker, 1967:241). The socioeconomic power which already inheres in powerful white-collar perpetrators is reinforced by the micro-level psychosocial processes of silencing within a 'hierarchy of credibility' in which those who disagree may indeed speak out but are thereby marginalised as 'crackpots' who may safely be ignored. The processes of silencing therefore not only

reinforce but actually create the reality of helpless inaction and reproduce the social power on which the ‘crimes of the powerful’ depend.

How may these processes of silencing be challenged and subverted? In order for ‘whistle-blowing’ to take place, in either occupational or domestic settings, there must be a sense that intervention can be effective. As noted earlier, the ‘super-injunction’ by the law firm Carter-Ruck back-fired within hours when it was exposed on Twitter. Spontaneous action by large numbers of people can counter-act ‘crimes of the powerful’, but this capacity is limited within family settings. Another possibility may be techniques of restorative justice which focus on the repair of harm to interpersonal relationships. As the criminologist John Braithwaite observes, “we should hope from restorative justice for micro-measures that ameliorate macro-injustice where this is possible” (Braithwaite, 2003: 57); and informal processes of reintegrative shaming by family-members may offer one way of effectively challenging ‘crimes of the powerful’ when other avenues are closed. Reintegrative shaming would place the experience of shame back onto the perpetrator rather than displacing it onto the family ‘whistle-blower’. As Braithwaite defines it, reintegrative shaming “means strong disapproval of the act but doing so in a way that is respecting of the person” (2003: 56).

## **Conclusion**

This article has examined the issue of relatives’ perceptions of a ‘crime of the powerful’, using the question ‘Is my cousin a mass murderer?’ to highlight some of the dilemmas faced by family-members attempting to make sense of illegal and profoundly immoral behaviour by a relative. The case-study used in this article concerns the dumping, in 2006, of toxic waste in Africa by Trafigura, an international oil-trading company, arguably causing the death of over a dozen people and the ill-health of around 100,000, as well as leaving lasting environmental damage. While governments and international NGOs such as Amnesty International and Greenpeace responded urgently and effectively, expressing grave concern over the issue, and while individual outrage on Twitter effectively negated a ‘super-injunction’, family-members of one of the main perpetrators did their best to ignore and downplay the significance of the dumping incident.

This paper analyzed some family-members’ informal responses and considered why these minimized any discussion of harm. A surprising finding was the strength of social embarrassment felt at raising the subject of the toxic dumping and the sense of shame at ‘rocking the boat’ and being ‘disloyal’ in even mentioning the incident. The responses expressed by family-members appear to fit within a model of processes of silencing typically used within family-contexts when behaviour such as domestic violence or child sexual abuse occurs, for example the processes of denial, distancing, minimizing, exonerating and colluding. The pattern identified by Herman in relation to perpetrators of trauma (Herman, 1992) also had

relevance, although intriguingly this preliminary study suggested that processes of silencing are independent of the role of the perpetrator: it appears that family-members may self-censor and silence any attempt to 'speak evil', even in the absence of any influence from the perpetrator. This finding needs exploration in more detail for theorising crimes of domestic abuse which are so often managed - and minimized - within family settings.

'Crimes of the powerful', however, have specific characteristics: as Herman reminds us, "The more powerful the perpetrator, the greater is his prerogative to name and define reality, and the more completely his arguments prevail" (Herman, 1992: 8). Socioeconomically powerful and successful people, protected by 'reputation management' lawyers and PR agencies, may be cosseted from shame and responsibility. In such cases, those around the perpetrator may be in a unique position to be able to break through such privilege and challenge the perpetrator to feel appropriate shame.

The illegal dumping of toxic waste outside Europe and North America - 'global fly-tipping' or 'toxic waste colonialism' - is part of an increasing trend, and is just one aspect of 'combat trading' and other ruthless and ruinous behaviour by multinationals exemplifying the psychopathic face of capitalism. What forms of social action or justice can effectively intervene to prevent multinationals from committing human rights abuses and environmental harm? Where law cannot provide remedy, it is suggested that action by families, perhaps with a focus on reintegrative shaming (Braithwaite, 2003), might be a method for addressing current harm and preventing future harm, if the processes of silencing can be effectively addressed and overcome.

This provisional and preliminary study has therefore linked the concepts of 'whistle-blowing' in the context of white-collar 'crimes of the powerful' with insights from the field of child sexual abuse and trauma studies. It has suggested that there are powerful intrapersonal and interpersonal psychosocial and sociocultural processes of silencing involved which make it hard for family-members to 'speak evil' and effectively challenge perpetrators, regardless of whether the context is a family-member beating their spouse or one making decisions which result in "one of the world's worst cases of chemical exposure since the gas leak at the Union Carbide factory in Bhopal" (Monbiot, 2009: online). Greater awareness of these processes may assist individuals in facing up to and dealing with 'whistle-blowing' whether this is within an occupational or a domestic context.

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