



Global Judicial Integrity Network Substantive Breakout Session Report

I. TITLE OF THE SESSION:

Title of the Session:	Sextortion – The Need for New Standards of Judicial Integrity and Accountability
Date and time of the Session:	10 April 2018, 10:45 a.m. – 12:00 noon
Topic of the session:	Judicial codes of conduct and professional ethics – confronting and addressing sextortion
Organizer(s):	Susana Medina
Contact information of the session coordinator:	susanae_medina@hotmail.com

II. RAPPORTEUR¹

Rapporteur:	Nancy Hendry
Position:	Senior Advisor
Organization:	International Association of Women Judges

III. MODERATOR AND PANELLISTS:

Moderator:	Susana Medina
Position:	President Judge
Organization:	International Association of Women Judges Superior Court of Justice of Entre Rios, Argentina

PANELLISTS

Name:	Nancy Hendry
Position:	Senior Advisor
Organization:	International Association of Women Judges
Topic of presentation:	What is sextortion, and how does it manifest itself within the courts and judiciary?

¹ Responsible for drafting the session report.



The Doha Declaration:
PROMOTING A CULTURE
OF LAWFULNESS



<p>Outline of presentation (max. 1000 characters):</p>	<p>Sextortion is a word coined by the IAWJ to describe abuse of power for purposes of sexual exploitation. A case involving an immigration adjudicator illustrates key components of sextortion. The #MeToo movement helped to break the silence and shine light on the power dynamic behind sextortion. In the justice system, sextortion takes many forms, but is less likely to be reported, documented, prosecuted, or addressed by anti-corruption efforts than financial corruption. Until we make sextortion part of the way we think and talk about corruption and integrity, we will continue to miss an important piece of the picture. As an abuse of power for personal benefit, sextortion violates fundamental ethical standards, yet, as a Wisconsin case illustrates, those charged with enforcing ethical obligations may not be as quick to recognize the violation when it involves sex rather than money. We need to raise awareness and incorporate sextortion in ethical codes and training for judges.</p>
--	---

Name:	Diego Sebastián Luciani
Position:	Prosecutor and specialist in human trafficking and combating corruption
Organization:	Federal Courts in Buenos Aires; University of San Isidro (USI)
Topic of presentation:	Understanding the similarities and differences between sextortion and sexual harassment
Outline of presentation (max. 1000 characters):	<p>Sexual harassment is common within the judiciary and, like sextortion, shame and intimidation often keep predominantly female victims from bringing complaints against predominantly male perpetrators. The principal difference is that sextortion is a form of corruption, whereas sexual harassment need not involve a corrupt <i>quid pro quo</i>. The culture of acceptance for this conduct is beginning to change. Raising awareness is crucial to deepen understanding of the harm sexual harassment and sextortion cause and to deter and prosecute perpetrators. A case example underscores the challenges in providing meaningful access to justice for victims: the perpetrator remained in his supervisory position for 18 months, while the administrative hearing was stalled, the honor and credibility of the judicial office were undermined, other employees remained at risk (there were 7 other complaints), and no progress was made until the case became public.</p>

Name:	Vanessa Ruiz
Position:	President-Elect Judge



The Doha Declaration:
PROMOTING A CULTURE
OF LAWFULNESS



GLOBAL
JUDICIAL
INTEGRITY
NETWORK

Organization:	International Association of Women Judges District of Columbia Court of Appeals, USA
Topic of presentation:	Challenges in addressing sextortion and sexual harassment within the courts/judiciary and the extent to which judicial ethics regulations/guidance are effective in addressing these issues
Outline of presentation (max. 1000 characters):	Sextortion is not explicitly covered by the Bangalore Principles or the judicial code of ethics in the USA, but it arguably falls within the spirit, if not the letter, of those Principles. A judge who engages in sextortion is abusing the power of judicial office to advance a private interest, which is prohibited under Principle 4.9. Principles, relating to values of independence, impartiality, and integrity, could also be relevant. While people argue that sexual harassment falls under Value 5 on equality, the Bangalore Principles do not clearly address it. Sextortion implicates both abuse of power and gender discrimination and should be explicitly addressed in the Commentary under Principle 4.9. Judicial traditions of confidentiality and respect for the judge hamper efforts to address sextortion and sexual harassment in the courts. Victims are reluctant to complain. That reluctance is exacerbated when a judge wields enormous power over a woman's future career prospects.

Name:	Shiranee Tilakawardane
Position:	Member Former Justice and Acting Chief Justice Consultant National and International Arbitrator
Organization:	International Association of Women Judges Supreme Court, Sri Lanka Sri Lanka Judges Institute
Topic of presentation:	Best practices for incorporating sextortion and sexual harassment in judicial accountability mechanisms and training
Outline of presentation (max. 1000 characters):	How should sextortion be addressed in judicial codes of conduct? It is a crime for which there is no adequate restitution. Laws and codes of conduct need to capture all the elements of sextortion in a clear and comprehensive definition. That definition should include both the sexual and the corruption component of sextortion. Continuous and specialized training is needed to assure that people understand their legal and ethical obligations and how those standards apply to cases of sextortion and sexual harassment.

Name:	Mina Sougrati
Position:	Director Judge
Organization:	International Association of Women Judges Administrative Tribunal of Casablanca, Morocco



Topic of presentation:	How judges can exercise leadership to strengthen the integrity of the justice system and end impunity for abuses of power that have a disparate impact on women
Outline of presentation (max. 1000 characters):	The challenge of addressing sextortion and sexual harassment in the justice system begins with recognizing the fears of scandal, shame, and reprisal that silence women and make them afraid to report these abuses. The difficulty of proving sextortion and sexual harassment compound this problem. The result is often impunity for judges and lack of public confidence and trust in the justice system. It is important to have a law that criminalizes sextortion and to improve training on sextortion and sexual harassment.

IV. BACKGROUND INFORMATION ON THE TOPIC:

The International Association of Women Judges (IAWJ) coined the term “sextortion” to describe a pervasive, but often ignored, form of sexual exploitation and corruption that occurs when people in positions of authority – whether judges, government officials, educators, law enforcement personnel, or employers – seek to extort sexual favors in exchange for something within their power to grant or withhold. In effect, sextortion is a form of corruption in which sex, rather than money, is the currency of the bribe.

Since 2009, the IAWJ has worked to explore how sextortion manifests itself, assess the adequacy of existing legal frameworks to address it, develop informational materials, and raise awareness about sextortion. Those efforts led to the development of a Sextortion Toolkit that addresses what constitutes sextortion and steps to take in combating it. *IAWJ Toolkit: Stopping the Abuse of Power through Sexual Exploitation: Naming, Shaming and Ending Sextortion*, International Association of Women Judges, 2012

<http://www.iawj.org/wp-content/uploads/2017/04/Corruption-and-Sextortion-Resource-1.pdf>

The IAWJ also partnered with the Thomson Reuters Foundation and its global *pro bono* legal network, TrustLaw Connect, on a comparative study of laws to prosecute sextortion in Argentina, Australia, Brazil, Canada, Kenya, Mexico, Taiwan, Uganda, and the United Kingdom. *Combating Sextortion: A Comparative Study of Laws To Prosecute Corruption Involving Sexual Exploitation*, Thomson Reuters Foundation, International Association of Women Judges, Marval O'Farrell Mairal

<http://www.trust.org/publications/i/?id=588013e6-2f99-4d54-8dd8-9a65ae2e0802>

Sextortion is a global problem with far-reaching implications for gender equity, transparency, accountability, and the rule of law. However, until recently, sextortion has received scant attention from either the women’s rights community or the anti-corruption community. The economic mindset that dominates the anti-corruption discourse leads to a focus on financial impropriety. When the problem and solution



are formulated in economic terms – bribes paid, public resources squandered, stolen assets recovered, impact on the cost of doing business – it conditions people to think of corruption as money changing hands. This mindset is reflected in the way anti-corruption laws are drafted and interpreted. When these laws are not drafted with sexual bribes in mind, they may require, or be construed as requiring, evidence of property gain or financial harm. Yet, in every measure except financial, the cost is infinitely greater, and the harm deeper and more lasting, when the currency of the bribe is sex rather than cash.

Even where the statutory language is broad enough to cover sextortion, if it hasn't previously been construed as applying to sextortion, it is a question that has to be litigated, and the result is uncertain. Does a thing of value or a personal advantage or benefit include sexual favors? Is the language sufficiently precise to put perpetrators on notice that soliciting or accepting a sexual bribe is a criminal offence?

This lack of clarity is a problem not only with anti-corruption laws, but also with ethical guidance regarding compliance with those laws and adherence to high standards of integrity. It should be evident that sextortion – abusing entrusted power to prey on the vulnerability of others for purposes of sexual exploitation – is a breach of basic ethical standards. From an ethical standpoint, abusing power in exchange for sex is no different from abusing power in exchange for cash. Yet people may not be as quick to recognize the ethical breach when sexual favors are involved – especially if the ethical guidance does not address sextortion. Adopting and enforcing clear standards of conduct is an important step towards changing institutional cultures that tolerate or even encourage sextortion and assuring that those charged with judicial discipline will not turn a blind eye to such abuses of power.

The #MeToo movement has brought new attention to the many ways in which people in positions of power abuse their authority for sexual benefit, including a new focus on the judiciary. The IAWJ's work on sextortion focuses on abuses of power that involve a corrupt *quid pro quo* – a sexual favor in exchange for something within the official's power to grant or withhold. The immigration judge who offers to render a favorable decision in exchange for a sexual relationship is engaging in sextortion. The appellate judge who shows pornography to his law clerk may be abusing his position of power vis à vis the law clerk and engaging in sexual harassment, but his conduct does not include the corrupt *quid pro quo* that characterizes sextortion. While there is some overlap between the two, sexual harassment statutes encompass a broader range of inappropriate sexual conduct than sextortion.

Efforts to strengthen judicial integrity and accountability need to address both sextortion and sexual harassment and recognize these abuses as a violation of judicial values of independence, impartiality, integrity, propriety, and equality. As the #MeToo movement has underscored, there are considerable obstacles to holding people who occupy positions of power accountable for abuses involving sexual exploitation. It has taken decades for some women to come forward and reveal what



The Doha Declaration:
PROMOTING A CULTURE
OF LAWFULNESS



GLOBAL
JUDICIAL
INTEGRITY
NETWORK

happened. Many factors conspire to keep women from speaking up, including shame, fear of retaliation, mistrust of the justice system, and inadequate complaint mechanisms and whistleblower protection. The confidentiality surrounding the judiciary compounds the problem. To end the culture of impunity for abuse of power for sexual benefit, new standards of judicial integrity and accountability are needed that specifically prohibit sextortion and sexual harassment.

V. SUMMARY OF THE SESSION:

The panellists discussed:

- What constitutes sextortion and its key components; how sextortion manifests itself within the courts and judiciary; why sextortion tends to fall through the cracks and elude prosecution as either sexual abuse or corruption; and the importance of recognizing that sextortion violates fundamental ethical standards;
- The similarities and differences between sextortion and sexual harassment; the impact on victims; changing the culture of acceptance and addressing this conduct as part of the effort to strengthen judicial integrity; and the challenges of providing meaningful access to justice for victims;
- Whether and to what extent the Bangalore Principles and judicial codes of ethics in the United States address sextortion and sexual harassment; and obstacles to addressing this conduct in the judiciary;
- How best to incorporate sextortion and sexual harassment in judicial codes of conduct and judicial training; and
- Challenges to addressing sextortion and sexual harassment within the judiciary.

Audience comments focused on the important links between corruption and gender. Many public servants ask for sexual favors. The Inter-American Convention criminalizes passive corruption and includes language about any “advantage,” which encompasses non-financial bribes and could be used to address sextortion by public officials. Good practices include guaranteeing the anonymity of victims, assuring that investigations proceed expeditiously, and providing visible public accountability, for example, using disciplinary boards to hear matters relating to the judiciary.

VI. HOW THE SESSION SUPPORTS THE OVERALL OBJECTIVE OF THE GLOBAL JUDICIAL INTEGRITY NETWORK OF STRENGTHENING JUDICIAL INTEGRITY AND PREVENTING CORRUPTION IN THE JUSTICE SYSTEM:

Sextortion is a new name for an age-old phenomenon. It is a global problem that touches virtually every sector of society, including the courts, but generally escapes measurement in standard corruption analyses and is less likely to be reported or prosecuted. As long as sextortion remains a problem hidden in plain sight – one that people know exists, but do not talk about or take action to address – it will continue to



undermine the foundation of a society built on rule of law, transparency, integrity, and human rights, and erode public confidence in the judiciary as fair, impartial, and accountable. Raising awareness about sextortion and explicitly addressing it in codes of conduct, ethics training, and other accountability mechanisms will be a significant step towards preventing this form of corruption in the justice system and strengthening judicial integrity.

VII. PROPOSED OUTCOME(S) OF THE SESSION AND THEIR ACHIEVEMENT:

The session achieved its first outcome by raising awareness about sextortion and the threat it poses to the integrity of the justice system.

The second outcome – to incorporate sextortion into judicial integrity and accountability efforts – will take longer to achieve. However, inclusion of language about sextortion in the Conference Declaration was an important first step. The session also furthered this outcome by providing information about sextortion and encouraging its inclusion in judicial codes of conduct and the training programs on judicial ethics developed by UNODC.

By raising awareness about sextortion, the session laid the foundation for achieving the third outcome: incorporating sextortion in data collected about judicial integrity.

VIII. CONCLUSIONS OF THE SESSION AND RECOMMENDATIONS TO THE GLOBAL JUDICIAL INTEGRITY NETWORK:

- Efforts are needed to raise awareness about sextortion and the threat it poses to the integrity of the justice system.
- The Commentary to the Bangalore Principles should explicitly address sextortion and sexual harassment.
- As sextortion is a new term, clarity is important in defining its elements and distinguishing it from sexual harassment.
- Judicial codes of conduct should explicitly address sextortion and sexual harassment.
- Training on judicial ethics should include examples of sextortion and explicitly address it as a form of corruption and a violation of judicial values of independence, impartiality, integrity, and propriety. Ongoing, specialized ethics training is needed.
- Judicial accountability mechanisms should collect data about sextortion and sexual harassment.
- Significant barriers exist to reporting sextortion and sexual harassment, and traditions of confidentiality and respect for judges further constrain reporting within the courts. It is important to recognize these barriers and assure that victims have access to safe and confidential reporting mechanisms.