



INTERNATIONAL
ANTI-CORRUPTION
CONFERENCE

Ending Impunity
People. Integrity. Action

PUTRAJAYA MALAYSIA
2-4 September 2015

Long Session Report: Global Solutions

Session Title: Sextortion: Where Corruption and Sexual Exploitation Meet

Date & Time: 2nd September 2015, 18:00-20:00

Report prepared by: Nancy Hendry, Senior Advisor, International Association of Women Judges

Session coordinated by: Nancy Hendry, Senior Advisor, International Association of Women Judges (IAWJ)

Moderated by: Ron Nixon, Washington Correspondent, New York Times

Experts:

Hon. Engera Kileo, Justice of the Court of Appeal of Tanzania, Tanzania Women Judges Association (TAWJA)

Dato' Han Chee Rull, Chief Research Officer, Office of Legal Research, Office of the Chief Commissioner, Malaysian Anti-Corruption Commission (MACC)

JP Bonner, Director of Technology, Not In My Country (NIMC)

What were the aims of the session and corruption risks?

There is a form of corruption that remains hidden in plain sight and largely escapes impunity. It occurs when someone in a position of authority and public trust requests or accepts a sexual favor in exchange for something within his power to confer or withhold. Women around the world confront this sexualized form of corruption in virtually all aspects of life, hindering their access to government

services, education, employment, justice, and the marketplace. But many factors conspire to keep them from bringing complaints and demanding that perpetrators exercise their entrusted authority with integrity, fairness, and impartiality – not for personal sexual benefit. To help make this abuse of power more visible, the IAWJ gave it a name: sextortion.

Sextortion occurs where corruption and sexual exploitation intersect. It is a global problem with far-reaching human and social costs. However, the anti-corruption community focuses its research and advocacy on financial impropriety and pays scant attention to corruption in which sex is the currency of the bribe. To make sextortion visible and end impunity, we need to raise awareness and reshape the way we think, talk, collect and analyze data, and formulate anti-corruption strategies. As long as we continue to see corruption in narrow financial terms, we will remain blind to the problem of sextortion.

The session's aims were:

- To raise awareness and educate the anti-corruption community about sextortion.
- To share the experience of the International Association of Women Judges, the Tanzania Women Judges Association, Not In My Country, and the Malaysia Anti-Corruption Commission in seeking to end impunity for sextortion.
- To identify and showcase strategies for combating sextortion, including:
 - Reframing the way we think about corruption (IAWJ):
 - Naming and shaming sextortion;
 - Incorporating sextortion in anti-corruption monitoring and data collection efforts;
 - Incorporating sextortion into the way professional codes of ethics and government accountability are drafted, taught, and enforced.
 - Community-based anti-corruption solutions (TAWJA):
 - Training for judicial officers and justice sector stakeholders;
 - Raising awareness through seminars, mass media, and publications;
 - Building coalitions.
 - Technological anti-corruption solutions: free web and mobile applications to report specific instances of corruption and rate the performance of public officials (NIMC).
 - Justice sector anti-corruption solutions: investigating and prosecuting sextortion under the Malaysian Anti-Corruption Commission Act 2009 (MACC).
- To engage and mobilize the anti-corruption community to include sextortion in its research, advocacy, and strategies for ending impunity.
- To lay the groundwork for future collaboration.

**Summary of panellists' contributions & discussion points
(please be as detailed as possible)**

Nancy Hendry (IAWJ):

When those entrusted with authority demand sex in exchange for something within their power to confer or withhold, we need to recognize these abuses of power as part of a broader pattern of corruption. The IAWJ coined the term “sextortion” to describe the pattern of corruption in which sex, rather than money, is the currency of the bribe.

Naming sextortion was the first step in raising awareness about a form of corruption that has received scant attention and is less likely to be reported, prosecuted, documented, or addressed by anti-corruption efforts.

Sextortion takes many forms.

- It is the Canadian immigration adjudicator who offers to grant an application for refugee status if the woman agrees to an affair.
- It is the Nicaraguan official who demands that a woman sleep with him before she can receive the metal sheets needed to replace her roof.
- It is the American immigration officer who tells a green card applicant, “I want sex. One or two times. That’s all. You get your green card. You won’t have to see me anymore.”
- It is the Filipino embassy officials and labor officers who demand sex from distressed Filipinas who are seeking assistance to return to the Philippines.

What distinguishes sextortion is that it involves both sexual exploitation and corruption. However, for this very reason, it is less likely to be prosecuted as either. With the notable exception of sexual harassment, those who combat gender-based violence often focus on sexual abuse that is perceived as less consensual than sextortion and involves greater physical violence. Those who combat corruption tend to think in financial terms, so are often blind to wrongdoing that involves sexual favors.

The first game changer is to incorporate sextortion in anti-corruption monitoring and data collection efforts.

In gathering information, it is vital to ask the right questions. When questions focus on payment of bribes, they are unlikely to yield information about demands for sexual favors. Framing questions too narrowly produces misleading answers and misses the larger picture. For example, the 2013 Global Corruption Barometer found that day-to-day bribery occurs at the interface between citizens and public service providers and has an impact that is far from petty – affecting about one in four people, with some gender differences in reporting, and imposing social costs far greater than the amount of money involved. But these important findings don’t reveal:

- That the number affected would be even greater if sexual bribes – sextortion – were part of the analysis;
- That one aspect of the gender difference in reporting may be the stigma and shame that keep women from reporting sexual crimes; and

- That paying a sexual bribe entails deeper and more lasting harm than paying a monetary bribe.

A narrow financial mindset constrains not only the information we gather, but our strategies for addressing corruption.

- If we assume all corruption is motivated by economic greed, we miss the dynamic of power and control that underlies abuse of power for sexual rather than economic gratification.
- Unless we pay attention to the ways in which both perpetrators and victims see sexual bribes as different from financial ones, we won't grapple with how those differences contribute to impunity – victims who are reluctant to come forward, and perpetrators who excuse their conduct as romantic or not really harmful.
- As long as our public information materials and reports define corruption in purely economic terms, we reinforce stereotypes and attitudes that view demands for sexual favors as different from demands for cash.

Until we incorporate sextortion into the way we think, talk, collect data, and formulate anti-corruption strategies, we will fail to see the gender impact of corruption and remain blind to the problem of sextortion.

A second game-changer is the need to incorporate sextortion into the way professional codes of ethics and government accountability are drafted, taught, and enforced.

One way people learn about what constitutes lawful and appropriate conduct is through the policies and practices adopted by the institutions within which they work. To change the culture of acceptance for sextortion, we need to change those institutional cultures. Ending impunity begins with recognizing sextortion as unethical, unprofessional, unacceptable, and corrupt.

As an abuse of power, sextortion involves a fundamental breach of the ethical standards to which those with “entrusted power” are generally held. But unless sextortion is explicitly addressed, those charged with enforcing ethical obligations may not recognize a violation when they see it. We need to raise awareness about sextortion so that officials charged with professional discipline – whether for civil servants, police, judges, attorneys, or teachers – will not turn a blind eye to such abuses of power.

Hon. Engera Kileo (TAWJA):

The Sextortion Program in Tanzania

The Tanzania Women Judges Association (TAWJA) received funding from the Royal Netherlands Government (2010-2012) and UNWomen (2012-2015) to implement programs to combat sextortion.

The Tanzania Legal Framework

The Tanzania legal framework includes two laws that can be used to prosecute sextortion:

- Section 25 of the Prevention and Combating Corruption Act, 2007 makes sextortion an act of corruption.
- Section 130(3) of the Penal Code makes it rape when people in authority abuse their positions to extort sex.

Sextortion occurs in schools, where teachers demand sex for grades or other educational benefits. The *Michael Ngilangwa* case involved the successful prosecution of a teacher who tried to use his position of authority to obtain sexual favours from a student.

Sextortion also occurs at the hands of other professionals. The case of *Seif-Abadan* involved a doctor who threatened to withhold treatment from a female patient unless she acceded to his sexual demands.

Yet another case, *Onesphory Materu*, involved abuse of authority by a police officer. A 14-year-old girl was arrested for theft and put in a police lock-up pending investigation. A police officer approached her in her cell and promised to release her if she agreed to have sex with him. The girl complied with the officer's demand for sex, but, afterwards, he did not set her free. The girl protested loudly, attracting the attention of other police officers. The offending officer was ultimately charged and convicted of rape.

In one particularly troubling case of sextortion, the perpetrator was a court clerk who supervised a number of female employees. If an employee in the office wished to receive overtime work and pay, she had to sleep with the court clerk. The sextortion only came to light when an unusual number of office employees became ill. It turned out that the court clerk was HIV positive and had infected the rest of his staff. This case underscores that, where HIV/AIDS is prevalent, sextortion can prove fatal.

Strategies and Challenges

Building awareness and training officials is a key part of TAWJA's work to stop sextortion from happening in the first place. TAWJA has created a cadre of specially trained personnel (both male and female), who conduct trainings about sextortion for male and female judicial officers and other justice administration stakeholders.

TAWJA uses seminars, radio and television talks, and publications to raise awareness about sextortion and sensitize policy makers, law makers, teachers and students in schools and institutions of higher learning, and the public at large.

TAWJA has joined with other NGOs to form a coalition for evidence-based advocacy to combat sextortion. This is a battle that will only be won through joint efforts, and building coalitions is a key strategy in ending impunity for sextortion.

Some of the challenges TAWJA has encountered in its efforts to combat sextortion include:

- Deep-rooted, discriminatory customs and traditions;

- Unwillingness on the part of victims to come forward because they fear the repercussions and stigma;
- Low ethical and moral standards; and
- Insufficient resources to carry out activities.

The Way Forward

We must all join hands to end sextortion because it humiliates and lowers the dignity of women, fuels the spread of HIV/AIDS, damages institutions, and generally hampers national development.

Sextortion must be named, shamed and ended, and the way forward includes:

- Capacity building for organs dealing with law enforcement;
- Economic empowerment for those – mainly women and girls – who are most vulnerable to sextortion;
- Studying the extent of the problem and gathering the information needed to make informed policy decisions; and
- Placing an emphasis on ethics and morals from early childhood.

JP Bonner (NIMC):

Not In My Country has developed technological tools for fighting corruption. Free web and mobile applications allow users to report specific instances of corruption and to rate the performance of public officials. The performance ratings are publicly available on the NIMC website; individual reports of corruption are kept confidential.

By offering the general-case solution of public ratings and the specific-offence solution of private reporting channels, NIMC targets both: (1) retail corruption, involving an individual's misuse of public trust for a specific private gain; and (2) quiet corruption, involving chronic nonperformance. Private reporting provides a specific deterrent that names and shames retail corruption, while public ratings provide a general deterrent to quiet corruption.

NIMC has applied these technological tools to combat corruption in the Ugandan and Kenyan educational systems. The corruption in those systems includes sextortion, which is so rampant that people talk about STDs – “Sexually Transmitted Degrees.”

Recognizing the problem is important, but diagnosis of sextortion is not enough; treatment in the form of deterrence and prosecution needs to occur hand-in-hand with any information-gathering effort.

As a tool for fighting corruption, the NIMC technology is designed to:

- Increase the risk of abusing power by providing a reporting and rating mechanism that sheds light on abuses;
- Decrease the risk of reporting abuse by providing anonymity for those who submit reports and ratings; and
- Supply ammunition for advocacy by collecting data about abuses of power.

Protecting the privacy of those who experience sextortion is a key feature of the NIMC technology. It is important to restore a sense of agency and empowerment to individuals who have been violated by trusted authority figures, and one way to do that is by giving them a recourse that does not expose them to public opprobrium.

Effective prosecution of sextortion and other forms of corruption is important in achieving justice beyond transparency. There are a number of options, including criminal prosecution, civil suits, and international litigation, but there are challenges and dangers involved in bringing a case. In the United States, additional remedies might include bringing suit under the False Claims Act, asset forfeiture, and visa denial. NIMC's technology provides a crowdfunding platform to help cover legal costs.

NIMC seeks to expand use of its anti-corruption tools to other countries and make them available to qualified anti-corruption organizations that can validate cases and protect the identity of victims. Current expansion plans include Ukraine and Nigeria.

Dato' Han Chee Rull (MACC):

Sextortion as a Form of Corruption

Sextortion is a form of corruption; the major difference is that sexual favours replace money or material things as the currency of the bribe.

Sextortion may come into play for women in a position of vulnerability or dependency.

Malaysia's Laws Relating to "Sextortion"

In Malaysia, an abuse of authority for sexual pleasure can be prosecuted as a criminal assault or as criminal force to outrage or dishonour a person's modesty. These offences do not require proof of a *quid pro quo* or abuse of power by the offender. However, there must be an overt act amounting to a word or gesture intended to insult the person's modesty.

Sextortion may also be punishable as rape under the Penal Code. Section 375(f) of the Penal Code covers rape by a person in authority or a position of trust. A person can be charged under this statute even if he obtained consent, as long as the consent was obtained through his authority or position.

The offences of extortion and cheating include elements that might apply to sextortion, but they have not been construed or applied to cover delivery of oneself or sexual favours. Accordingly, this limits their application to sextortion offences.

Malaysia Anti-Corruption Commission Act 2009.

The MACC Act defines corruption in terms that are broad enough to apply to sextortion. Under the Act, "corrupt" conduct includes any act of corruptly soliciting, giving or accepting gratification. A sexual favour or service constitutes a gratification under the MACC Act, and the term extends to any offer, undertaking, or promise, whether conditional or unconditional, of any sexual favour or service.

The *mens rea* element of the offence is fulfilled if the offender seeks sexual favours to induce him to perform certain acts or desired conduct. It is not necessary to establish that the corrupt conduct produced the intended result. Offences under the Act include attempt or a criminal conspiracy to commit the offence.

To determine whether a particular act of obtaining or receiving sexual favours constitutes corrupt conduct under the MACC Act, the objective and subjective elements of the act must be taken into account. Relevant considerations include: the question of intention; the quantum (value) and purpose of the gratification; the manner in which the favour is requested and the manner in which it is granted; the relationship between the parties; the nexus between the gratification or a certain course of action and the recipient; and subjective guilty knowledge.

Issues and Challenges in Addressing Sextortion

Investigating, proving and prosecuting sextortion cases can be difficult. Often victims do not know their cases could be classified as corruption. Since it was established in 2009, the Malaysian Anti-Corruption Commission has only investigated two sextortion cases. One involved a university lecturer who allegedly solicited sex from a student in exchange for better grades. The other involved a woman who claimed that an immigration officer asked her out on a date when she was trying to enter Singapore.

One of the challenges in bringing a sextortion case is that corruption investigations are reactive (victim led) and require the victim's cooperation and strong commitment through a process that can be daunting.

Sextortion is often hard to prove, as it is carried out in secrecy. Moreover, because perpetrators and victims exchange sexual favours as a *quid pro quo*, there is a lack of evidence of physical violence. Proving a physical crime that happened in the past can be challenging. The MACC works with victims, within the law, to try to expose offenders, bearing in mind the need to be sensitive to the additional trauma this can cause victims and not to let zeal for collecting evidence lead to any actions that might give rise to claims of entrapment, bias, or overzealousness.

When a sextortion case finally goes to trial, victims can expect to have their credibility and character challenged.

Pertinent Points

The Malaysian legal framework makes it possible to prosecute sextortion under the MACC Act 2009. However, the drawback of bringing sextortion cases under this law is that the technicalities of the law of corruption apply and may be used by offenders to escape punishment.

The offences of extortion and cheating currently have limited applicability to sextortion. However, obtaining sexual favours should be recognized as a form of extortion, and obtaining sexual favours through deceit should be recognized under the law of cheating.

Importantly, a provision making it an offence to take sexual advantage of a person in a position of dependency or vulnerability may be required to address the problem of sextortion.

Main outcomes of session (include the highlights and interesting questions from the floor)

The IAWJ has given a name – sextortion – to corruption in which sex is the currency of the bribe. This is the critical first step, as it is difficult to talk about, let alone analyze or develop strategies to address, something for which we have no name. The next step is to integrate awareness of sextortion into the way the anti-corruption community thinks, talks, collects data, monitors, and develops strategies to address corruption.

Sextortion needs to be recognized as a global problem with far-reaching human and social costs.

Some countries, such as Malaysia and Tanzania, have anti-corruption laws that are broad enough to encompass sextortion and have used those laws to prosecute sextortion cases. However, there are gaps and challenges that remain in trying to achieve justice under the existing legal framework. The legal framework is often not explicit about sanctioning sextortion. Victims may be reluctant to come forward because they do not know they have a legal claim, they think they will not be believed, or they fear retaliation or stigma. If they do come forward, sextortion can be hard to prove, and the legal process can be daunting.

As an abuse of power, sextortion is a fundamental breach of the ethical standards to which those entrusted with power are held. But unless sextortion is explicitly addressed, those charged with enforcing ethical obligations may not recognize a violation when they see it. Changing institutional cultures of acceptance begins with recognizing sextortion as unethical, unacceptable, and corrupt.

The preparedness for authorities to sanction sextortion is often weak. This was illustrated by a real-life example where it took media intervention to focus attention on a “dormant” case and ultimately hold the perpetrator accountable.

Technology can break the silence while protecting victims and empowering them to seek justice.

While women are particularly vulnerable to sextortion, men can also be victims. Perpetrators of sextortion prey on vulnerability, and males who are dependent on the favor of an abusive authority may also face demands for sexual favors. It was noted that, in many countries, the LGBTQI community is a prime target of sextortion by the police.

A commenter provided an example of sextortion uncovered by a Transparency International Advocacy and Legal Advice Centre in Zimbabwe. A man responsible

for overseeing social housing in Mbare demanded and obtained sexual favours from hundreds of women, who complied with his demands to keep their families from being evicted. The man contracted HIV-AIDS and infected many of his victims, leading to incommensurable and tragic social costs, while he, for a long time, enjoyed the protection of a relative who was a government minister.

Sextortion fuels the spread of HIV-AIDS. One commenter observed that sextortion answered his question about the link between corruption and reproductive health.

Collaboration and collective action is needed to end impunity for sextortion.

A coordinated information-sharing effort is needed to gather data about sextortion. Without sextortion-specific definitions, cases will be lost in the noise of generalized corruption reporting or missed entirely as a financial transaction never takes place.

Quotes:

You cannot fight something that does not have a name.

Sextortion humiliates and kills.

If our children are not safe at school, where is the country going to get its future leaders?

Key recommendations and concrete follow-up actions

- The abuse of entrusted power for sexual favours must be universally recognized, prevented, and legally sanctioned.
- NGOs must collaborate. The fight against sextortion must be mainstreamed into the work of anti-corruption and pro-gender equality organizations.
- To be relevant, anti-corruption research must integrate sextortion and specifically address sextortion as a category of corruption.
- Sextortion needs to be specifically addressed and integrated into the way ethical standards are drafted, taught, and enforced.
- When cases of sextortion are identified, action needs to be taken to hold perpetrators accountable.
- Coordinated information-gathering is needed to present more complete data on sextortion.
- To address the weak preparedness of authorities to sanction sextortion, training for judges and prosecutors is needed to raise awareness about sextortion and enhance understanding of how the legal framework applies to it.

We value your assessment following the outputs of the session, if you need to, please get feedback from the session coordinator or the moderator for this component.

What can be done to create opportunities for scaling up the solutions discussed in the session? And by whom?

Leading international women's rights organizations and the global anti-corruption community need to come together to formulate an agenda for addressing sextortion.

Judges and prosecutors play a unique role in holding perpetrators of sextortion accountable and achieving justice for their victims. Efforts need to be made to raise awareness and provide training about sextortion to these critical justice sector actors.

The large network of Transparency International Advocacy and Legal Advice Centres can assure that complaints of sextortion are acted upon and cases brought to sanction perpetrators.

Some form of coordination nexus between regional and interest-specific anti-corruption organizations could be created by a body such as Transparency International to allow the solutions presented to grow beyond informal, bilateral arrangements between organizations.

Key Insights for the future of the anti-corruption agenda (including Game Changing ideas/ suggestions/ actions from the session)

- The abuse of entrusted power for sexual favour is corruption.
- Sextortion must be named, shamed, and ended.
- The anti-corruption community must mainstream sextortion into its work, including data collection, advocacy, monitoring, and strategies for addressing corruption.
- There are significant gaps in the existing legal framework for prosecuting sextortion, which need to be addressed and filled. In some cases, new legislation may be needed.
- Professional codes of ethics and government accountability establish standards and shape the institutional culture of important segments of society. Assuring that those codes specifically address sextortion can begin to change attitudes and behaviour and end a culture of acceptance for this form of corruption.

Rapporteur's name and date submitted

Nancy H. Hendry

October 8, 2015

Remember! This Long Report needs to be emailed to reports@16iacc.org by 18th September. Thanks!