

# Sextortion in Education Sector and Response to Criminal Legal System in Tanzania - A Review

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**Abstract** - *This paper reviews the occurrence of sextortion (sexual corruption) in the education sector and the responses to criminal justice in Tanzania. The methods of review focus on the results of the available literature and social media reports (newspapers, blogs) to address fundamental issues such as sexual corruption in the education sector, legal action and challenges that the victims of sextortion face in the legal system. Although sometimes newspapers are biased and inauthentic, they contain some important and complementary data which are useful in this review.*

*Sexual harassment against women is a global problem; it is therefore not unique to Tanzania. This review indicates that sextortion is a malignant cancer existing at all levels of schooling from primary to university education, and the victims are mainly female students and female teachers. In addition to that, this review reveals that a number of sextortion cases have been filed in the courts and judgments made. Although, unfair judgment is mounting as some judges divert laws; prosecution for a few cases filed in the court, has been difficult due to high secrecy between perpetrators and the victims, as well as corruption within police prosecutors and the court system. Sexual corruption and any other forms of sexual harassment are prohibited by the law. Therefore, each person in his or her position must abide by the civil servants' code and ethics.*

**Keywords:** *Sextortion, sexual corruption, criminal justice, education sector, legal system.*

## INTRODUCTION

Access to justice and equality for all people is one of the most important weapons for fighting against any discrimination which may contribute to the delay of national development. Tanzania is among the least developed countries in the world whereby 51.3% of her population are women [1]. At the national level, women remain in a big challenging position to access equal rights, unlike their counterpart, the men. This has been reported by activists for women's rights Tanzania Media Women Association [TAMWA, Tanzania Association of Women Judges [TAWJ], and Tanzania Gender Network Program [TGNP] due to the conflict of laws in which there is discriminating on one side while on the other side the reality shows a big gap between the intention and practice [2].

A report by TAMWA [2] estimates that 75 to 89% of women in Tanzania have experienced some forms of sexual harassment and assaults. In all nations, both developed and developing women are subjected to some forms of sexual assaults [3]. The government of Tanzania has made efforts to ratify various international conventions for people's rights including: the Beijing Declaration and Platform, the Africa Charter of Human Rights and the African Protocol on the Right of Women and Children.

Notwithstanding the nationwide campaign intended for ending sexual corruption, launched by women's activists to ensure the Human Rights Article 26 of 1946 which put education forward to the full development of human personality,

human rights and fundamental freedom is respected in the country, the prevalence of sextortion act appears to infringe this right. Sextortion is a common prevalence in education system that goes unnoticed by many and there are many occurrences that are not spoken out or reported to the legal system due to a number of reasons, including the culture of secrecy, parent being paid by the perpetrator and corruption among legal providers [2,10].

The analysis of TAWJ, TAMWA and Tanzania Commission for AIDS (TACAID) conducted on the culprits of sextortion in education system shows that teachers are implicated in befriending pupils or forcing sexual relationship with girls. In 2008, 200 to 300 teachers in primary and secondary schools were dismissed from teaching career, according to Teacher Service Department (TSD) responsible for teachers disciplinary issues, after being implicated in relationships with school girls [23]. The involvement of teachers in these repugnant behaviours has far been causing negative effects which include not only the risk of poor academic and psychological torture, but also unplanned pregnancies, fear, low self-esteem, drop out and transmission of disease such as HIV/AIDS [10]. Thus, breaking silence on sextortion acts will bring to light the resulting suffering to victims and increase concern on judicial systems. Furthermore, individuals with authority will understand the impact of such immoral acts and their legal implications.

Apparently, the increase of sextortion acts in schools, colleges and universities has aggravated public debates on the moral standing of teachers. Whereas others argue on the silence of the laws, it is unlawful in Tanzania to sexually harass another person. As per title 135 of Sexual Offences Special Provision Act of 1998 and title 11 of Prevention Corruption Act of 2007, sexual harassment including sextortion is penalized under criminal laws. The Act states that “any person with intention, assaults or use of criminal force, unwelcomed sexual advances by word or action used by a person in authority in a working place or any other place shall constitute the

offence of sexual harassment and be liable on conviction to imprisonment for a term not exceeding five years or to a fine not exceeding three hundred thousand shillings or to both the fine and imprisonment”[24]. Despite the presence of laws, sexual corruption and sexual harassment is still widely felt in all sectors over the country, including the education sector.

## **1. Concept of Sextortion**

Sextortion is not a common phenomenon in Tanzania. It is a new concept used to explain the conducts which include not only sexual abuse, but also the element of corruption [4]. Sextortion is a global phenomenon, but in most cases it goes unreported and the impunity is common for perpetrators. It is from this impunity that the International Association of Women Judges (IAWJ) launched the program of stopping the abuse of power for sexual exploitation with the purpose of “naming, shaming and ending sextortion” [5].

### **1.1. What is Sextortion?**

Sextortion is the term coined to combine sex and extortion in explaining sexual abuse and exploitation. It is a form of sexual exploitation that employs a non-physical form of coercion to exert sexual favour from an individual who is the victim [6]. For sextortion to happen, the perpetrator of this act must be a person in authority who takes the advantage of his or her office to win love affairs of the victim for the sake of, employment, promotion good grade in the examination or any other service. Reimer [7] asserts that sextortion refers to technically gender natural offences whereby, men can sexually harass women and women can sexually harass men, although commonly the majority of sexual corruption claims and charges are brought by women.

### **1.2. Elements of Sextortion**

The contexts in which sextortion can occur are drastically different. Firstly, each case involves someone in a position to exploit. Secondly, in every case the person threatens to use

his/her authority over the victim and thirdly, an offer is exchanged in a sense that one gets his/her right after doing what the person in that position wants [7]. According to International Association of Women Judges [5] the elements of sextortion include: *sexual corruption, quid pro quo and psychological rather than physical coercion*.

### **1.2.1. Sexual corruption**

As far as corruption is concerned, the perpetrator must be a person or an individual in authority being involved in demanding or accepting sexual favour in exchange for the exercise of authority. The abuse of authority can be exercised in many ways, including legal, moral, traditional and religious authority; it further goes to the authority of a teacher or supervisor, or the authority of physical force. The important thing to note here is that, the perpetrators of these acts must be people with authority. For-example, it can involve teacher authority to make unqualifying pupils pass in the examination in return for sexual favours [4, 6].

### **1.2.2. Quid pro quo**

Quid pro quo is a Latin word which means “favour done in exchange for something”. The abuse of authority to get sexual favour implies the consent of the victim to negotiate some benefits that the person in authority can withhold or confer. In this case, it is no defense for perpetrators to claim that the benefit sought by the victim was from a third party [4].

### **1.2.3. Psychological rather than physical coercion**

This element relies on the coercive power of authority rather than physical violence or force to get sexual favours. The abuse of authority implies an inequality of power between the perpetrator and the victim [6]. [4] notes that the inequality permits the perpetrator to exert coercive pressure on the victim to comply with sexual demands. In case the perpetrator’s power is so great and the victim so powerless, no physical restraint or force is needed to extort sexual favours. The psychological coercion inherent in sextortion is a

figurative knife that can be every bit as powerful as a real knife held to the victim’s throat.

## **2. Sextortion in Education Sector**

In the education context, sexual harassment refers to unwanted and unwelcome behaviours of a sexual nature that interfere with an individual’s rights to equal opportunity to education. Sextortion in the education sector in Tanzania is a malignant cancer. Students, mainly girls, at all levels of education (primary, secondary schools, college and universities) often face various sexual harassments, sexual corruption being one of them. According to [8, 9] such harassments have caused harm and psychological stress among female students. Government officials have shown their concern on these acts as they continue to escalate in all public and private sectors. In 2013, the Tanzanian Deputy Minister of Social Welfare, Gender and Children Umy, Mwalim, when addressing the House of Parliament, claimed that sextortion was escalating in higher learning institutions. She noted that lecturers in colleges and universities are forcing sexual favours in exchange with examination grades from their female students.

The Ministry of Education and Vocational Training statistics show that between 2004 and 2008 a total of 28,590 schoolgirls in the country dropped out of school as a result of unplanned pregnancy, 11,599 being secondary school pupils and 16,991 primary school pupils. This report shows that in most of the cases, teachers are directly implicated in schoolgirl pregnancies [10]. As reported in [11] the College of Business Education, Dar es Salaam branch expelled its lecturer after being caught by CCTV cameras planted in offices having sex with her student. [12] reports that a first year female engineering student at the University of Dar es salaam committed suicide after a series of sexual harassment incidences from his lecturer. The marks that female students get in exchange with sex in colleges and universities with lecturers in Tanzania is commonly known as “*underpant’s grades*” literally translated from the Kiswahili term “*Maksi za chupi*”.

Morley [13] stresses that sextortion act in higher learning institutions is a complicated phenomenon, as some male lecturers do ask sex favour from students. But on the other hand, academically weaker female students do approach male lecturers so that they can be favoured in the examinations. In a similar vein, sextortion incidences among primary and secondary school teachers caught having sex with their pupils are increasingly reported by the media almost in every part of the country. [14] reports that one teacher at Kisukuru Primary school in Dar es Salaam was caught having sex with his standard six pupils in his house. In another incidence, IPP Media [15] reported that a deputy Headmaster at one secondary school in Bariadi district was caught having sex with his form four pupil in his house.

In Iringa region, one pastor of the Evangelical Lutheran Church was accused at Iringa Resident Magistrate Court for sexual corruption. The accused was a teacher of the complainant, a form one student. He demanded a sexual favour as a condition for helping her to perform better in English and divinity examinations [6]. In Moshi rural district, one teacher at Muungano Secondary School was caught by police in a Guest House having sex with his form three pupil [16]. Clouds [17] reported a shocking story of one form two male pupil at Nkasi Secondary school in Rukwa Region who impregnated her teacher. In Mara region, it has been reported that one teacher at Makoye Education Center was caught by the Institute of Prevention and Combating Corruption Bureau (PCCB) on a suspicious claim for demanding sexual favour from a complaint, a form four pupil. He demanded a sexual favour as a condition for letting her use his mailbox to channel her letter of acceptance for sitting for form four national examinations [18].

Sextortion is one of most critical and rapidly growing problems in primary and secondary schools in Tanzania. A report by [19] indicates that in all the four villages visited in Mwanza city

during the study entitled “*A school a Good Setting for Adolescent Sexual Health Promotion in Rural Africa?*” one or two teachers in each primary or secondary school were found to have impregnated school girls or caught having sex with their pupils. In their findings, pupils were quoted saying that teachers openly have sex with school girls and other teachers know about it, but they do not take any action about it. “Teachers at school, including the headmasters, are known to to have sexual relationship with girls”. Abeid [20] reported unexpected situations of Nyambusi secondary school pupils in Kahama district who voted to list names of teachers who are involved in sexual relationship with school girls. The list of teachers’ names was submitted to the Ward Education Officer following a series of conflict between teachers and school boys who were fighting to win love of school girls. In Mwanza city, it has been reported that one Human Resource Officer at Ilemela Municipal was accused by PCCB for demanding sexual favour as a condition of offering a transfer to one female teacher who wanted to change her working station [4].

### **3. Criminal Justice System**

Sextortion is a new terminology used to describe a situation that takes place in private or public sectors, where sex is used as a corruption and a condition for getting services. In Tanzania, there is no explicit law which used for expressing the term sextortion, although numerous laws recognize this. This depends mostly on to the type of case such as rape or sexual harassment [4]. Sextortion is prosecuted under penal code CAP 16 section 130 of 2002 as rape, sexual harassment or incidence of assaults, title 135 of Sexual Offences Special Provision Act of 1998 and section 25 of PCCB Act No. 11 of 2007 [6], whereby both laws are gender neutral where males and females may be victims or offenders as illustrated in Table 1.

Table1: Various Punitive Laws Related to Sexual Harassment and Sextortion in Tanzania

<b>Penal Code- CAP, 16 RE, 2002</b>	<b>Ingredient of offenses</b>	<b>Penalty</b>
Section 130(3)(a)	A person in a position of authority takes advantage of his official position, and commits rape to a girl or a woman in his official relationship or wrongly restrains and commits rape to the girl or woman	Section 131 (1). Thirty years imprisonment with corporal punishment and an order for compensation for the injuries sustained by the victim.
Section 130(3)(b)	A person on the management or staff of the remand home or other place of custody established by or under the law, or women or children's institutions, takes advantage of his position and commits rape to any woman inmate of the remand home, place of custody or institution	Section 131(1). Thirty years imprisonment with corporal punishment and an order for compensation to the victim for the injuries suffered.
Section130 (3) (c)	A person on the management or staff of a hospital, takes advantage of his position and commits rape to a girl or woman	Section 131 (1) Thirty years imprisonment with corporal punishment and an order for compensation to the victim for the injuries suffered.
Section130(3)(d)	A traditional healer takes advantage of his position and commits rape to a girl or woman who is his client for healing purposes.	Section 131 (1) Thirty years imprisonment with corporal punishment and an order for compensation to the victim for the injuries suffered.
Section130(3)(e)	A religious leader takes advantage of his position and commits rape to a girl or woman.	Section 131 (1). Thirty years imprisonment with corporal punishment and an order for compensation to the victim for the injuries suffered.
Section196 (1)	A person employed in the public service does or directs to be done in abuse of authority of his office any act prejudicial to the rights of another.	Three years imprisonment, but the prosecution must be with the consent of the Director of Public Prosecution.
Corruptio Act No. 11 of 2007. Section 3(25)	Any person being in a position of power or authority who in the exercise of his/her authority, demands or imposes sexual favours or any other favour on any person as a condition for giving employment promotion right, privilege or any other preferential treatment commits an offence	Three years imprisonment of not more than five years or a fine of not less than 1 million Tanzanian shillings, but not more than 5 million Tanzanian shillings.

**Source:** Tanzania Association of Women Judges [6]

In most cases, the incidences of sextortion are not always brought to light; however, occasionally such incidences are reported due to the prevailing culture of secrecy and stigma surrounding the sexual corruption issue in the society. The most cited criminal case was that of Pastor, *Criminal Case No. 7 of 2010* filed at the Court of Resident Magistrate at Iringa. The accused was a Pastor of the Evangelical Lutheran Church and a teacher. He was charged under section 25 of PCB Act No 11 of 2007 for demanding sexual favour from the complainant, a form one student as a condition for helping her in English and divinity examination results. He was convicted and sentenced to pay a fine of five million Tanzanian shillings and to serve a term of imprisonment for 5 years [6].

Another case was filed in a Village Court in Mwanza region, where the accused was a Headteacher, who had been reported to impregnate his school pupil. The girl's parents asked the Headteacher if he was responsible and what he was ready to offer them. He denied the responsibility and the parents decided to sell one of their cow and thus took the case to court in the village. The head teacher bribed the magistrate, who judged unfairly. However, the girl's parents were unsatisfied with the judgment and sold another cow to take the case to a higher court. The Headteacher was found guilty and sentenced to pay fine as well as transferred away from the village [19].

Other criminal cases of sextortion not related to education sector were filed in the courts over the country and some are still pending, for example, Criminal case No. 135 of 2009 in Mbeya region Resident Magistrate, Criminal Appeal No.3334 of 2009 in Dar es salaam and Criminal Appeal No.320 of 2009 in Tanga where the perpetrators were accused for raping and demanding sexual favours [4, 6].

#### **4. Challenges Facing Sextortion Victims in the Justice System**

The country law stipulates that for a person to be found guilty for criminal offenses, the prosecutions have to prove evidence beyond

reasonable doubt that the accused has committed the crime. The crime of sextortion is very difficult to prove due to the high secrecy between the perpetrators and victims; unless the perpetrator is caught ready handed and some image or video recording and voice were taken [4]. It is from this loophole in the law that women in Tanzania encounter multiple challenges when they look for justice from the court.

Maithili [21] asserts that women reporting sexual harassment or sexual corruption at the police station are likely to be questioned to the point of harassment. In addition to that, corruption in the justice system (police and Court) is more evident which include mounting of taking bribe from the perpetrators in order to ignore and delay the case. In one criminal case in Mwanza city, for example, the Headteacher who was accused of impregnating a schoolgirl bribed the magistrate and thus unfair judgment was made [19]. In Dodoma region, police prosecutors were criticized for not taking action against the accused teacher who made a 14 year old standard seven girl her wife, despite of being briefed by the girl's parents for five months [22].

Conversely, the psychological impact of testifying in the court has been a major challenge to the victims of sexual corruption or harassment. The majority of women victims of sexual corruption or harassment and rapes found their experience in court humiliating and distressing [6, 20]. According to the Tanzania law of rape, sexual harassment and sexual corruption, the victim must testify in the court without the help of experienced advocates to guide her. Therefore, women are often left to navigate through a highly intimidating court system where the cases are heard in general courtrooms along with many other types of cases [20].

The complexity and unfamiliarity of court proceeding, language barrier and lack of legal presentation mainly in rural areas of Tanzania pose many challenges for women victims of sexual harassment and sextortion [6]. Legal procedures can intimidate women who may not be aware of court proceedings, either due to lack of education, or because of the gender role and

norms that may not allow them to be accustomed to speaking for themselves. To some degree the court system has contributed much to women being afraid to stand in the court [21].

## 5. Recommendations and Implications for Further Research

Sextortion has many impacts ranging from mental and physical frustration to infection with HIV/AIDS. Consequently, the following recommendations are made:

- a) The law of sextortion is not punitive enough, despite the harm of this act; therefore, sextortion punishment should be treated the same with other laws stipulated in section 130 (3) of the penal code.
- b) The government should establish whistleblowing mechanisms in schools to encourage pupils to report misconduct of teachers without fear of victimization.
- c) The act of sextortion is known by some staff in schools, as they know who is dating whom among the staff and pupils. Therefore, this should be a commitment task of everybody to report those who are involved in these immoral behaviours.
- d) The government, in partnership with NGO's, should launch a sensitization program in all public and private sectors on the dangers and consequences of sexual corruption.
- e) The government, through Attorney General offices, should remove all due costs of legal services and advocates for victims of sexual harassment or sexual corruption in order to give women a chance to open files in the court and get legal support.
- f) This is a review work which did not explore individual perspectives on issues related to sextortion in education at any levels of education. It is, therefore, suggested that further investigative research be conducted to explore individual perceptions in all level of education using multiple methodologies.

## 6. CONCLUSION

Sextortion is a malignant cancer existing at all levels of education and other sectors in Tanzania.

Sextortion has been associated with psychological and emotional stress leading to mental and physical frustration. Therefore, the war against this repugnant behaviour cannot be fought by a single person. It needs joint efforts of all parties such as government agencies, the community and individuals to fight against sextortion in all public and private offices. Furthermore, each person in his or her position or office must abide by the code and ethics guiding his or her profession.

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