

Stopping the Abuse of Power for Purposes of Sexual Exploitation: Naming, Shaming and Ending Sextortion

The Philippine Country Report¹

Submitted by: Philippine Women Judges Association (PWJA)

¹ Edited as of July 26, 2010

EXECUTIVE SUMMARY

The Philippine Women Judges Association (PWJA) in collaboration with International Association of Women Judges (IAWJ) with support from the Government of the Netherlands under its “Stopping the Abuse of Power through Sexual Exploitation (Medium-Term Development Goal #3 Fund)” commissioned this project to: (1) prepare a country report addressing sextortion in institutional settings by police, justice personnel, immigration officials and others; and (2) develop and implement a tool kit that trains the same groups of personnel on the (a) statutory framework, (b) institutional and budgetary framework, and (c) system for receiving complaints and protecting complainants in cases involving sextortion.

The laws with provisions that protect and support victims of sextortion and impose on offenders administrative, criminal, or civil sanctions were analyzed. These are the Anti-Sexual Harassment Act of 1995, the Revised Penal Code, as amended, the Special Protection of Children Against Exploitation and Discrimination Act of 1992, the Anti-Trafficking in Persons Act of 2003, the Anti-Violence Against Women and Their Children Act of 2004, the Anti-Graft and Corrupt Practices Act of 1960, as amended, the Labor Code of the Philippines, and the provisions in the Administrative Code of 1987 on the Civil Service Commission.

To obtain baseline data for the country report, a survey, key informant interviews (KII), review of documents, and a multi-sectoral consultation meeting were conducted.

The surveys were conducted in cities purposively chosen from the country's three major geographical divisions, namely, Luzon, Visayas and Mindanao. Manila and Pampanga represented Luzon. Cebu City, Mandaue City, and Lapu-Lapu City were chosen for the Visayas, and Davao City for Mindanao. Twenty-eight courts were randomly chosen from which judges, clerks of courts, prosecutors, law enforcers, non-government organizations and barangay officials were purposively chosen. There were 189 respondents, most of whom were law practitioners and clerks of court.

Sixty-five percent of respondents were not aware of the term sextortion. However, since they professionally deal with sex-related crimes, they were able to define sextortion in terms of its common elements, namely: (1) money or any form of consideration, (2) sex as the commodity being exchanged, and (3) the physical, moral and psychological force that exposes one to the risk of sextortion.

Respondents' definitions contained three themes: (1) demanding a sexual favor through force or authority, (2) soliciting sexual favors for something in return, and (3) offering sexual favors for something in return. The most common forms were rape, acts of lasciviousness and vagrancy. Respondents perceived that victims of sextortion, their families and communities suffered from adverse psychological, physical, emotional, and social effects of sextortion.

Respondents did not think that there was a need for new laws to address sextortion; however, they opined that enforcement of laws geared towards the prevention, investigation, prosecution and adjudication of sextortion cases are hindered by several factors. The pillars of the justice system such as the police, prosecution, the judiciary, correctional institutions

and the public should be properly informed and equipped to deal with these factors. This country report serves as the basis for the development of the tool kit.

INTRODUCTION

The Philippine Women Judges Association (PWJA) in collaboration with the International Association of Women Judges (IAWJ) with support from the Government of the Netherlands under its “Stopping the Abuse of Power through Sexual Exploitation (Medium-Term Development Goal #3 Fund)” commissioned this project. This is written not only to expose the crime that IAWJ terms “sextortion,” but, more importantly, to make the community aware of its existence; to enable duly authorized institutions of government to both carefully observe and protect the population; and to bring to justice those responsible for committing these condemnable acts of sextortion.

The IAWJ defines “sextortion” as the “dynamic of power and control,” the “abuse of authority to extract sex from unwilling women.”² It is the “abuse of power for the purposes of sexual exploitation.”³ Many of the incidents of sextortion that permeate modern-day society and, when brought to the courts, are considered cases of sexual harassment, acts of lasciviousness, rape and other types of abuse to gain sexual favor perpetrated by people of authority over certain vulnerable groups. In the Philippines, there are cases of sextortion reported by men as victims of either men or women.

This country report presents the Philippine legal system with specific discussions on duly instituted agencies of government as well as laws under which sextortion cases could fall. The report also describes the nature,

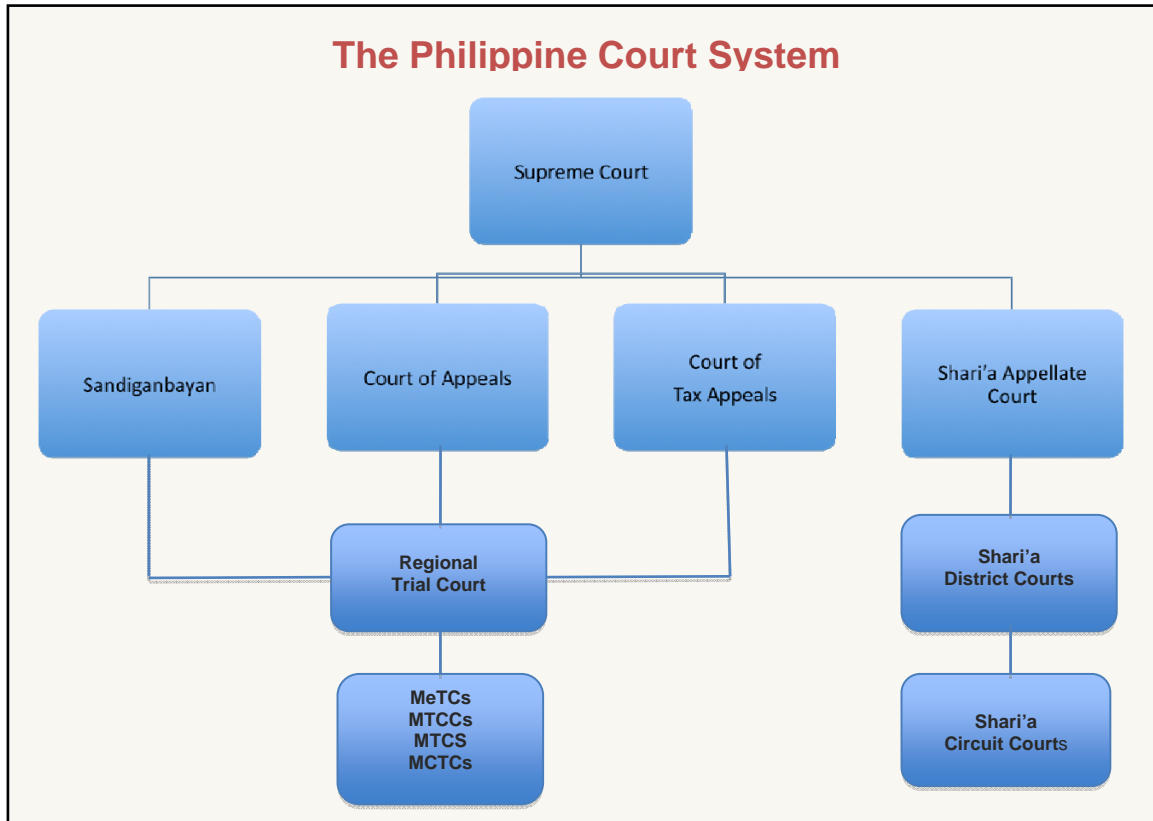
² Agenda, IAWJ Consultation, The Hague, The Netherlands, March 24-26, 2009.

³ *Id.*

variants, and magnitude of sextortion as documented and experienced by various sectors in the form of a survey. It presents an initial documentation of sex-related abuses in exchange for consideration (*e.g.*, money, liberty, passing grade, work promotion, etc) as reported by law enforcers, practitioners, and community leaders. The survey findings revealed that various forms of sexual offenses and other forms of “sextortion” exist, some of which are not covered by the IAWJ definition of “sextortion” which is “the abuse of authority to extract sex from unwilling women and girls” and by the project. Survey results, however, are treated in this report within the context of the MDG3 project. Survey findings are further triangulated with the reactions, issues and problems raised at the PWJA Multi-Sectoral Consultation held in Cebu City, Philippines on February 8, 2010. The report contains results and discussions that lead to conclusions and recommendations for the PWJA. Notable among these are to pursue the protection of the community by raising awareness of the classification of crimes under “sextortion” and to train all the pillars of the justice system to ensure that the laws are implemented.

THE PHILIPPINE JUDICIARY⁴

The Philippine Judiciary is a hierarchical organization consisting of four levels.



First Level Courts

The first level courts are comprised of the Metropolitan Trial Courts (MeTCs), which are created in each metropolitan area established by law; the Municipal Trial Courts in cities (MTCCs), in every city which does not form part of the metropolitan area; the Municipal Trial Courts (MTCs) established in each of the other cities or municipalities; and the Municipal

⁴ <http://sc.judiciary.gov.ph/PhiJud.swf> Last accessed on May 2, 2010

Circuit Trial Courts (MCTCs), created in each circuit comprising such cities and/or municipalities as grouped by law.

Second Level Courts

The second level tier consists of the Regional Trial Courts (RTCs) which are established in each of the 13 regions in the Philippines. Each RTC is composed of several branches. RTCs act as trial courts and may receive evidence from parties of the case. They also exercise jurisdiction over decisions of the MeTCs, MTCCs, MTCs and MCTCs in their respective jurisdictions.

Shari'a Courts

In Islamic regions or provinces, Shari'a Circuit Courts (SCC) and Shari'a District Courts (SDC) have been established to interpret and apply the Muslim Code on Personal Laws. The SCCs and SDCs are equivalent in rank to the MCTCs and RTCs, respectively. Their decisions are appealable to the Shari'a Appellate Court.

Court of Appeals

At the third level is the Court of Appeals (CA) which exercises its powers, functions, and duties through 23 Divisions of three members each. The CA's 1st to 17th Divisions are based in Manila; the 18th, 19th, and 20th Divisions are located in Cebu City in the Visayas; while the 21st, 22nd, and 23rd Divisions are stationed in Cagayan de Oro City in Mindanao. The CA is assigned to review cases elevated to it from the RTCs as well as quasi-judicial agencies such as the Civil Service Commission, Securities and

Exchange Commission, National Labor Relations Commission and the Land Registration Authority.

The CA reviews death penalty decisions and decisions of the Office of the Ombudsman in administrative disciplinary cases. The CA is a collegiate court and may sit *en banc* only for the purpose of exercising administrative, ceremonial, or other non-adjudicatory functions. Being essentially an appellate court, it generally resolves cases only on the basis of records, but in certain instances, it may also try cases, conduct hearings and receive evidence.

The Sandiganbayan & Court of Tax Appeals

The Philippine Judicial System also includes the special courts: the Sandiganbayan (SB) and the Court of Tax Appeals (CTA), which are of the same level as the CA.

The SB is an anti-graft court that tries public officers – including their cohorts – charged with criminal cases involving graft and corrupt practices as well as corresponding civil cases for the recovery of civil liability. The SB is composed of a Presiding Justice and 14 Associate Justices who sit in five divisions of three justices each. Like the CA, its decisions are directly appealable to the Supreme Court.

In the context of the project, the Sandiganbayan is a court which, because of its jurisdiction over criminal and civil cases involving graft and corrupt practices and other offenses committed by high-ranking public officers, is particularly important in the resolution of cases involving “sextortion” in an institutionalized setting. Subordinate public officers and employees are under the jurisdiction of the Regional Trial Courts or the

municipal or city courts. Some of the Sandiganbayan's precedent-setting decisions (later discussed and analyzed) have been affirmed by the Supreme Court.

The CTA is composed of a Presiding Justice and five Associate Justices, and may sit *en banc* or in two divisions of three justices each. Republic Act 9282, which took effect on March 30, 2004, elevated the status of the CTA to that of the CA. The CTA has exclusive jurisdiction to review on appeal decisions in cases involving disputed assessments, refunds of internal revenue taxes, fees, or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or Tariff and Customs Code. It also exercises original jurisdiction over all criminal offenses arising from violations of the Tax or Tariff Codes and other laws administered by the Bureau of Internal Revenue or the Bureau of Customs.

The Court of Last Resort

At the apex of the judicial hierarchy is the Supreme Court. It is composed of a Chief Justice and 14 Associate Justices who sit *en banc* or in three divisions of five members each. It has the power to settle actual controversies involving rights that are legally demandable and enforceable, and to determine whether or not there has been grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the government.

The Supreme Court is considered “the court of last resort” since no more appeals can be made from a judgment or decision on the merits

rendered by this court. A decision of a Supreme Court division is considered a decision of the entire Court.

Decisions of the Supreme Court are considered part of the law of the land.

THE BARANGAY JUSTICE SYSTEM⁵

The Local Government Code of 1991⁶ established mediation, conciliation, and arbitration system called the “*katarungang pambarangay*” in every *barangay*, the smallest territorial and political subdivision or local government unit in the Philippines.

The term *katarungang pambarangay* means justice administered at the *barangay* level. It is principally a system of amicable settlement of disputes at the *barangay* level, although it allows arbitration of disputes if the disputants agree in writing to submit to arbitration. The *barangay* is akin to a village, which is headed by an elected chief called the “*barangay chairman*.” The *barangay* chairman appoints the members of a “*Lupong Tagapamayapa*,” which is a council of conciliators and arbitrators, from persons who reside or work in his *barangay* and who possess integrity, impartiality, independence of mind, sense of fairness and reputation for probity.

⁵ Leonardo De Castro, Teresita, *Katarungang Pambarangay Digest of Supreme Court Decisions, Department of Justice Opinions and Annotations*, Golden Book Publishing, 1993, p. 369

⁶ Republic Act 7160

The *Lupon* is composed of the *barangay* chairman as chair and the appointed *Lupon* members. There should not be less than ten (10) nor more than twenty (20) members appointed. The first stage of the settlement of a dispute is mediation under the *barangay* chairman. If he fails in his mediation efforts, the disputants choose the *Pangkat ng Tagapagkasundo* from among the members of the *Lupon*. The *Pangkat* is composed of three (3) members, one of whom acts as the chairman and another, as secretary. The *Pangkat* shall act as the conciliation panel which will try to settle disputes which the *barangay* chairman failed to settle.

The *Lupon* has the authority to settle **all** disputes, except:

- (a) Where one party is the government or any subdivision or instrumentality thereof;
- (b) Where one party is a public officer or employee, and the dispute relates to the performance of his official functions;
- (c) Offenses punishable by imprisonment exceeding one (1) year or a fine exceeding Five thousand pesos (Php5,000.00);
- (d) Offenses where there is no private offended party;
- (e) Where the dispute involves real properties located in different cities or municipalities unless the parties thereto agree to submit their differences to amicable settlement by an appropriate *lupon*;

- (f) Disputes involving parties who actually reside in the *barangays* of different cities or municipalities, except where such *barangay* units adjoin each other and the parties thereto agree to submit their differences to amicable settlement by an appropriate *lupon*;
- (g) Such other classes of disputes which the President may determine in the interest of justice or upon the recommendation of the Secretary of Justice.

The *Lupon* serves as the screening process by which irreconcilable disputes are determined to be appropriate for court action. Cases falling under the authority of the *Lupon* cannot be filed in court without undergoing the mandatory mediation or conciliation procedures. However, even cases beyond the authority of the *Lupon* are brought before it by the disputants or parties since it is inexpensive and most accessible to them.

A unique feature of this system is that lawyers are not allowed to act as counsel of any of the parties. The exclusion of lawyers from the proceedings is deemed to be more conducive to the amicable settlement of disputes.

The *Lupon*, which is the justice system at the grassroots, is an effective and readily available recourse for aggrieved members of the smallest political unit of Philippine society.

THE PHILIPPINE LEGAL FRAMEWORK ON SEXTORTION⁷

An examination of the following Philippine statutes involving “sex” and “extortion” are found in different variant forms but of similar result. Under these laws, offenders face administrative, criminal, and civil liability. These may either be special laws or laws of general application, as discussed hereunder. Please note that while the term “sextortion” was not used or employed in Philippine laws or jurisprudence, the Philippines already had an array of laws, beginning with RA 7877, that addresses offenses falling within the definition of “sextortion.” In fact, the Philippine Supreme Court has had occasion to rule on cases now contemplated by the definition of “sextortion” even before laws were passed, under Article 9 of the Civil Code of 1950 that: “No judge or court shall decline to render judgment by reason of the silence, obscurity or insufficiency of the laws.”

An example is the case of *Uy v. Tapucar*⁸ where the complainant was subjected to immoral advances and indecent proposal to be his mistress by the respondent judge in exchange for the dismissal of her pending case. The Supreme Court found such brazen and despicable actuation by respondent judge towards a party litigant, who happened to be a woman, cannot but deserve reprobation. Here, the judge was dismissed from service.

And also the case of *Reyes v. Aznac*,⁹ where a lawyer took advantage of his position as Chairman of the Southwestern University College of Medicine when he requested a second year medical student to go with him

⁷ Feliciano, Myrna S., “Sextortion: What the Law Says – The Philippine Setting,” 2010. See Annex “A” of the Country Report.

⁸ Adm. Matter No. 2300-CFI, January 31, 1981, 102 SCRA 492, 505 (1981).

⁹ Adm. Case No. 1334, November 28, 1989, 179 SCRA 655 (1989).

to Manila. Under threat of flunking her Pathology subject, she could not refuse him. Thereafter, he had carnal knowledge of her in Manila. Complaint for disbarment was filed with the Integrated Bar of the Philippines. Respondent was found guilty of the charge for immoral conduct and was disbarred by the Supreme Court.

A victim of sextortion may, therefore, bring action under any or all of the laws and in the Sandiganbayan (if the accused is a public official) or any other court, without fear that double jeopardy will set in, as long as the offenses are punishable under different laws or jurisdictions. It is important to note that, except for RA 9262, all laws in the Philippines are ‘gender-neutral,’ meaning that a victim may be a woman or a man or an LGBT (defined by our Supreme Court as “lesbians, gays, bi-sexuals, and transsexuals”).¹⁰

1. **Republic Act No. 7877 (Anti-Sexual Harassment Act of 1995)**

Simply put, sexual harassment is a sexual **condition** imposed on someone who is not in a position to refuse it **in a work, education, or training-related environment**. The essence of this offense is that the individual has been forced to choose between **receiving a favor or enduring an economic detriment or a hostile environment** and submitting to sexual demands which is considered blackmail.

The law recognizes not only “*quid pro quo*” sexual harassment but “hostile or offense environment” as well where the employee has to endure

¹⁰ LAdalad v Comelec

psychological or emotional harm which interferes with her job performance. The law applies to workers, employees, applicants for employment, students or those undergoing training, instruction or education.¹¹

The Civil Service Commission (CSC) promulgated Resolution No. 01-0940 entitled Administrative Disciplinary Rules on Sexual Harassment Cases. This CSC Rule applies to all officials and employees in government, whether in the career or non-career service and holding any level of position, including Presidential appointees and elective officials, regardless of status, in the national or local government, state colleges and universities, including government-owned or controlled corporations, with original charters. The administrative offense of sexual harassment is an act, or a series of acts, involving any unwelcome sexual advance, request or demand for a sexual favor, or other verbal or physical behavior of a sexual nature, committed by a government employee or official in a work-related, training or education-related environment of the person complained of. Unlike R.A. 7877, moral or other ascendancy is not a required element of the offense, thus, the CSC Rule includes peer-harassment.

Employers have also been adjudged guilty of illegal dismissal and imposed civil damages under the Labor Code when it is established that the employer is guilty of sexual harassment.

In the case of *Tan v. Pacuribot*,¹² the judge committed rape and sexual harassment by using deceit and intimidation and made use of

¹¹ Sec. 3.

¹² A.M. Nos. RTJ-06-1982-83, December 14, 2007, 540 SCRA 246 (2007).

substantial blackmail against a court stenographer and a clerk. The Supreme Court imposed the penalty of dismissal from service, forfeiture of retirement benefits with prejudice to re-employment in government, as well as to show cause why he should not be disbarred as a member of the Philippine Bar. A copy of the decision was also furnished the Department of Justice for appropriate action.

Public officers and officials who have committed offenses in violation of the Anti-Sexual Harassment Law have been convicted by the Sandiganbayan. The Philippines' Anti-Sexual Harassment law answers the needs of sextortion victims and is tailored to the victims' specific needs and circumstances. Prosecution of public officials and judges violating this law has proved successful due to the existence of rules and regulations implementing the law in various government agencies. Cases involving public officials and judges may be brought before the Sandiganbayan; cases may also be brought before their respective administrative agencies, such as the Supreme Court and the Civil Service Commission.

In the case of *People of the Philippines vs Rico Jacutin y Salcedo*, a young Nursing graduate charged the Health Officer of Cagayan de Oro City (located in Mindanao) under the sexual harassment law when, as she was seeking employment in the office, accused demanded that "she should expose her body and allow her private parts to be massaged and stimulated by the accused, which sexual favor was made as a condition for the employment of Ms. Yee in the Family Program of the Office of the accused." In convicting Mr. Jacutin, the Sandiganbayan reasoned that "Human experience would suggest that no virtuous woman in her area of perspective would fabricate a story that would cast dishonor, discredit, or

place her chastity in ridicule, her maidenhood being put to trial and her chances of meeting the right man to be her lifetime partner is seriously impaired.” On March 6, 2002¹³, the Supreme Court, in affirming the decision of the Sandiganbayan, found that “[Jacutin] would not have been able to take undue liberalities on the person of Juliet had it not been for his high position in the City Health Office of Cagayan de Oro City.”

In the case of *People of the Philippines vs. Judge Rogelio M. Esteban*, another woman, a casual employee of the Mayor’s Office, complained that the Presiding Judge of the Municipal Trial Court in Cities in Cabanatuan City (located in the province of Luzon) sexually harassed her and committed acts of lasciviousness “by asking as a condition for the signing of her appointment papers as a bookbinder in said Court, that said ANA MAY V. SIMBAJON be his girlfriend and that the latter should enter the room of the accused daily for a kiss, and when she refused the condition, the accused planted a kiss on her cheek, embraced her and touched her breast against her will and consent, and to her damage and prejudice.” In convicting Judge Esteban, the Sandiganbayan found as a fact that “at all times relevant the accused was the morally superior officer in relation to the complaining witness.” The Sandiganbayan further found that the complainant testified in “a credible, candid, categorical and straightforward manner,” and that “there is nothing to indicate that that the principal witness/es for the prosecution was/were actuated by improper motive.” The Sandiganbayan also reasoned that “Filing a charge of sexual harassment is not a trivial matter because it entails having to go public with an incident that one is trying to forget. No married woman, like the complainant, would cry

¹³ G.R. No. 140604, March 6, 2002

sexual assault, subject herself and her family to public scrutiny and humiliation, and strain her marriage in order to perpetuate a falsehood.” The complainant in this case went further. She sought the dismissal of Judge Esteban from the judiciary, and in 1999, the Supreme Court did dismiss him.¹⁴ Further, in 2005, the Supreme Court affirmed the decision of the Sandiganbayan holding that Judge Esteban used his official position in committing the acts. The Supreme Court further said: “While it is true xxx that public office is not an element of the crime of acts of lasciviousness, xxx, nonetheless he could not have committed the crimes charged were it not for the fact that as the Presiding Judge of the MTCC xxx Cabanatuan City, he has the authority to recommend the appointment of Ana May as a bookbinder. In other words, the crimes committed are intimately connected with his office.”¹⁵

In another case, a woman lawyer, clerk of court of the Executive Judge and Presiding Judge of the Regional Trial Court of Pampanga (located in Central Luzon), not only sought the dismissal of the judge, but also his criminal conviction for sexual harassment and acts of lasciviousness, when the Judge “taking advantage of his official position, actuated by lust and with the use of force, did, then and there, willfully, unlawfully and feloniously force himself on Jocelyn Talens-Dabon, embracing and kissing her on the lips against her will, causing her dishonor.” Here, the Supreme Court acted first, dismissing the judge in 1996, exercising its administrative authority under the Constitution over the judiciary, holding that “the personal and official actuations of every member of the judiciary must be beyond reproach and above suspicion. The faith and confidence of the

¹⁴ A.M. No. MTJ-98-1162, August 11, 1999.

¹⁵ G.R. Nos. 146646-49, March 11, 2005.

people in the administration of justice cannot be maintained if a judge who dispenses it is not equipped with the cardinal judicial virtue of moral integrity and if her obtusely continues to commit affront to public decency.xxx The actuations of respondent are aggravated by the fact that complainant is one of his subordinates over whom he exercises control and supervision xxx He took advantage of his position and power xxx preyed on them xxx.” ¹⁶ In November 2004, the Sandiganbayan convicted Judge Arceo finding that “the horrifying experience of private complainant in the hands of the accused xxx as the culmination of her long and tormenting ordeal of having to work with him xxx (and) [W]e can only empathize with the private complainant for having endured working for almost four agonizing months in such ‘intimidating, hostile or offensive’ working environment, and having suffered the accused’s foul mouth and sexual advances.” The Sandiganbayan based its ruling on the fact the “The Court simply finds it highly incredulous that she merely concocted her charges against the accused, especially considering that, being a lawyer, she knew very well that her own reputation would be put under scrutiny and her privacy exposed in order to prove her charges. This is not to mention the fact that she would be going against a perceived very influential man in their province.”

In November 2009, “For rendering gender-sensitive decisions on two cases in violation of RA 7877 (Anti-Sexual Harassment Act of 1995) in "People of the Philippines vs. Emilito Abines" and "People of the Philippines vs. Getulio Maralli", both promulgated in 2007, three members of the former Third Division were awarded by UNIFEM as the Outstanding

¹⁶ Jocelyn Talens-Dabon vs. Judge Hermin E. Arceo, A.M. No. RTJ-96-1336, July 25, 1996.

Gender-Sensitive Justices of the Sandiganbayan. The awardees were Associate Justice Efren N. Dela Cruz, Associate Justice Norberto Y. Germaldez and Ret. Associate Justice Godofredo Legaspi.”

Emilito Abines was a Mayor of the Municipality of Oslob, Cebu (located in the Visayas) when he was sentenced to prison by the Sandiganbayan for sexual harassment and slight physical injuries. His victim, a casual employee in his office, complained that the mayor hurled a ‘green’ joke at her and requested that he be allowed to touch her private parts. Unsuccessful in evading his advances, the mayor touched her vagina, grabbed her right breast, and thereafter kicked her left thigh, pushed her head against the divider, threw a puncher, a plastic chair and other objects at her. On the other hand, Getulio Maralli, who was Acting Regional Director of the Philippine Postal Corporation of Legaspi City (located in Eastern Luzon), demanded a sexual favor from his subordinate, a Regional Training Officer, which, when refused, resulted in discrimination in her employment. In convicting Maralli, the Sandiganbayan opined that “other than her genuine desire to seek justice, we are not convinced that complainant would expose herself to public ridicule and scrutiny by filing this case of sexual harassment against the accused if the incidents never really took place.” The Sandiganbayan quoted the Supreme Court that “the gravamen of the offense in sexual harassment is about the abuse of power and authority being exercised by the offender over his women subordinates and not about a man taking advantage of a woman by reason of sexual desire.”

2. **Act No. 3815 (1930) or The Revised Penal Code, As Amended**

The Revised Penal Code still contains several discriminatory provisions, among which include designating a prostitute as a woman who, for money or profit, habitually indulge in sexual intercourse or lascivious conduct; or penalize men and women who are “loitering” or living “in houses of ill-fame.”¹⁷

Republic Act No. 8353 (The Anti-Rape Law of 1997) amended the Revised Penal Code’s provision on rape and expanded the concept of rape into two acts: “rape through carnal knowledge” and “rape by sexual assault,” and reclassifies it as a crime against persons.¹⁸ Sexual assault is committed “by inserting his penis into another person’s mouth or anal orifice or any instrument or object, into the genital or anal orifice of another person.”¹⁹

If the offended girl child is below 12 years of age, the crime is always statutory rape but if the child is above 12 years but below 18 years old, the accused must be prosecuted under RA 7610 or the so-called child abuse law.²⁰

The Revised Penal Code also punishes the following offenses which contains either the element of sex or extortion:

- a) grave coercion (Art. 286)

¹⁷ Art. 202.

¹⁸ Incorporated into the Rev. Penal Code as Articles 266-A, paras. 1 & 2.

¹⁹ See *People v. Abulon*, G.R. No. 174473, August 17, 2007, 530 SCRA 675, 703 (2007) explained the differences between the two modes of committing rape.

²⁰ See *People v. Optana*, G.R. No. 133922, February 12, 2001, 351 SCRA 485 (2001).

- b) acts of lasciviousness (Art. 336)
- c) qualified seduction (Art. 338)
- d) corruption of minors (Art. 340)
- e) white slave trade (Art. 341)
- f) forcible abduction (Art. 342)
- g) consented abduction (Art. 343)

3. Republic Act No. 7610 (Special Protection of Children Against Exploitation and Discrimination Act of 1992)

The law punishes the following acts of child abuse: child prostitution and other sexual abuse; child trafficking; obscene publication and indecent shows; and other acts of neglect, abuse, cruelty or exploitation prejudicial to the child development.

Examples of cases interpreting child abuse are *People v. Larin*²¹ where a swimming instructor committed acts of lasciviousness on a 14-year old student; *Alonte v. Savellano, Jr.*²² where a mayor and his friend raped a 17-year old girl and were brought to court despite an affidavit of desistance executed by the victim; *Malto v. People*²³ where the accused, a professor, was convicted for violation of Section 5(b) of RA 7610 by taking advantage of his relationship to obtain his student's consent; *People v. Emilio*²⁴ where the moral ascendancy and influence of the stepfather over the stepdaughter substituted as evidence and intimidation as an element of rape; and *People*

²¹ G.R. No. 128777, October 7, 1998, 297 SCRA 309 (19).

²² G.R. Nos. 131652 & 131728, March 9, 1998, 287 SCRA 251 (1998).

²³ G.R. No. 164733, September 21, 2007, 533 SCRA 643 (2007).

²⁴ G.R. Nos. 144305-07, February 6, 2003, 397 SCRA 62 (2003).

v. Delantar,²⁵ where a child exploited in prostitution may seem to consent to what is being done to her or him but the absence of free consent is conclusively presumed when the woman is below the age of 12.

4. Republic Act No. 9208 (Anti-Trafficking in Persons Act of 2003)

Trafficking under RA 9208 covers a wide range of activities that are carried out for the purpose of prostitution, pornography, sexual exploitation, forced labor, slavery, involuntary servitude or debt bondage, and removal or sale of organs whether any of these happened in the country or abroad; or whether the victims are Filipino nationals or foreigners trafficked to the Philippines; and whether or not the victim has consented to the acts of trafficking.

The salient features of the law are:

a) It redefines prostitution from a crime committed by women only under Article 202 of the Revised Penal Code to “any act, transaction, scheme or design involving the use of a person by another, for sexual intercourse or lascivious conduct in exchange for money, profit or any consideration, with the criminal liability assigned to those who promote it through trafficking in persons.²⁶ In this regard, the consent of a trafficked person to the intended exploitation shall be irrelevant.²⁷

²⁵ G.R. No. 169143, February 2, 2007, 514 SCRA 115 92007).

²⁶ *Id.*, sec. 39(c) & sec. 10 in relation to Sec. 4(a).

²⁷ *Id.*, sec. 17.

b.) It sets penalties for various types of offenses related to trafficking.

c.) Aside from the right to privacy given to the trafficked person at any stage of the investigation, prosecution and trial,²⁸ the law requires the State to provide mandatory services to trafficked persons.

d. It gives various government agencies specific duties and responsibilities.

5. Republic Act No. 9262 (Anti-Violence Against Women and Their Children Act, 2004)

Violence against women and their children refers to “any act or a series of acts committed by any person against a woman who is his wife, former wife, or against a woman with whom the person has or had a sexual or dating relationship, or with whom he has a common child, or against her child, whether legitimate or illegitimate, within or without the family abode, which result in physical, sexual, psychological harm or suffering, or economic abuse including threats of such acts, battery, assault, coercion, harassment or arbitrary deprivation of liberty.”²⁹ It is now a public offense and any citizen having personal knowledge of the circumstances involving its commission can file a complaint.³⁰ Sexual harassment is included in this law as an act of psychological violence.

²⁸ *Id.*, sec. 7.

²⁹ Rep. Act No. 9262 (2004), sec. 3(a).

³⁰ *Id.*, sec. 25.

The law recognizes the “*battered woman syndrome*” (BWS)³¹ which refers to a scientifically defined pattern of psychological and behavioral symptoms found in women living in battering relationships as a result of cumulative abuse.³² Victim-survivors who are found by the courts to be suffering from BWS do not incur any criminal and civil liability notwithstanding the absence of any of the elements for justifying circumstances of self-defense under the Revised Penal Code.³³

Among the notable features of this law are:

a. The issuance of protection orders by the *barangays* (the Philippines’ smallest and most basic political unit, equivalent to a village) and courts which aim to stop the violence as well as to prevent further acts of violence against the family, particularly women and children.³⁴

b. Being a public crime, there is a broader enumeration of persons eligible to file petitions for protection orders which include police officers, Department of Social Welfare and Development (DSWD) or local government unit (LGU) social workers, *punong barangay* (village chief) or *barangay kagawad* (village councilman), lawyer, counselor, therapist or health care provider of the petitioner, or at least (2) two concerned

³¹ In *People v. Genosa*, G.R. No. 135981, January 15, 2004, 419 SCRA 537 (2004), recognizes BWS as a form of self-defense but in this case, it fell short of proving all three phases of the cycle of violence which must be experienced in at least two battering episodes between the woman and her intimate partner.

³² *Id.*, sec. 3(c).

³³ *Id.*, sec. 26, 1st par.

³⁴ Rep. Act No. 9262 (1994), secs. 14-16.

responsible citizens who have personal knowledge of the offense committed.³⁵

- c. There are several reliefs available to the offended party.
- d. Victims have certain specific rights.
- e. All records pertaining to VAWC cases are confidential.

6. Republic Act No. 3019 (Anti-Graft and Corrupt Practices Act of 1960), as amended

Under this law, “public officer” includes elective and appointive officials and employees, permanent or temporary, whether in the classified or unclassified or exempt service receiving compensation even nominal, from the government.³⁶

Section 3 provides that in addition to acts or omissions of public officers already penalized by existing law, a public official may be convicted under, specifically:

- (e) Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official administrative or judicial functions through manifest partiality,

³⁵ *Id.*, sec. 9.

³⁶ Sec. 2(a).

evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.

For violation of Section 3(e), the following elements must concur: (1) the accused is a public officer discharging administrative, judicial or official functions; (2) he must have acted with manifest partiality, evident bad faith or inexcusable negligence; and (3) his action has caused undue injury to any party, including the government, or has given any party any unwarranted benefit, advantage or preference in the discharge of his functions.³⁷ Proof of the extent or quantum of damage is not essential – it is sufficient that the injury suffered or benefits received can be perceived to be substantial enough and not merely negligible.³⁸

7. Executive Order No. 292 (Administrative Code of 1987) on the Civil Service Commission

In Book V, Title I on Constitutional Commissions, Subtitle A – Civil Service Commission, Section 46 provides that no officer or employee in the Civil Service can be suspended or dismissed except for cause. Among the grounds for dismissal or suspension as provided by law and after due process are: disgraceful and immoral conduct and “soliciting or accepting directly or indirectly any gift, . .

³⁷ *Soriquez v. Sandiganbayan*, G.R. No. 153526, October 25, 2005, 474 SCRA 222 (2005); *Tayaban v. People*, G.R. No. 150194, March 6, 2007, 517 SCRA 488 (2007).

³⁸ *Fuentes, Jr. v. Office of the Ombudsman*, G.R. No. 164865, November 11, 2005, 474 SCRA 779 (2005).

. gratuity, favor, entertainment, loan or anything of monetary value which in the course of his official duties....”

Examples of conviction of crimes involving moral turpitude include estafa, abduction, concubinage, illegal marriage and sexual harassment. Moral turpitude includes everything that is done contrary to justice, honesty, modesty or good morals.³⁹

Grave misconduct is a transgression of some established and definite rule of action, a forbidden act, a dereliction from duty, unlawful behavior, willful in character, improper or wrong behavior; while “gross misconduct” is out of all measure, beyond allowance, shameful, such conduct as is not excused.⁴⁰

³⁹ *In re Basa*, 41 Phil. 275 (1920).

⁴⁰ *Amosco v. Magno*, A.M. No. 439-MJ, September 30, 1976, 73 SCRA 107 (1976).

THE BASELINE SURVEY REPORT

Research Design

This was a descriptive study. Primary data were obtained from a survey and key informant interviews. Secondary data and other documents, like office reports, newspaper accounts of actual cases, and review articles on sextortion were also used. Actual data gathering was conducted from August to October 2009. Findings from primary and secondary sources were triangulated with inputs and recommendations generated from a multi-sectoral consultative meeting held in Cebu City on February 5, 2010.

Population of the study and sampling procedures:

1. *Selection of Cities*

All courts in the Philippines compose the population of this country report. Since majority of these courts are based in the cities, specific cities were purposively chosen to represent the three major islands of Luzon, Visayas and Mindanao. Bases for selecting the cities included access to communication and transportation, access to court personnel based in the area, and a significantly high number of reported cases. Luzon was represented by the cities of Manila and Pampanga. Manila represents 22 percent of the 195 Regional Trial Courts (RTCs) in the National Capital Region. Pampanga has 22 courts and ranks second highest with a total of 571 RTCs in the country. The Visayas Region was represented by the cities of Cebu, Mandaue and Lapu-Lapu. These courts represent 21.57 percent of the 153 RTCs in the Visayas. Mindanao was represented by Davao City. The courts in Davao make up 18.75 percent of the 112 courts in Mindanao.

2. *Respondents*

PWJA serves as the primary user and stakeholder of this report thus population groups chosen in the study included those that work with the chosen courts in terms of handling sextortion cases. The list of all courts in Manila, Cebu, Pampanga, and Davao was obtained from the Office of the Court Administrator. From this sampling frame, 28 courts were randomly chosen. There were ten (10) courts randomly chosen from Luzon, ten (10) from Visayas and eight (8) from Mindanao. From these sample courts, judges, clerks of courts and prosecutors, were purposively chosen. The law enforcers, non-government organizations (NGOs), and *barangay* officials that work with these courts were likewise chosen purposively.

3. *Data collection procedures: Questionnaire*

This instrument was constructed especially for this country report. The questionnaire was composed of five (5) areas, namely the:

- (1) Background of the respondents;
- (2) Respondents' perceived definitions and forms of sextortion;
- (3) Descriptions of the crime in terms of estimate number, actual cases filed in the court;
- (4) Perceived degree of severity. Respondents were requested to use a 3-point scale where 1: severe, 2: moderate and 3: mild; and
- (5) Respondents were also asked to explain how they perceive the effects of sextortion to be to the victims, their families and others.

The questionnaire was constructed and content validated by the technical working group composed of two law professors, one practicing lawyer, one medical practitioner/health professions educator, and one educational specialist. The instrument was pilot-tested to graduating law students from the cities where the study was conducted. These respondents later served as field researchers in the study.

Key informant interviews were conducted with selected judges, prosecutors, defense counsels, law enforcers, *barangay* leaders and officers of selected NGOs. Interviews focused on more detailed descriptions of the questionnaire as respondents were asked to clarify, cite actual cases and narrate their experiences in handling sextortion and its variants. Trained research assistants who are actually law students, conducted the interviews, supervised by a judge or a senior lawyer based in the region. Actual transcriptions of all interviews are available at the PWJA office.

Secondary data analysis was done to triangulate the answers of respondents. Related data from agencies of government like the courts and the DSWD were reviewed. Pertinent newspaper articles and reports were likewise reviewed and compared to further validate the findings from annual reports and questionnaire. A professional research assistant from the University of the Philippine College of Law Library was commissioned to review related literature.

4. *Analysis of data*

All quantitative data obtained from the questionnaire and documents were summarized and analyzed using descriptive statistics. Means, standard deviations, and ranges of responses are presented as needed. All qualitative

responses were reviewed for consistency and recurring patterns were coded according to themes.

5. *Limitations of the study*

This survey was based solely on the data obtained from the questionnaire. To triangulate the findings, key informant interviews were also done with selected respondents. However, all primary data remained perceptions and ideas of respondents.

Secondary data used to strengthen the discussion of results, specifically statistics, were not classified *per se* as “sextortion” cases. They were simply cited to provide a profile of the entire picture of sextortion. This is the first time that such study is undertaken. There is a dearth of actual data on sextortion clearly defined as sextortion *per se*.

Results and Discussion

1. *Profile of respondents*

A total of 189 respondents participated in the survey: 69 came from Luzon (36.50 percent), 40 came from Visayas (21.20 percent) and 80 from Mindanao (42.30 percent). Out of the 188 valid responses, 91 (48.10 percent) were male and 96 (50.80 percent) were female. Out of 187 valid responses in terms of civil status, 58 (30.70 percent) were single, 74 (39.20 percent) were married, 53 (28.00 percent) widowed and 2 (1.10 percent) were separated. One respondent (0.05 percent) has been working in the system for less than six (6) months and one has worked the longest period

of 26 years. The mean number of years in service is 6.20 and the standard deviation is 6.38.

The breakdown of respondents according to designations is presented in Table 1. Lawyers registered the highest group led by defense counsels (33=17.5 percent), followed by two groups, namely, the clerks of court (26=13.80 percent) and fiscals or prosecutors (26=13.80 percent). Custodial officers are employees of the Bureau of Jail Management and Penology (BJMP).

Table 1. Distribution of respondents according to designations (n=189)

Official designation	Number	Percent
Defense counsel	33	17.50
Clerk of court	26	13.80
Fiscal / Prosecutor	26	13.80
Judge	23	12.20
Non-government organization	20	10.60
Police officers	20	10.60
Barangay official	20	10.10
Custodial officers	14	7.40
Invalid answers	7	3.70
Total	189	100.00

2. *Respondents' Awareness and Perception of Sextortion*

There were 122 (64.60 percent) respondents who reported that they were not aware of the term sextortion. Only 60 (35.40 percent) admitted that they had heard the term but did not have a clear understanding of its meaning. All interviewees affirmed not having encountered any complaint specifically termed as sextortion. Public Attorney's Office¹ (PAOI) captured the description with the comment "Actually this is the first time that I have heard of the word "sextortion.""

However, respondents still managed to describe the term by deducing from their understanding of related terms like extortion, sexual abuse and the like. During the interviews, respondents also inferred the meaning of the term by combining their understanding of extortion and equate it with more familiar concepts like sexual harassment, acts of lasciviousness and other sex-related crimes, including abuse of children.

Responses reveal three clusters of ideas from which respondents drew their definitions of sextortion: (1) demanding a sexual favor through the use of force or position of authority, (2) soliciting sexual favors for something in return, and (3) offering sexual favors for something in return. All these clusters are described using various forms and/or combinations of sexual harassment, acts of lasciviousness, trafficking and rape.

There were 36 respondents who defined sextortion following the first theme. They define sextortion as a demand for any sexual service by the perpetrator through the use of force or position of authority in exchange

for money or other favors given to the victim. Figure 1 presents the schema where the responses could be grouped to form the first definition.

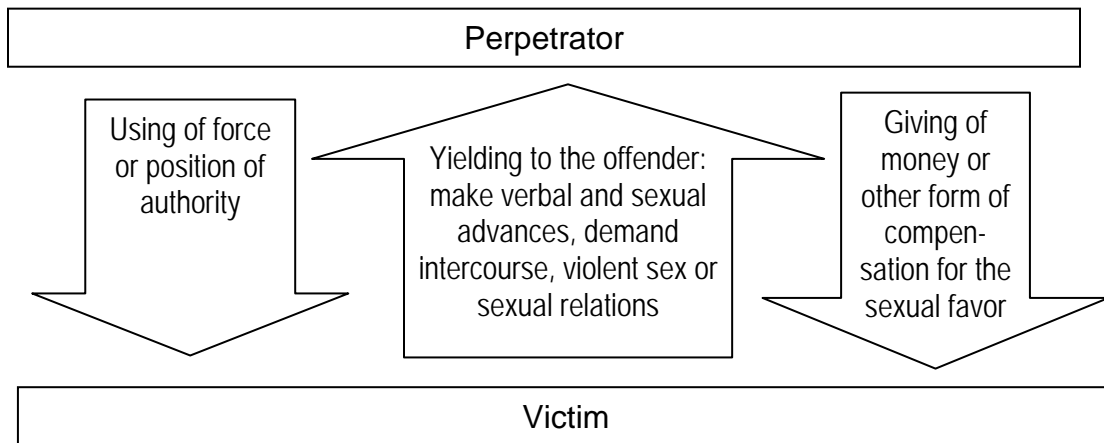


Figure 1. Sextortion as a dimension of power

Various accounts were enumerated as “use of force or position of authority,” namely verbal or written threats, blackmail and use of actual force usually by male perpetrators over female victims. Examples mentioned included threats of faculty members over their students, supervisors over their office clerks, physicians over non-medical personnel in the clinical area, government officials on clients of their office, and teachers over their minor pupils. BJMP¹ simply puts it as “actually an abuse of power for the purpose of eliciting sexual advances.” Fiscal¹ explained that such cases are common even in the judiciary. The respondent mentioned cases of judges who sexually molested their utility worker and other staff with a promise of an appointment in the court. Ombudsman¹ a constitutional agency responsible for the investigation and prosecution of all crimes involving government employees, laments that such cases are hardly reported or filed as formal complaints because in such cases, the victims either refuse to testify or would desist from pursuing the case because they are afraid officials of the courts might protect each other. Inherent in such

cases also is the trend among perpetrators to pay the complainant to just drop the case thereby breeding a culture of silence in judicial misconduct.

Judge¹ described sextortion as not “only contrary to laws (referring to the anti-sexual harassment, anti-rape, and anti-trafficking acts) but also against good human relationships.” NGO¹ clarified this violation in context as “look at the case of David Letterman. Everybody’s talking about how he’s being blackmailed, and that’s a real crime. But obviously, the real crime is that he was sleeping with his employees.” NGO¹ further remarked that sextortion is a crime against society and that “we as a society, need to recognize this. It is unfortunate that people seem to gloss over the fact that, especially in cases where there are clear exploitations such as these, that there is lack of public awareness of this act.” On the other hand, Judge² opined that the term should have been “sex coercion because the crime has something to do with coercing somebody (by physical or perceived power) to have sex with.” Defense Counsel¹ further defined it as “if the reward (price) is called the ransom that you pay, and then sex would be the equivalent of the ransom.”

Respondents clarified that in sextortion, women, men and even gay-men can be the perpetrators. Their victims may be of the opposite sex, or the same sex, or children. NGO² shared that:

“We have a case of several kids (working as house helpers) who were raped by their amo. And then bayaran lang na di na ka mu-kuwan *kay di gyud ka kalusot ana... Kanang baharan na di gyud mutug-an*. (kasi hindi ka rin makakalusot nyan. ‘Yung tatakutin para hindi talaga magsungbong...(Such condition persisted for sometime until the NGO was able to rescue the children). We have helped these cases. And there were cases when we were also – *Gibaharan man sad mi* –

pamatyon (pinagbantaan ni kami na papatayin). So we always have death threats here.”

(We have several cases of domestic child workers who were raped by their employers. Children were paid off and threatened to prevent them from reporting to the authorities. For some time, such condition persisted until our NGO was able to rescue the children. We helped. There were times when we also received death threats in some of these cases.)

Sextortion as a power dimension also seems to follow a course. It could start as a spontaneous act of a person to demand attention from another. When such is not received, the position of authority could be used until the case progresses to sextortion. Again, NGO² explained a case:

A woman can commit sextortion if she uses her position of authority. “Siguro kung gigamit niya. As when she will use it, di ba? Na i-pin down. “*Sige di gani ka, mao ni mahitabo.*” (sige kung ayaw mo, ganitong ang mangyayari). Then that becomes sextortion di ba? *Nya gihimung* (ginawang) leverage. *Kay usahay naa may mabuang sa laki. Unya himuon na na na* threat or whatever. (kasi minsan may mga babae na patay na patay sa lalaki. Tapos gagawin yung threat or whatsoever) “Kung di ka makig-date nako or whatever. *Na may laking buang pud mahadluk.* (meron kasing mga lalaki na natatakot dun. (laughs).

(A woman can also commit sextortion if she uses her position of authority as leverage. She uses it to pin down [the victim]. “If you won’t [give in], here’s what would happen.” “If you won’t go out on a date with me or whatever.” That becomes sextortion. Sometimes there are women who lose their mind over men and they use threats or whatever. And there are also men who are foolish enough to be threatened.)

The second dimension of sextortion is a flipside of the first: this refers to the soliciting of sexual favors in exchange for money or other consideration by a person who does not specifically have authority over the victim. In this instance, the “perpetrator” offers a sexual favor and the

“victim” succumbs to the offer and falls prey to the perpetrator. What ensues is a sort of “mutual” agreement of exchanging sex with money or other favors between the “perpetrators” and the “victims.” Some of other favors exchanged that respondents mentioned included passing grades, ensuring graduation, promotion, approval of job applications and increase in salary. Fiscal¹ describes the pattern as “using sex as instrument for graft and corruption.”

During the multi-sectoral consultation, Fiscal² opined that in the dimension of soliciting sexual favors in exchange of something, “there is basically no problem nor case since the victim is not a victim because there was consent.” This comment suggested that government agencies responsible for investigating cases involving sextortion did not understand the meaning of “consent.” Cases involving sextortion are, therefore, regularly dismissed. For example, Ombudsman¹ admitted that they needed help to develop and build up cases of this nature as victims regularly desisted; the representative of the Fiscal² considered acquiescence to the sexual act to be equivalent to consent, regardless of need or vulnerability; and the representative of the Philippine National Police (PNP)¹ did not think cases filed were ‘alarming’ and, worse, that men who retain the services of prostituted women are also ‘victims’ as the men lose money to obtain sexual pleasure.

Judge² enumerated certain cases she came across either as an investigator of judicial misconduct or as a judge resolving a case. The judge particularly mentioned the *Jamin*⁴¹ case where she discovered that the rape-

⁴¹ *Mary Jane Jamin v. Judge Manuel de Castro*, AM No. MTJ – 05-1616, October 16, 2007

victims had a difficult time having their complaint-affidavits notarized for filing with the prosecutor's office. She also cited lack of money for transportation as one reason for desistance by the victims.

These discussions and examples on the second dimension of sextortion therefore reveal that soliciting sexual favors in exchange of something in return should not be misunderstood as a "mutual relationship." Consent should not be misinterpreted as an agreement to be involved in a sextortion relationship when there is clearly a vulnerability issue in one of the characters in the situation. Consent should mean that: the key players in any situation understand what is being proposed; the societal standards of what is proposed; awareness of the consequences of their choices; agreements and disagreements will be respected equally; and that both parties enter into the relationship or proposal voluntarily and are mentally competent.⁴²

The last group of responses defined sextortion as a dimension of "vagrancy." This theme refers to sextortion as sexual favor offered by a person of inferior or vulnerable position (such as a prostituted person to an arresting officer to get out of jail) to one who is in a position to grant a certain favor or consideration. In this particular case, the person offering the sexual favor initiates the transaction. In this last theme, it seems difficult to establish the real perpetrator and victim. The pattern that could be inferred from the responses was that after the initiator offers sex, the other person, usually the stronger one or the person in authority would accept the offer and "pay" accordingly. This dimension identified by respondents infers that

⁴² Lanning, Kenneth, FBI – Missing and Exploited Children

sextortion and related crimes may also be committed by people from lower, inferior status, or those with various vulnerabilities and weaknesses.

Clerk of Court (COC) ¹ cited another example involving a female detainee whose police escort made some sexual advances like holding her hands and taking her by the shoulders. The detainee did not show any sign of resistance. COC¹ further clarified that such practice is common in female detention centers where custodial officers exchange sex for some favors they could give to the detainees. BJMP¹, however, directly said such practice does not exist in his territory.

The “State of Violence in the Philippines” report coordinated by the World Organization Against Torture (2003), on the other hand, revealed that in the red-light districts of Pampanga, Zambales, and selected highways in Quezon City, prostituted women, streetwalkers, and trafficked victims, including their bar managers, are regularly arrested by police enforcers. To avoid rotting in jail, bar managers would pay grease money and offer their women employees to the police officers for a one-night stand. This situation is described as “*kapit sa patalim*” [meaning, “holding on to a situation at all costs”] to enable all of the victims to continue with their respective means of employment.

Fiscal¹ explains another case of an initiator who was accepted for a job in exchange for the sexual favor she offered her supervisor. Because of such indiscretion, the once-initiator was continually being called for sex by the supervisor. By then, the woman was no longer in a position to refuse since previous sexual records could now be used against her.

The three (3) groups of definitions can then be appreciated to be containing the elements of (1) money or any form of consideration, (2) the commodity being exchanged is sex, and (3) the force that drives sextortion ranges from the power of the perpetrator or the need of the victim.

3. *Forms of sextortion*

After asking for the definitions, respondents were also asked to check the forms of sextortion they had actually encountered. Table 2 presents the frequency distribution of responses. Figures reveal that the most common forms of sextortion encountered by respondents actually correspond to their definitions. The top three answers reflect the three clusters of definitions while the rest of the answers further reflect the variations of sextortion according to the dimensions of power and vagrancy. Figures further reveal that trafficking involving government officials is well encountered by respondents. They further clarified during the interviews that trafficking gets worse and often results in sex slavery, white slavery, and rape.

Table 2. Frequency distribution of forms of sextortion encountered by respondents (n=189)

Forms of sextortion	Number	Percent
Rape, acts of lasciviousness, harassment, and other cases in prison and other custodial settings	95	50.3
Sexual Harassment: in schools and workplace	89	47.1
Vagrancy	48	25.4
Corruption	35	18.5
Trafficking involving government personnel and other public officials	33	17.5
Others	3	1.6

To build the internal consistency of the responses in the previous section, respondents were also asked to clarify their first-hand experiences of handling sextortion and other related crimes. Table 3 presents the various forms of sextortion as reported by respondents, their perceived estimate number of cases encountered in the period of one (1) month, number of cases actually filed in the courts per month as well as their perceived levels of severity of each form. To facilitate the presentation, the mean scores of reported cases encountered and filed in courts were obtained, as well as the mean perceived degree of severity of cases. The forms of sextortion identified, together with the four measures used were tested for internal consistency through the use of reliability coefficient test (r). Scores close to ± 1.00 indicate that the responses have strong internal consistency. This test had to be done because of the heterogeneity of respondents in terms of number and official designations.

Table 3. Reported forms of sextortion, estimate number of cases encountered and filed in courts, perceived degree of severity and reliability coefficients (n=189)

Forms of sextortion	Mean cases encountered per month	Mean cases actually filed in court per month	Mean degree of severity	Reliability coefficient
Sexual harassment	2.04	1.01	2.09	0.64
Rape, acts of lasciviousness, harassment and other offenses in prison and other custodial setting	2.14	1.83	1.61	0.52
Trafficking involving government personnel and other public officials	0.44	0.22	1.83	0.50
Corruption (e.g., release of rapists)	0.39	0.38	1.50	0.70
Vagrancy	1.02	0.83	1.70	0.65

Table 3 presents an alarming trend as far as individual courts are concerned. The three (3) measures, reinforced by the high reliability coefficients of all forms, provide confidence in the weight of the respondents and their answers. Respondents encounter from one (1) to two (2) cases of all forms of sextortion. They also encountered an alarming average of 2.0 cases of sexual harassment, 2.14 of rape and acts of lasciviousness per court per month. Sana, Avellano, Madrid, Legarda, et al.,

(2007), in a study of 11 randomly chosen family courts in Metro Manila, reported that out of a total of 297 cases actually heard in a 3-month period, 80 (26.94 percent) were violations of Republic Act (RA) 7610², 24 (8.08 percent) were violations of RA 9344 and 8 (2.69 percent) were violations of RA 9262. These cases actually handled in the courts corroborate with the mean of at least two (2) new cases per month.

The cases are also perceived as moderately severe, suggesting that they are likely to be pursued as complainants have strong evidence against the accused. Vagrancy presents with surprisingly high ratings, proving that across all measures, it is a known problem and that victims are ready to file complaints even if they were the ones who initiated the offering of sexual favors.

While cases of trafficking and corruption appear few and the severity is moderate, they register the highest reliability coefficient because of the number of respondents who were able to really discriminate this form from the others. The degree of severity used involved two angles: that there is a potential case in a complaint and also the foreseen damage to the victims, their families and even the communities. Having two moderately severe cases reported and/or actually reported in courts suggests the widespread occurrence of sextortion cases filed in the courts.

Despite the many violations involved in cases encountered and reported, it is interesting to note that a significant number of respondents did not believe that a new law is needed to address sextortion. All key informants, especially from the group of law practitioners, expressed that there are sufficient laws to cover such cases and the courts just need to

implement them properly. The judges' group on the other hand, emphasized that everybody involved in law enforcement beginning with the *barangay* officials to the police and other investigators to the courts should be familiar with laws covering sextortion so that cases may be handled competently and promptly.

4. *Effects of sextortion on the victims*

Respondents were asked about the perceived effects of sextortion on the victims. Data were grouped into 1: psychological, 2: physical, 3: emotional and 4: social effects. Some respondents indicated “none” and “not applicable” and these were grouped into “0.” This is probably because these respondents had no access to the families of the sextortion victims. Figure 2 presents the percentage distribution of responses based on 97 valid responses.

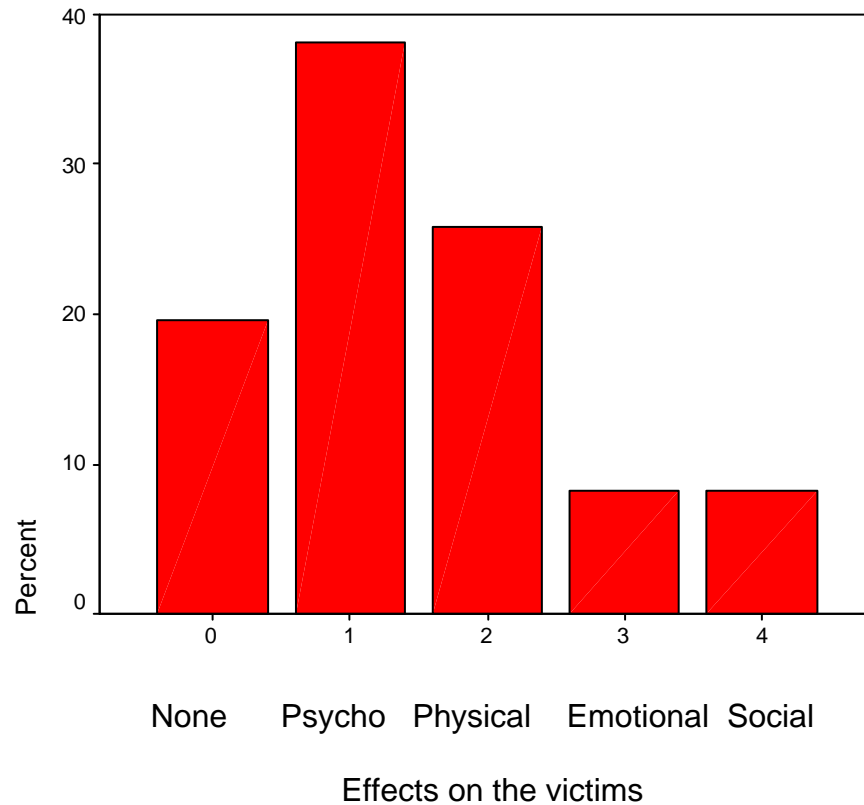


Figure 2: Percentage distribution of effects on the victims

According to respondents, sextortion results in 38.10 percent of psychological, 25.80 percent of physical, and 8.20 percent each for emotional and social effects. Respondents reported that the victims they have encountered show evidence of psychological problems and imbalances ranging from sleeplessness and loss of appetite caused by diminishment of sense of worth. These slowly deteriorate into withdrawal, fear, anxiety, worry, shamefulness, distress and alienation. Worst cases include short periods of insanity and suicidal tendencies. Reported physical effects include weight loss, injuries, and illnesses such as acquiring sexually transmitted infections, physical trauma, and actual threat to the victim’s life. Emotional and social effects might be much lower in frequency compared to the other

two groups but could be inferred as closely inter-related. Feelings of being angry, sad, depressed and social rejection make the victims withdraw from society and even from their families. Victims may even fall into the trap of drug addiction or substance abuse and prostitution.

Families also suffer as victims of sextortion. Respondents included a fifth category of effects, namely, what families do for the victims (*e.g.*, give moral support) or on the other hand, do not believe the victims (option 5). Figure 3 presents the percentage distribution of responses grouped according to the five clusters.

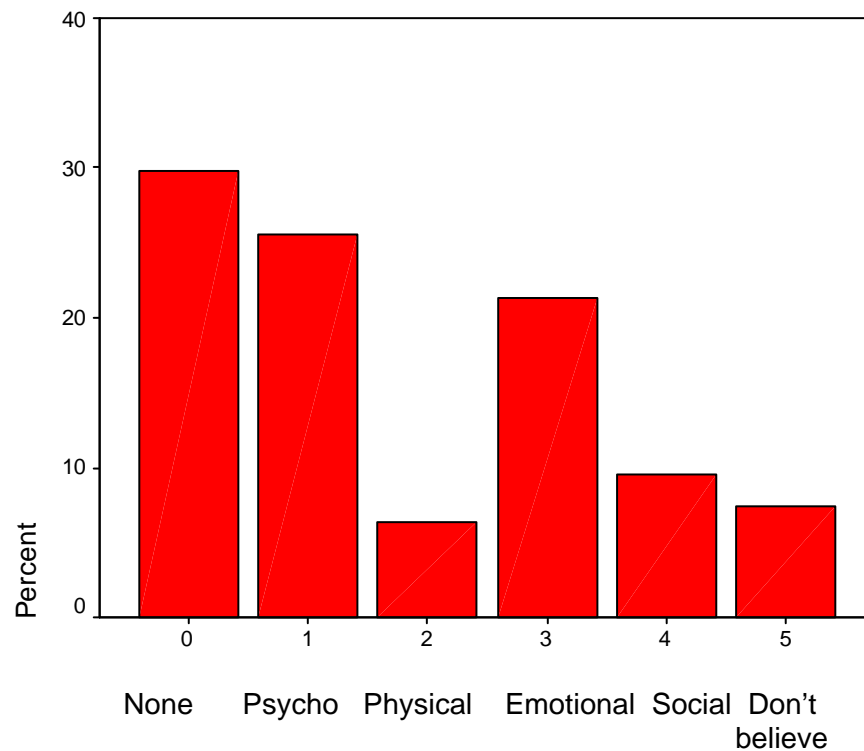


Figure 3: Percentage distribution of effects of sextortion on the victims' families

Figure 3 reflects that 29.8 percent of respondents did not report any effects. This is probably because not all of them had access to the families of

the sextortion victims. Psychological effects still turn out to be the highest at 25.5 percent followed by emotional effects at 21.3 percent. Actual psychological problems affecting the families included absence of peace of mind, humiliation, and shame. These perspectives result in the families being dysfunctional especially if the perpetrators and victims belong to the same family. The negative emotions brought by sextortion bring other problems: some members of the families feel revengeful, angry, sad, rebellious, and dislocated. Options 4 and 5 are also inter-related with the other three responses. Because the families feel disgraced and dishonored, some of them inflict punishment on the victims. The 7.4 percent who reported option 5 included isolating the victims from the family and the community, sending them to other relatives to live with or to institutions for rehabilitation.

Baseline Survey Summary

There were 189 respondents: 69 from Luzon (36.50 percent), 40 from Visayas (21.20 percent) and 80 from Mindanao (42.30 percent). Law practitioners registered the highest group followed by clerks of court (13.80 percent).

Sixty-five percent of respondents were not aware of the term sextortion. The rest managed to describe it from their understanding of related terms. Definitions provided by respondents clustered into three themes: (1) demanding for a sexual favor through the use of force or position of authority, (2) soliciting sexual favors for something in return, and (3) offering sexual favors for something in return.

Most commonly encountered forms were rape, acts of lasciviousness and vagrancy. An average of two of each of these cases per month are encountered and reported by respondents. They are also rated as moderately severe in terms of likelihood to progress into a real case and in terms of effects on the victims and their families. Victims of sextortion, including their families and communities, suffered from psychological, physical, emotional and social effects.

Despite perceived violations of several laws, respondents did not think that there was a need for new laws to address sextortion. They, however, opined that law enforcers and practitioners should be well-versed on sextortion so they could handle the case competently.

Conclusions

Different court personnel, custodial officers, *barangay* officials and NGO representatives admit that they are not familiar with the term sextortion. However, since they deal with other sex-related crimes, they are able to define and describe the variants of sextortion. It is concluded that sextortion contains common elements, namely: (1) money or any form of consideration, (2) the commodity being exchanged is sex and (3) the force that opens for sextortion ranges from the power of the perpetrator or the need of the victim for money.

Sextortion refers to dimensions of sexual harassment, act of lasciviousness, rape, trafficking, vagrancy and sexual slavery presented concomitantly with extortion. The fact that not many people know about it

does not mean that it does not exist. In fact, widespread occurrence of these sex-related crimes is reported. They are also perceived as moderately severe thereby posing serious damage to individuals, families and communities. Despite violations of numerous laws involved, new laws specifically addressing these crimes are no longer necessary. What is needed is for court personnel and law enforces to implement strictly these existing laws.

YEAR TWO: THE TOOL KIT

To accomplish the objectives of addressing sextortion in institutional settings, by police, justice personnel, immigration officials and others, in accordance with the results of the survey and the inputs and recommendations from the Multi-Sectoral Consultation Meeting held in Cebu City, the PWJA will develop a tool kit in the second year of the project that will aim to accomplish the following objectives:

- a. Make individuals, families and communities aware of the nature, extent and damage that sextortion can bring, spearheaded by appropriate agencies of government;
- b. Train specific and responsible government officials in the relevant agencies constituting the pillars of justice, such that “echo” training will be conducted over a period of time supported by national and local budgets;
- c. Ensure the formulation of a step-by-step guide on filing complaints, formulated by each relevant government agency through the trainees, which guide shall include the definition of “consent” so that law enforcers, prosecutors and the courts may understand concepts of vulnerability and authority in relation to the risks faced by key characters in a given situation;
- d. Encourage, when appropriate, prosecutors to use Republic Act 3019, otherwise known as the Anti Graft and Corrupt Practices Act, in indicting perpetrators of sextortion;

- e. Create a referral system among NGOs and the other pillars of justice to ensure, among other matters, that legal aid, medical assistance, psycho-social services and therapy may be provided to encourage victims of sextortion so that cases reach courts for proper disposition;
- f. Ensure the imposition of sanctions on lawyers and notaries public who refuse to render assistance to victims of sextortion, especially in the notarization of their judicial affidavits and complaints;
- g. Reiterate the policy among all agencies, including the courts, of keeping identities of victims confidential, whether minor or adult, to enable victims to retake control of their lives and professions without resulting shame and humiliation;
- h. Inculcate within the Department of Interior and Local Government (DILG) the need to issue a policy requiring the LGUs to provide assistance to their constituents who are victims of sextortion;
- i. Create a systematic and integrated database system for disaggregated data (*e.g.*, gender, age, position, nature of case, etc.) from the police, prosecutors office, clerk of court, to courts, including appellate courts, since sextortion presents with various sex- related cases.

DEVELOPMENT OF THE SEXTORTION TOOL KIT

The survey conducted by the PWJA described how representatives of the five pillars of justice perceived sextortion. Respondents drew out their perceptions from their experiences of sex-related crimes. Their perceptions showed the gaps in knowledge and competencies, and flawed understanding of concepts such as “consent.”

The legal framework of sextortion, on the other hand, reflects that the Philippines has more than sufficient statutes and legal provisions to address sextortion, and provisions relevant to the crime of sextortion are contained in various laws, like the anti- sexual harassment law, the anti-graft and corruption law, among others. The final country report and legal framework of the Philippines prove that while there are available laws, implementing them to end sextortion by competent personnel in the five pillars of justice is a difficult task.

The ultimate aim of this toolkit is to clarify what is and what is not sextortion and to standardize the handling of sextortion cases from the filing of the complaint up to the time the case is prosecuted.

The five pillars of justice, namely, law enforcement, correctional, prosecution, courts, and the community have specific roles and responsibilities in combating sextortion. These roles and responsibilities are all built-in in the four phases of handling sextortion captured in the 4Rs, namely, **Recognizing, Recording, Reporting** and **Referring** to appropriate agencies of government. The standard competencies, persons/agencies

involved and identified means are reflected in the schema presented in Figure 4.

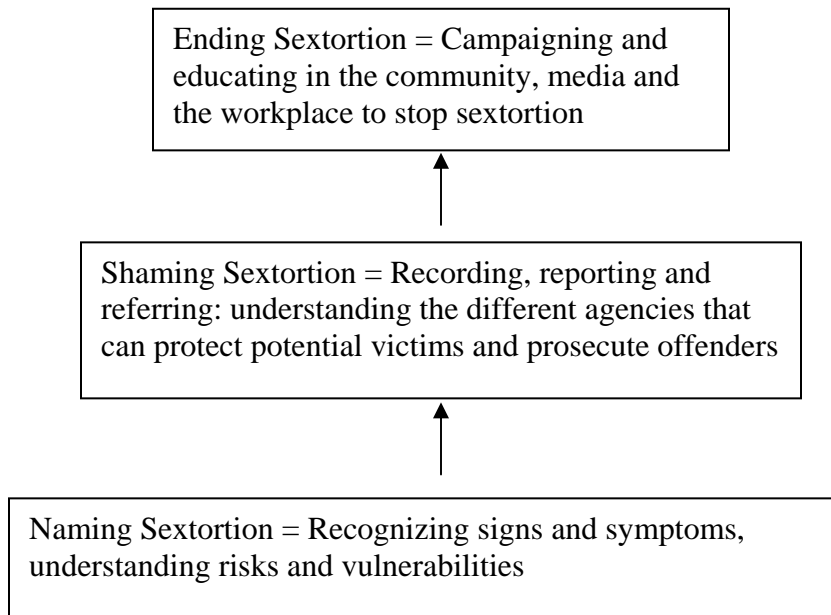


Figure 4. Naming, shaming and ending sextortion by the five pillars of justice

“Naming sextortion” is recognizing the signs, symptoms, presentations, and understanding risks and vulnerabilities of victims and aggressors committing sextortion. It is primarily the responsibility of the community and police enforcement. “Shaming sextortion” refers to recording, reporting and referring of sextortion cases for the protection of potential victims and the prosecution of offenders. This is the primary role of the correctional pillar, the prosecution and the courts. “Ending sextortion” will require massive education and campaign on the part of mainstream society and the community.

The five pillars of the justice system must be adequately trained in each of their responsibilities. These responsibilities are presented in the sextortion toolkit being developed by the PWJA. A preliminary toolkit has been formulated as a result of the country report. This preliminary output will be presented in a seminar-workshop composed of responsible representatives of the pillars of justice. The participants will validate content and processes such that:

1. A step by step guide on the 4 R's will be developed;
2. A toolkit in the form of case studies, manuals and training modules will be provided for use by responsible officials of the pillars of the justice system to sensitize them and for re-echo training and dissemination;
3. Pilot testing of the toolkit for specific sectors of the justice system will be encouraged using their own gender and development (GAD) budget; and
4. The use of the toolkit in public campaigns to end sextortion will also be encouraged.

Final outcome of this activity will be a duly validated toolkit specific to the Philippine context and will be composed of: (a) a compilation of relevant provisions of Philippine statutory framework for prosecuting sextortion; (b) an institutional framework for documenting and prosecuting sextortion; and (c) improving the system for receiving complaints and protecting complainants in cases involving sextortion.

In September 2010, a consultation with responsible officials of the pillars of justice will be conducted. Among other topics, the workshops will

require the participants to prepare flow-charts on how to recognize, record, report, and refer sextortion cases and to develop an active campaign against sextortionists at the levels of the (1) community, (2) media and (3) workplace training.

REFERENCES

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