K4D | Knowledge, evidence and learning for development

Judicial corruption and gender

Siân Herbert
GSDRC & K4D, University of Birmingham
11 January 2022

Question

What evidence is available on the impact of judicial corruption on women and men and what are the lessons learned from the interventions aimed at addressing them?

Contents

1. Overview

This rapid literature review explores how judicial corruption affects women and men, and lessons from policy responses to tackle it. As there is very limited literature that directly addresses these questions, this query also draws on evidence about gender and corruption (more broadly), and gender and political corruption. This paper is not comprehensive of all of the issues related to this question, but is illustrative of the most commonly discussed issues.

Key points

Corruption and gender

While evidence is limited, it is widely thought that corruption has a larger overall negative impact on women than on men as: women tend to be excluded from patronage networks; corruption can strengthen inequality and vulnerability; women are disproportionately affected by corruption that affects public services; and as women are more at risk from sextortion. Gender inequality, bias,

---

and norms affect the way that women and men experience corruption. Taking an intersectional approach to understand how gender and other forms of vulnerability intersect is key, such as income, sexual identity and orientation, education, disability, etc. Surveys show that gender differences in the perceptions of corruption are largest where women face greater discrimination.

Political corruption and gender - A core finding in the quantitative literature for which there is widespread (though not universal) agreement, is that there is a strong and significant statistical association between representation of women in government and lower corruption in government. However, there is much less consensus on why, and the causal direction of this relationship – do women reduce corruption in government, or are less corrupt governments more likely to elect/recruit women?

Forms of judicial corruption - The main forms of corruption that affect judicial system actors in fulfilling their roles include: political interference; bribing; extortion; nepotism; and misuse of public funds and resources (Jennett, 2014). Key areas where judicial system actors may be exposed to, or engaged in, these forms of corruption include: management of courts; criminal proceedings; civil proceedings; and enforcement of judicial decisions (Jennett, 2014). The extent and form of judicial corruption is very much context specific.

Judicial corruption impacts on women and men

Gender-related judicial integrity issues - Gender-related judicial integrity issues include: sextortion, sexual harassment, sexual discrimination, gender bias, unequal gender representation, gender stereotyping and inappropriate sexual conduct (UNODC, 2019a).

Gender bias and corruption – a paper on Haiti shows how sexism and corruption through racketeering and seeking bribes by the police and in the courts make it particularly difficult for women to access justice in cases of sexual violence (Joseph & Phillips, 2016). Reforms to address this include: a top down judicial inspection body to track and evaluate cases; a bottom up approach, where lawyers work with community-based organisations to empower people to enforce their own rights; and encouraging judges and lawyers to refuse to participate in the bribe system. The gendered nature of land corruption sees disputes involving women often arbitered by local actors who are likely to be corrupt and may prefer to apply discriminatory customary laws over formal laws (Transparency International, 2018).

Sextortion – Sextortion is the most discussed form of gendered corruption in the literature. While its prevalence is widespread, there is limited data and literature about it. A perception survey on sextortion in Jordan, Lebanon and Palestine found one in five citizens said they have experienced sexual extortion, or sextortion, when accessing a government service, or knows someone who has (Transparency International, 2019a). Long a silent form of corruption, the newly recognised form of corruption sextortion is still not legally identified. Evidence indicates that women are disproportionally affected, including in access to services.

Organised crime – Human trafficking is another area where judicial corruption has particularly gendered impacts. While it affects both women and men, women are the main victims of human trafficking, and bribes often involve sextortion.

Impunity - A key feature of sextortion, sexual harassment, and other forms of gender-related misconduct is the limited numbers of legal cases, and discussion, around them. Factors shaping

this are: the reluctance of victims to report it; stigma; fear of negative repercussions; uncertainty about rights; lack of legal recourse; lack of support; mistrust of authorities; and weaknesses in normative and policy frameworks to recognise sextortion as a crime. The prevalence of sextortion, and of legal cases related to it, are very much shaped by local contexts.

Gender representation in the judicial workforce - There is widespread acknowledgement of the need for a diverse and representative judicial workforce and while female representation has improved significantly over the past decades, it continues to be male dominated, especially in senior and leadership roles. Globally, women made up 27% per cent of all judges in 2011 (International Development Law Organisation, 2018), and representation of females in the high courts was 21% in 2012-2013 (Escobar-Lemmon, Hoekstra, Kang & Kittilson, 2022). There is substantial variance between countries.

Nepotism, patronage, and misuse of resources - Zheng, Ai and Liu (2017) explain that nepotism, and a "masculine and corrupt" judicial culture, is one reason why there is a low representation of women in high-level leadership positions in Chinese courts. The authors suggest that women in the Chinese judiciary might be promoted to mid-level leadership positions because they behave in less corrupt ways, while some male judges may be promoted to high-level leadership positions because they are more corrupt and thus develop closer political connections. These findings chime with the wider literature on gender and political corruption, that suggests that male-dominated patronage networks may make it more difficult for women to engage in corrupt practices (the "corruption opportunity gap") (UNODC, 2020a, p.3-5).

Principles for policy interventions - There is limited understanding of how gender and corruption are interrelated, and thus policies to address gender issues in corruption are also limited, especially in regards to sextortion. UNODC (2019a) explores three broad areas for focus to improve gender and judicial integrity: (1) judicial codes of conduct and other policies; (2) judicial accountability mechanisms; and (3) educational and training programmes.

Literature base

There is very limited literature that directly addresses these questions. Most of the studies that have explored the link between gender and corruption, emerging from the 2000s onwards, have focused on women in the executive and in parliament but little attention has been paid to the judiciary and judicial corruption (Kenney, 2013; UNODC, 2020a). Also, most of the literature on policy responses focuses on broad principles for engagement rather than lessons from specific policy interventions.

All forms of corruption are difficult to study as the imperative is one of secrecy. Judicial corruption is even more opaque as there is more limited public scrutiny of the judicial sector compared to political and bureaucratic sectors e.g. due to private hearings for judicial misconduct; lawyer-client confidentiality; and closed courts to protect the identify of victims, witnesses, and national security (Transparency International, 2020; Jennett, 2014). It is also complex to separate out judicial corruption from interconnected and related forms of corruption in the police, lawyers in private practice, and public agencies. Meanwhile, data on gender characteristics is limited in most countries of the world, and even more so related to corruption (Transparency International, 2020; UNODC, 2020a). Habershon (2021) identifies areas for research including: disaggregated data on how corruption impacts women differently from men in key sectors and the nexus between gender equity and control of corruption.

One of the most common areas of study in this area is sextortion – though generally still lacking statistics and formal recognition, there is a large and growing body of anecdotal evidence, some comparative studies, in-depth field research, institutional audits, surveys, and an increasing number of media reports focussing on the issue (Transparency International, 2020). However, as Transparency International (2020, p.11) explains, "taken as a whole, this information is not comparable, cannot be tracked across time and leaves important knowledge gaps. However, it does paint a solid picture of sextortion as pervasive across regions and sectors, and affecting women disproportionately."

While there has been a significant gap in research into judicial corruption and gender, this might shift as the area garners more public and political interest. In the public sphere, the #MeToo movement has brought new attention to issues around power and gender in the workplace. Policy interest also appears to be increasing, e.g. in regards to sextortion cases; with the Sustainable Development Goals including corruption related goals, and gender as a cross-cutting element; and with 'gender-related judicial integrity issues' now identified as one of five priorities for the Global Judicial Integrity Network[1] in 2020-2021; etc (Transparency International, 2020; UNODC, 2019a; UNODC, n.d.). Yet research in this area continues to be limited by: societal reluctance to confront those who wield power; the failure to address organisational cultures that facilitate impunity; deeply entrenched patriarchal norms that limit women's financial, laboral, educational, and family roles; and stigmas around discussing sex and abuse (UNODC, 2019a, p.4)." (Bauhr & Charron, 2021)

2. Corruption and gender[2]

While evidence is limited, the literature identifies a number of reasons that suggest that "corruption has a larger negative impact overall on women than on men", as: corruption can act to strengthen inequality and vulnerability to the detriment of those who are poorer and further from power; women tend to be excluded from patronage networks that share the benefits of corruption and protect against extortion; women are disproportionately affected by corruption that affects public services – like health, education, and social services – due to more often being the principle family caregiver and depending on these services; and as women are more at risk from sextortion; etc (UNODC, 2020a, p.42; Boehm & Sierra, 2015; Gerasymenko, 2018; Jennett, 2014; IACHR, 2019). Boehm and Sierra (2015) make a useful distinction – the people most vulnerable to corruption in *absolute* terms will be those most responsible for activity in that area - e.g. this might be men in regards to traffic police, if men drive more. However, women may be more *proportionally* affected if, in a specific sector, a higher percentage of women are victimised, compared to men (Boehm & Sierra, 2015). Another important distinction to make is being a *direct* victim of corruption (e.g. through sextortion), and an *indirect* victim of corruption (e.g. where misuse of public funds lowers the quality of public services).

---

[1] The Global Judicial Integrity Network was set up in 2018 as part of the Global Programme for the Implementation of the Doha Declaration. The 2015 "Doha Declaration" focuses on "integrating crime prevention and criminal justice into the wider United Nations agenda to address social and economic challenges and to promote the rule of law at the national and international levels, and public participation" (UNODC, 2015)

[2] For an interesting discussion on the relationship between political corruption and gender, listen to the podcast interview of Bauhr by The Interdisciplinary Corruption Research Network (ICRN) (ICRN, 2019).

Gender inequality, bias, and norms affect the way that women and men experience corruption. As UNODC (2019a, p.14) explains, "the power dynamics that contribute to gender inequality place those who are most vulnerable in a position where they are least able to resist corrupt demands. Acceding to those demands exacerbates the inequality. In looking at the corruption aspect of integrity, it is important to consider the role gender plays and how it affects the ways in which men and women experience corruption." There is extremely limited discussion of how corruption affects Lesbian, Gay, Bisexual, Transgender, Queer and Intersex (LGBTQI) people, though as these groups tend to be even more marginalised and vulnerable, it can be expected that corruption will also disproportionally affect them (UNODC, 2020a).

Taking an intersectional approach to understand how gender and other forms of vulnerability intersect is key, as Joseph and Phillips (2016, p.197) explain, "bribery caters to the wealthy whom, when entangled in a legal matter, have the means to buy their way into or out of the justice system. Poor people without the means to pay for lawyers or bribe the system are left without a way to enforce their employment, housing, criminal due process, and child support rights, keeping them in a life of poverty". Contextual analysis of how gender intersects with poverty, ethnicity, disability, rural/urban, level of education, age, etc is imperative to understand vulnerability and power dynamics. Surveys show that gender differences in the perceptions of corruption are largest where women face greater discrimination (Buehler, 2020). It is widely expected that women are more vulnerable to corruption in countries with higher gender inequality, and these countries also tend to have less gender-specific data (UNODC, 2018).

Political corruption and gender

Whether and to what extent the literature on *political* corruption and gender is useful when thinking about *judicial* corruption and gender is not clear in the literature. While these sectors share some characteristics, they also have important differences, for example, in terms of confidentiality and transparency (as mentioned above); laboural expertise; the selection processes for appointments; etc. These characteristics also vary across countries and cultures. Nonetheless, in view of the limited literature on *judicial* corruption and gender, this sub-section outlines some of the key debates regarding *political* corruption and gender which could perhaps inform further research.

A core finding in the quantitative literature for which there is widespread (though not universal) agreement, is that there is a strong and significant statistical association between representation of women in government and lower corruption in government (e.g. Dollar, Fisman & Gatti, 2001; Esarey & Schwindt-Bayer, 2019; Bauhr & Charron, 2021). However, there is much less consensus on why, and the causal direction of this relationship – do women reduce corruption in government, or are less corrupt governments more likely to elect/recruit women? Esarey and Schwindt-Bayer (2019) summarise the two main arguments in this area: "one argument is that reduced corruption leads to more women being represented in politics because corrupt elites keep women out of government to preserve the spoils of corruption for themselves and maintain the security of their corruption networks… [while] the other argument is that the presence of women in government leads to less corruption; the rationales offered to explain this second argument are myriad", the theories include: that women are intrinsically more honest than men; that women are excluded from opportunities for corruption due to their marginalisation from elite networks; that voters punish women more for governance transgressions meaning women have to be more risk averse and engage less in

corruption to survive; and that women are socialised or incentivised into having a stronger demand for anticorruption reforms (Bauhr & Charron, 2021; Sundström & Wängnerud, 2014).

Yet alternative views critique this consensus, for example, Debski, Jetter, Mösle and Stadelmann (2018) find no statistically or economically significant association between women's representation in government and corruption once they account for **cultural differences across countries**. Some studies identify that it is other underlying factors that drive this relationship, such as the development of liberal democracy (Sung, 2003). However, this is undermined by Zheng, Ai and Liu (2017) who note that women are also less associated with corruption than men in China, despite it not being a liberal democracy. Some find that the **relationship is context dependent**, with the effects differing "depending on the positions and platforms that women gain access to, and thereby potentially also vary over time" (Bauhr & Charron, 2021). In another paper, Bauhr, Charron, and Wängnerud (2019) suggest that the research to date is limited in focussing on aggregate indices of corruption, yet the **different forms of corruption can have widely different causes and effects**.

UNODC (2020a, p.40) provides a useful summary of the causal processes that could contribute to the correlation between women in power and corruption levels, the theories include:

- **Corruption reduces women's opportunities**, possibly because:
    - Women's inequality is deepened by more negative impacts of corruption on those with less power, and also by intrinsically gendered forms of corruption, such as demands for sexual favours as the bribery currency;
    - Women observe public officers in corrupt systems broadly treating people with less power in a biased manner. They also anticipate being held to higher ethical standards than men. Consequently, women assume that they would face unfair treatment if they were to seek more power, and so are put off trying;
    - Male-dominated networks that conduct corrupt activities and control access to power discriminate against women, keeping them out by various means such as the use of masculine norms to cement trust relationships.
- ➢ For policymaking this implies: Where gender inequalities exist, cutting corruption may help reduce them

- **Women in power reduce corruption**, possibly because:
    - To improve opportunities for career advancement, women in power cut corrupt practices orchestrated by collusive, male-dominated networks;
    - Women in power avoid corruption because they face stronger incentives than men for clean management. They are often socialised to be risk averse, and may face additional social sanctioning for ethical transgressions;
    - To substantively represent women's interests, women in power improve delivery of public goods and services in "women's interests" policy domains, which requires cutting corruption in those sectors
- ➢ For policymaking this implies: Where gender inequalities exist, women's substantive empowerment may cut corruption

Ultimately, cross-country regressions can only draw conclusions about averages, which is limiting considering the importance of context and norms in shaping the manifestation of both gender and corruption. In assessing these discussions, the UNODC (2020a, p.28) concludes that "when analysing the patterns, it is important to consider how gender is intertwined with the logic of institutional architecture and behaviour".

3. Forms of judicial corruption

The main forms of corruption that affect judicial system actors in fulfilling their roles include (Jennett, 2014, p.5):

- **Political interference** (e.g. to influence the outcome of a civil case or a criminal trial).
- **Bribing** of judicial system actors, victims, and/or witnesses (e.g. to influence the process and outcome of court cases).
- **Extortion** of judicial system actors (e.g. coercion to act corruptly under the threat of violence or the release of damaging information).
- **Nepotism** to enable close contacts or family members access to benefits (e.g. enabling unfair access to procurement contracts for court security services).
- **Misuse of public funds and resources** (e.g. that could result in trials being delayed or collapsing).

Key areas where judicial system actors may be exposed to, or engaged in, these forms of corruption include (Jennett, 2014, p.5):

- **Management of courts** - political actors can pressure judges and court officials to act in their interests, e.g. by influencing budgets, staff selection processes, or discipline processes for judges and other court personnel.
- **Criminal proceedings** - political actors, higher judges, or private actors can direct, bribe or threaten courts on how to rule and case management, e.g. leading to case delays, loss of evidence, mishandling cases, tampering with juries or laypersons assisting decision-making, or limiting enforcement of judgements. Witnesses and victims may be threatened or bribed.
- **Civil proceedings** - similar risks including bribes: bribing court clerks and other administrators to abuse their powers (losing files or giving access to judicial decisions before they are scheduled for release); clerks charging unauthorised fees for services; political actors pressuring judges; judges soliciting bribes for favourable judgments; and lawyers soliciting bribes to mishandle cases.
- **Enforcement of judicial decisions** - lawyers or other parties negotiate with judges, bailiffs or other enforcement agents to not enforce sanctions; bribing court appointed experts to alter their evaluations of assets; government actors refusing to comply with judicial orders.

The extent and form of judicial corruption is very much context specific. For example, Joseph and Phillips (2016, p.196-197) highlight that "corruption is one of the most critical issues facing the Haitian justice system' today" due to a culture of bribes, chronic underinvestment and low salaries, and virtual impunity due to the lack of investigations into allegations of judicial

corruption. Meanwhile, Zheng, Ai and Liu (2017) explain that judicial corruption in China is not "isolated abnormal acts" carried out by corrupt judicial officials but is "institutionalised activity" that makes up the routine operations of judicial decision-making mechanisms, and that judges often follow instructions from court leaders and Party officials (Zheng, Ai & Liu, 2017).

4. Judicial corruption impacts on women and men

Gender-related judicial integrity issues

The core tenets of an effective and functional judiciary and judicial system are "integrity, independence and impartiality" in a system "that safeguards human rights, facilitates access to all, and provides transparent and objective recourse in the face of miscarriages of justice" (UNODC, n.d.b). A UNODC (2019a) paper explores gender-related integrity issues in the judiciary focussing on: sextortion, sexual harassment, sexual discrimination, gender bias, unequal gender representation, gender stereotyping and inappropriate sexual conduct (UNODC, 2019a, p.5). Importantly, this literature is not always directly related to the specific questions of this query as not all gender-related judicial *integrity* issues are related to *corruption* – e.g. gender bias exhibited by judges may shape their decisions, unfairly disadvantage the claimants, and threaten judicial integrity, but not represent an abuse of authority for private gain.

UNODC (2019a, p.5-6) highlights that **a comprehensive approach to addressing gender-related judicial integrity issues should recognise** that these issues:

- "**Have a disproportionate impact on women**, but may also affect men, and that the intersectionality of gender with other social identities can create inequalities for other vulnerable groups, such as the LGBTQI community;
- **May occur at all levels of the judiciary**, including all instances of the courts, court administration, judicial councils, or regional and international courts;
- **May involve and affect all those within the justice system**, including judges, other judicial office holders, prosecutors, attorneys, litigants, witnesses, law clerks, court personnel, court registrars, bailiffs and police officers;
- **May undermine the integrity of the adjudication process** and the court's ability to provide substantive equality for all;
- **May arise in any aspect of the judge's professional or personal life**, including rendering decisions, presiding over a courtroom, interacting with court personnel or colleagues, fulfilling administrative duties, making work assignments, providing professional opportunities or engaging in private social activities; and
- **May affect any stage of a judicial career,** including appointment, selection, recruitment, retention, promotion and retirement."

Gender bias and corruption

An example of how gender bias interacts with corrupt judicial activities is in how cases of sexual violence are handled in Haiti. Joseph and Phillips (2016, p.196) explain that corruption is particularly salient in cases of sexual violence against women due to "sexism combined with the influence of money", as "not only are they poor and trying to challenge the powerful, but they

are also entering a place traditionally hostile to women". The high degree of corruption through racketeering and seeking bribes by the police and in the courts make it particularly difficult for women to access justice find Joseph and Phillips (2016). Joseph and Phillips (2016, p.197) identify three reforms to transform Haiti's legal system: a top down judicial inspection body to track and evaluate judges' cases; a bottom up approach, where lawyers work with community-based organisations to empower people to enforce their own rights; and encouraging judges and lawyers to refuse to participate in the bribe system.

Following the 2010 earthquake, The Rape Accountability and Prevent Project (RAPP) was set up in Haiti as a legal-empowerment model working to support grassroots women's organisations to assist victims in their cases with the police, medical service providers, and legal services. Joseph and Phillips (2016, p.197) note that "by pressuring law enforcement and judicial officials to advance rape cases without bribes, and by presenting sophisticated legal arguments and evidence such as medical expert testimony, lawyers communicate the significance of these cases to the courts and help modernise the system. Moreover, by working directly with the victims and grassroots women's organizations throughout preparation of the case and trial… [the] lawyers also help break down traditional elitist barriers and provide much needed support to survivors brave enough to navigate the legal system. Observation of court proceedings also empowers women's groups with knowledge about the justice system and their members' cases".

Another example of gender bias and corruption can be seen in the gendered nature of land corruption, where disputes involving women are often arbitered by local actors as women cannot access other mechanisms (Transparency International, 2018). These actors are more likely to be corrupt and may prefer to apply discriminatory customary laws over formal laws (Transparency International, 2018). A study showed that traditional courts in Uganda asked men for bribes to win land-related cases (Transparency International, 2018). Women may be less able to pay bribes than men, and may be asked for sexual favours instead (Transparency International, 2018).

Sextortion[3]

One of the most significant forms of gendered corruption, and the most discussed in the literature, is sextortion, which "occurs when those entrusted with power use it to sexually exploit those dependent on that power" (Transparency International, 2019a; Transparency International, 2020, p.2, 8); when "sex, rather than money, is the currency of the bribe". While data on the incidence of sextortion is extremely limited, there are some insights from perception surveys. For example, in the first year of survey data on sextortion collected by Transparency International (2019a), in Jordan, Lebanon and Palestine, one in five citizens said they have experienced sexual extortion, or sextortion, when accessing a government service, or knows someone who has. Notably there is no disaggregation in the data on sextortion and public service access according to sector – therefore we are unable to know whether it is more or less prevalent in the judicial sector compared to e.g. the health sector.

---

[3] The International Association of Women Judges (2012) has published a non-sector specific toolkit on addressing sextortion.

The concept was created in 2008 by the International Association of Women Judges, indicating how recently it has been discussed, and thus the nexus between corruption and sexual exploitation is an area with limited laws and research (Henry, 2020). Yet, "despite meeting all the factors that define a corrupt act, sextortion is not yet fully recognised as such, legally or culturally" (Transparency International, 2020, p.9). As Transparency International (2020) explains, laws related to bribery and abuse of power tend to relate to financial bribes and benefits, and some entirely exclude non-monetary corruption.

To be classified as sextortion, three conditions must be present (Transparency International, 2020, p.8):

1) **Abuse of authority**;
2) **Quid pro quo** or "this-for-that" (in relation to sexual activity); and
3) **Psychological coercion** (rather than physical violence)

Evidence indicates that women are disproportionally affected by sextortion, though men, transgender and gender non-conforming people are also affected (Transparency International, 2019a; Transparency International, 2020; UNODC, 2019). In the Transparency International (2019a, p.21) perception survey of 6,600 people across six Middle East and North Africa countries,[4] 47% said they think that "sextortion happens at least occasionally", with women significantly more likely to think sextortion occurs frequently (Transparency International, 2019a, p.21). In the Latin America and Caribbean region this is even higher, with 71% saying they think sextortion happens "at least occasionally", and only 8% of people think that it never happens (Transparency International, 2019b, p.20). This data is on sextortion in general, and not specifically related to the judicial sector. A key area where sextortion occurs is through petty corruption,[5] in particular in access to services, where women are disproportionally affected – e.g. in the health care sector. Corruption in this area can include bribes to get appointments or treatment, sometimes even for treatments that should be free (UNODC, 2020a).

Some research on political corruption finds that women leaders have been more motivated to address aspects of corruption that affect their interests more acutely, e.g. related to accessing services like healthcare and education (UNODC, 2020a).

Organised crime

Another area where corruption affects gender is the issue of organised crime, in particular through human trafficking, occurring at both levels of grand corruption[6] and petty corruption. Organised crime groups use corruption to infiltrate public and private sector organisations, e.g. relying on bribery, conflicts of interest, trading in influence, coercion, and

---

[4] Jordan, Lebanon, Morocco, Palestine, Sudan and Tunisia

[5] Petty corruption is the "everyday abuse of entrusted power by public officials in their interactions with ordinary citizens, who often are trying to access basic goods or services in places like hospitals, schools, police departments and other agencies". https://www.transparency.org/en/corruptionary/petty-corruption

[6] Grand corruption is "the abuse of high-level power that benefits the few at the expense of the many, and causes serious and widespread harm to individuals and society. It often goes unpunished". https://www.transparency.org/en/corruptionary/grand-corruption

collusion to pursue their aims (EUROPOL, 2017). This collusion ranges from the engagement of corrupt individuals, to more systemic and institutionalised engagement, to full 'state capture' (Herbert, 2021; IACHR, 2019). The public sectors most affected by organised crime links include: the judicial sector; customs and migration agencies; the security services; and other rule of law institutions (Herbert, 2021). While it affects both women and men, women are the main victims of human trafficking, and bribes often involve sextortion (IACHR, 2019). Meanwhile, the high rents and high levels of collusion resulting from human trafficking can result in virtual impunity for high-level corruption actors, and political inference through tailor-made laws that benefit the perpetrators (Herbert, 2021). Organised crime is another area with high levels of secrecy, and limited evidence, thus UNODC (2020c, p.12) identifies a research need to "understand both the prevalence and role of corruption in organised crime and how it introduces obstacles to a decisive and efficient criminal justice response".

Impunity

A key feature of sextortion, sexual harassment, and other forms of gender-related misconduct is the limited numbers of legal cases, and indeed discussion, around these areas, despite it being widespread across the world (Transparency International, 2020; UNODC, 2020a). A **central factor shaping this is the reluctance of victims to report** gender-related misconduct due to stigma, fear of negative repercussions, uncertainty about rights, the lack of legal framework for recourse, lack of support, and mistrust regarding the possibility of meaningful accountability (UNODC, 2019a). This weakness is illustrated clearly in many of the cases that have recently gained notoriety through the #MeToo movement where perpetrators of sextortion have experienced years of impunity despite committed crimes over decades with large numbers of victims.

Henry (2020) explains **another reason for this lack of accountability for sexual-related misconduct occurs due to key weakness in normative and policy frameworks**: sextortion often eludes prosecution as if "you think of bribery as money changing hands, a sexual exchange may not seem corrupt… [while if] you think of sexual abuse as non-consensual, yielding to a corrupt sexual demand may seem like a consensual bargain, even under duress. That thinking has produced anti-corruption laws that do not address sexual bribes, and gender-based violence laws that do not address non-physical forms of coercion. The result is an imprecise fit between sextortion and existing legal frameworks." This is illustrated by the continued use of terms such as "transactional sex", "sexual harassment" and "sexual favours" rather than "sextortion" (Transparency International, 2020).

The prevalence of sextortion, and of legal cases related to it, are very much shaped by local contexts. In an interview with UNODC (2018), Justice Shiranee Tilakawardane, a Supreme Court Justice in Sri Lanka explains that, particularly in more patriarchal cultures, very few cases are raised due to the social stigmatisation and personal ostracisation that such cases incur. Where cases of sextortion and sexual harassment are raised, they are often trivialised, thus perpetuating the historical societal tolerance of this type of violence (UNODC, 2018; Transparency International, 2020). Another anecdotal example by Transparency International (2019a, p.22) explains that while women in Palestine report numerous incidences of sextortion in public workplaces to Transparency International's chapter in Palestine (the Coalition for Accountability and Integrity (AMAN)), most refuse to file these as formal complaints.

Gender representation in the judicial workforce

There is widespread acknowledgement of the need for a diverse and representative judicial workforce (Kenney, 2012).[7] Female representation in the judicial sector has improved significantly over the past decades, however it continues to be male dominated, especially at senior levels of the profession and in leadership roles. Globally, women made up 27% per cent of all judges in 2011 (International Development Law Organisation, 2018). While global representation of females in the high courts has increased from 0.6% in 1970-2, to 1.9% in 1982-1984, to 6.2% in 1994-6, to 17.1% in 2006-8, to 21.4% in 2012-2013 (Escobar-Lemmon, Hoekstra, Kang & Kittilson, 2022).[8]

There is substantial variance between countries, e.g. in Tajikistan and Azerbaijan women judges make up 16% and 12% of judges respectively, while in Slovenia and Latvia women judges make up 78% (UNODC, 2019b). In Bosnia and Herzegovina, women make up the majority of judges, with approximately 60% of all judicial appointments (Halilovic & Huhtanen, 2014, p.8). However, they are not equally represented in leadership positions, making up only 40% of court presidents and chief prosecutors" (Halilovic & Huhtanen, 2014, p.8). In China the number of women in Chinese courts has been increasing since the 1990s and, again, while many women judges have risen to mid-level leadership positions in the judicial bureaucracy, few have been promoted to high-level leadership positions, such as vice-presidents and presidents - Zheng, Ai and Liu (2017) call this the "elastic ceiling".

Nepotism, patronage, and misuse of resources

Zheng, Ai and Liu (2017) explain that **nepotism, and a "masculine and corrupt" judicial culture, is one reason for why there is a low representation of women in high-level leadership positions in Chinese courts**. The "dual-track promotion" system - characteristic of China's judiciary – has two tracks for promotion – *professional* and *political.* In the *professional* track, promotion is based on the judge's professional expertise and work performance, and in this, women are promoted, and not disadvantaged (Zheng, Ai & Liu, 2017). However, in the *political* track of promotion, which is dominated by local Party-state leaders and is characterised by a "masculine and corrupt culture", women lack social and cultural capital (Zheng, Ai & Liu, 2017). Zheng, Ai and Liu (2017) note that "the vast majority of judicial corruption cases are committed by men, whereas women often become "model judges"" (where they are given awards for their work), thus they pose the questions: "given that judicial corruption has been a serious problem for Chinese courts since the 1990s… are female judges promoted to mid-level leadership positions because they are less corrupt? Or, conversely, are some male judges promoted to high-level leadership positions because they are more corrupt and thus developed closer political connections with local leaders?".

---

[7] There are interesting discussions about whether more women representation is likely to lead to fairer outcomes for women (e.g. Shen, 2020), however this paper does not explore that due to time constraints and the lack of literature linking that to judicial corruption.

[8] Data is for high courts in independent countries with populations over 200,000. The authors believe they were successful in collecting the data for 58-71% of all country courts (Escobar-Lemmon, Hoekstra, Kang & Kittilson, 2022).

The article provides an interesting **cultural analysis for why women in the Chinese judiciary might be less corrupt, including that male judges are more likely to socialise with litigants and their lawyers** in restaurants or karaoke bars where bribery and other forms of corruption frequently take place (Zheng, Ai & Liu, 2017). Not only are these male-dominated spaces, but cultural norms encourage women to limit their time with male colleagues due to stereotypes around extramarital affairs. Further, Zheng, Ai and Liu (2017) note that, despite not having systematic evidence on this sensitive issue, "anecdotal evidence through informal conversations with judges suggests that some male court leaders would indeed promote male subordinates who actively participate in bribery taking and other social activities with them, as patronage and mutual trust are often built upon such activities in a masculine and corrupt judicial culture".

These findings chime with the wider literature on gender and *political* corruption, specifically: that male-dominated patronage networks make it more difficult for women to enter politics and engage in corrupt practices, what can be called the "corruption opportunity gap" (UNODC, 2020a, p.3-5, 34; Sundström & Wängnerud, 2014); and on gendered expectations about corruptibility (Bauhr & Charron, 2021). Other articles in the area of *political* corruption explore whether (gender) exclusive patronage networks increase the impetus of women to mobilise against grand corruption, and whether this is consistent over time, or if women adapt to the political realities of corrupt behaviour to be included in the male dominated collusive networks (Bauhr, Charron & Wängnerud, 2019; Bauhr & Charron, 2021). There is emerging research that finds that the criminal behaviour of women is increasing and is coinciding with increased female participation in the labour market (UNODC, 2020a). To what extent these debates apply to the judicial sector remains a research gap.

In reflecting on the available evidence, the **UNODC (2020a, p.36, 39) recommends**:

- **Improving inclusiveness and breaking 'networks' to reduce corruption**: mainstreaming should aim to include individuals who have been excluded due to the gendered manifestations of corruption.
- **Promoting women's empowerment while incorporating anti-corruption** and integrity programmes.
- **Strengthen accountability mechanisms by bringing greater diversity** to institutions and changing organisational dynamics.

5. Principles for policy interventions

There is limited understanding of how gender and corruption are interrelated, and thus policies to address gender issues in corruption are also limited. For example, Esarey and Schwindt-Bayer, (2019) highlight that policies to increase women's representation in various government positions have had an inconsistent effect on corruption. They emphasise that "more precise knowledge of the mechanisms by which gender and corruption interact would presumably make such interventions more reliably successful" (Esarey & Schwindt-Bayer, 2019). This should also distinguish between different forms of corruption and by sector (Bauhr, Charron & Wängnerud, 2019).

One clear gap in legal and policy frameworks is sextortion. As sextortion does not involve material benefits it is generally not considered a form of corruption, and thus is not included in anti-corruption agendas and policies (Jennett, 2014; Transparency International,

2020). As Habershon (2021) explains, this is a "critically overlooked blind spot in anticorruption laws and programming: the absence of targeted regulations that prohibit and sanction the coercion of sexual favours in return for basic rights or services." While women are disproportionally affected by sextortion, it is crucial that policy approaches recognise that men and LGBTQI people are also affected, and thus that responses are inclusive (Transparency International, 2019a, 2020; UNODC, 2019).

Principles for addressing gender and judicial corruption

UNODC (2019a, p.6-12) identifies three primary safeguards for promoting and protecting judicial integrity, these do not only relate to gender and corruption, but the broader mandate of gender and judicial integrity: (1) judicial codes of conduct and other policies; (2) judicial accountability mechanisms; and (3) educational and training programmes. Yet, many of these safeguards do not yet consider the full range of gender-related integrity issues and thus UNODC (2019a, p.6) highlight the need for judiciaries to strengthen the safeguards by clarifying the standards of judicial conduct, holding those who violate the standards accountable, and educating people about their ethical responsibilities, legal rights and available recourse. Specifically, UNODC (2019a, p.6-7) recommends:

(1) Judicial codes of conduct and other policies:[9]

"Addressing the information and accountability gaps with respect to gender-related integrity issues begins with providing clear guidance about the ethical standards to which judges are held and the behaviours that are incompatible with those standards", this includes:

- Incorporating gender-specific provisions in ethical codes
- Strengthening the Bangalore Principles of Judicial Conduct (independence, impartiality, integrity, propriety, equality and competence and diligence) to explicitly address the full range of gender-related integrity issues and provide clearer guidance and more examples
- Adopting and updating codes of judicial conduct to include gender-related integrity issues that are consistent with the Bangalore Principles of Judicial Conduct
- Consider adopting and implementing gender-sensitive policies and other guidance (e.g. gender protocols, bench books, sexual harassment policies, etc.
- Anchoring judicial integrity in the international gender equality and anti-corruption framework (in particular, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Sustainable Development Goals (SDGs) promoting gender equality (SDG 5) and peace, justice and strong institutions (SDG 16)).

(2) Judicial accountability mechanisms for gender-related misconduct[10]

---

[9] See UNODC (2019, p.6-7; 34-49) for more detail on each of these points

[10] See UNODC (2019, p.7-10; 50-66) for more detail on each of these points

Gender-related misconduct goes largely unreported thus judiciaries need to establish clear, confidential and accessible reporting channels; effective, fair and transparent disciplinary mechanisms for investigations and action; and ongoing monitoring and assessment. This includes:

- Adopting clear standards of judicial conduct and make that information readily available through a variety of channels.
- Taking steps to lower or remove barriers to reporting misconduct within the courts
- Establishing an independent disciplinary body to hear cases of judicial misconduct
- Establishing clear disciplinary procedures
- Allowing those who witness or learn of misconduct to initiate investigations
- Protecting the confidentiality of the investigation, but providing transparency with respect to the disposition of the case
- Ensuring that the complaint process is prompt, thorough and impartial
- Providing a sufficiently broad range of corrective action to deal proportionately with the seriousness of the conduct in each case
- Providing adequate resources to prevent, monitor, and address gender-related misconduct
- Exercising judicial leadership to mainstream gender sensitivity into all aspects of the justice system
- Taking gender issues into consideration in appointing judges and in monitoring and evaluating their performance
- Gathering information and conduct empirically-informed research to identify gender-related issues and develop effective strategies for correcting inappropriate conduct
- Undertaking a regular examination and evaluation of how well the complaint process works.

(3) Effective judicial educational and training[11]

Judiciaries can strengthen their education and training on gender-related integrity issues by:

- Mainstreaming consideration of gender issues into every stage of legal education and by targeting everyone within the justice system. Training should be comprehensive in addressing the full range of issues, and, where possible, should be mandatory
- Educating the public (e.g. through media campaigns, civic education, etc) so that that the public understand what is expected of judges
- Judicial leadership is key in addressing gender-related integrity issues – senior judges should lead by example and participate in training
- Gender training should be engaging and valuable for both men and women

---

[11] See UNODC (2019, p.10-12; 67-75) for more detail on each of these points

- Compliance training should be a key component of any training on gender-related integrity issues
- Training should address the attitudes, behaviours and institutional culture that allow gender-related misconduct to occur
- Bystander intervention training should be included in efforts to address gender-related integrity issues
- Education and training programmes should be evaluated on a regular basis, using a variety of evaluation methods, to ensure their continued relevance and effectiveness
- Sharing good practices within judicial networks

6. References

Bauhr, M., Charron, N., & Wängnerud, L. (2019). Exclusion or interests? Why females in elected office reduce petty and grand corruption. European Journal of Political Research, 58(4), 1043-1065. https://ejpr.onlinelibrary.wiley.com/doi/full/10.1111/1475-6765.12300

Boehm, F., & Sierra, E. (2015). The gendered impact of corruption: Who suffers more? men or women?. U4 Brief. https://www.u4.no/publications/the-gendered-impact-of-corruption-who-suffers-more-men-or-women

Buehler, M. (2020). Judges, bribes, and verdicts: How court experience reshapes attitudes about judicial corruption among Morocco's most marginalized. Mediterranean Politics, 25(5), 650-672. https://www.tandfonline.com/doi/full/10.1080/13629395.2019.1620440

Council of Europe's (CoE's) Group of States Against Corruption (GRECO) country evaluations (have gender disaggregated data and report on gendered anti-corruption measures)

Debski, J., Jetter, M., Mösle, S., & Stadelmann, D. (2018). Gender and corruption: The neglected role of culture. European Journal of Political Economy, 55, 526-537. https://www.sciencedirect.com/science/article/pii/S017626801630194X

Esarey, J., & Schwindt-Bayer, L. A. (2019). Estimating causal relationships between women's representation in government and corruption. Comparative Political Studies, 52(11), 1713-1741. https://journals.sagepub.com/doi/10.1177/0010414019830744

Escobar-Lemmon, M. C., Hoekstra, V. J., Kang, A. J., & Kittilson, M. C. (2022). Reimagining the Judiciary: Women's Representation on High Courts Worldwide. Oxford University Press.

EUROPOL (2017) European Union Serious and Organised Crime Threat Assessment. Crime in the age of technology. EUROPOL. https://www.europol.europa.eu/socta/2017/resources/socta-2017.pdf

Flores, R.V., 2021. Impartiality, Gender Stereotypes and Judiciary Corruption. Derecho PUCP, 86, p.363 https://revistas.pucp.edu.pe/index.php/derechopucp/article/view/23740

Gerasymenko, G. (2018). Corruption in the eyes of women and men. The United Nations Development Programme-UNDP. https://rm.coe.int/gender-corruption-report-en-11-/168098f7e7

Gerasymenko, G. (2020). Gender Analysis of Ant-Corruption Policy: Case Study of Ukraine. International Journal of Civil Service Reform and Practice, 5(1).

Green, SP and Mazor J (2015) Corrupt justice: what happens when judges' bias taints a case? The Guardian, 18 Oct 2015. Corrupt justice: what happens when judges' bias taints a case?

Habershon, A. (2021) Gender and corruption: The time is now. [Blog] World Bank.
https://blogs.worldbank.org/governance/gender-and-corruption-time-now

Halilovic, M. & Huhtanen H. (2014). Gender and the Judiciary: Selected Findings and recommendations on the implications of gender within the judiciary of Bosnia and Herzegovina. https://www.dcaf.ch/gender-and-judiciary-selected-findings-and-recommendations-implications-gender-within-judiciary

Henry, N. (2020) Sextortion: sexual offence or corruption offence? Transparency International. [Blog] https://www.transparency.org/en/blog/sextortion-sexual-offence-or-corruption-offence

Herbert, S. (2021). Crime-state links, and professional enablers, in the Western Balkans. K4D Helpdesk Report. Institute of Development Studies. Internal document

Inter-American Commission on Human Rights (IACHR) (2019) Inter-American Commission on Human Rights. Corruption and Human Rights in the Americas: Inter-American Standards. IACHR. http://www.oas.org/en/iachr/reports/pdfs/CorruptionHR.pdf

International Association of Women Judges (2012) NAMING, SHAMING, AND ENDING SEXTORTION. International Association of Women Judges. https://www.unodc.org/ji/resdb/data/2012/_80_/naming_shaming_and_ending_sextortion.html

International Development Law Organization (2018) WOMEN DELIVERING JUSTICE: Contributions, barriers, Pathways. International Development Law Organization https://www.idlo.int/publications/women-delivering-justice-contributions-barriers-pathways

International Justice Mission, 2014. Strengthening the performance of the Ugandan justice system: a model to secure and protect widow and orphan land rights.

Jennett, V. (2014) Fighting judicial corruption topic guide. Transparency International. https://knowledgehub.transparency.org/assets/uploads/kproducts/Topic_guide_on_judicial_corruption_.pdf

Joseph, M., & Phillips, N. (2016). Judicial corruption in Haiti: The need for discipline and civil society participation. Hastings Int'l & Comp. L. Rev., 39, 183. https://heinonline.org/HOL/Page?handle=hein.journals/hasint39&div=13&g_sent=1&casa_token=gfH4gWE3J8EAAAAA:pWebzqV5ZoNBN6vHSAk1aa2P5SqRVv_WJXSIeeOrpOrvcGpkkOz2x0eZpBIUHJXqbJE8c16_8tY&collection=journals

Gender and justice: Why women in the judiciary really matter. Routledge.

Shen, A. (2020). Women judges who judge women offenders: a Chinese case study on gender and judging. International Journal of the Legal Profession, 27(1), 63-79. https://www.tandfonline.com/doi/abs/10.1080/09695958.2020.1733580?journalCode=cijl20

Sundström, A., Wängnerud, L. (2014). Corruption as an obstacle to women's political representation: Evidence from local councils in 18 European countries. Party Politics, 22, 354-369. https://journals.sagepub.com/doi/full/10.1177/1354068814549339

Sung, H.-E. (2003). Fairer sex or fairer system? Gender and corruption revisited. Social Forces, 82(2), 703–723. https://academic.oup.com/sf/article/82/2/703/2234644

The Interdisciplinary Corruption Research Network (ICRN) (2019) Episode 19. Monika Bauhr on need vs. greed corruption and how it is linked to gender. [Podcast] KickBack - The Global Anticorruption Podcast. ICRN. https://soundcloud.com/kickback-gap/19-monika-bauhr-on-need-vs-greed-corruption-and-how-it-is-linked-to-gender

Transparency International (2018) GENDERED LAND CORRUPTION AND THE SUSTAINABLE DEVELOPMENT GOALS. Transparency International

https://www.transparency.org/en/publications/gendered-land-corruption-and-the-sustainable-development-goals

Transparency International (2019a) GLOBAL CORRUPTION BAROMETER: MIDDLE EAST & NORTH AFRICA 2019 CITIZENS' VIEWS AND EXPERIENCES OF CORRUPTION. Transparency International https://www.transparency.org/en/publications/global-corruption-barometer-middle-east-and-north-africa-2019

Transparency International (2019b). Global corruption barometer: Latin America & the Caribbean 2019 citizens' views and experiences of corruption. Transparency International. https://www.transparency.org/en/publications/global-corruption-barometer-latin-america-and-the-caribbean-2019

Transparency International (2020) Breaking the silence around sextortion: the links between power, sex and corruption. Transparency International. https://www.transparency.org/en/publications/breaking-the-silence-around-sextortion

UNODC (2015) Doha Declaration. 13th United Nations Congress on Crime Prevention and Criminal Justice Doha, 12–19 April 2015. UNODC. https://www.unodc.org/documents/congress/Declaration/V1504151_English.pdf

UNODC (2018) The Global Judicial Integrity Network: Gender-Related Issues in the Judiciary. [Interview] UNODC https://www.youtube.com/watch?v=K8IijZ135-4&ab_channel=UNODC-UnitedNationsOfficeonDrugsandCrime

UNODC (2019a) Gender-Related Judicial Integrity Issues. UNODC https://www.unodc.org/ji/en/knowledge-products/gender-related-integrity-issues.html

UNODC (2019b) Topic four - Gender diversity in the criminal justice workforce. E4J University Module Series: Crime Prevention and Criminal Justice. UNODC. https://www.unodc.org/e4j/en/crime-prevention-criminal-justice/module-9/key-issues/4--gender-diversity-in-the-criminal-justice-workforce.html

UNODC (2020a) The Time is Now. Addressing the Gender Dimensions of Corruption. UNODC. https://www.unodc.org/documents/corruption/Publications/2020/THE_TIME_IS_NOW_2020_12_08.pdf

UNODC (2020b) Eliminating Gender Bias and Stereotypes during Adjudicatory Processes [Webinar] UNODC https://www.youtube.com/watch?v=j4dUp-0EEK0&ab_channel=UNODC-UnitedNationsOfficeonDrugsandCrime

UNODC (2020c) Defining organized crime. [Webpage] UNDOC. https://www.unodc.org/e4j/en/organized-crime/module-1/key-issues/defining-organized-crime.html

UNODC (n.d.a) About. Workplan (2020-2021). [Webpage] UNODC. https://www.unodc.org/ji/en/about.html

UNODC (n.d.b). Judicial integrity. [Webpage] UNODC https://www.unodc.org/unodc/en/corruption/judicial-integrity.html

Zheng, C., Ai, J., & Liu, S. (2017). The elastic ceiling: Gender and professional career in Chinese courts. Law & Society Review, 51(1), 168-199. https://onlinelibrary.wiley.com/doi/full/10.1111/lasr.12249

Zheng, C., Ai, J., & Liu, S. (2017). The elastic ceiling: Gender and professional career in Chinese courts. Law & Society Review, 51(1), 168-199. https://onlinelibrary.wiley.com/doi/10.1111/lasr.12249

Acknowledgements

We thank the following experts who voluntarily provided suggestions for relevant literature or other advice to the author to support the preparation of this report. The content of the report does not necessarily reflect the opinions of any of the experts consulted.

- Monica Kirya (CMI - Chr. Michelsen Institute)
- Anqi Shen (Northumbria Law School)
- Ortrun Merkle (UNU-MERIT)
- Anna Petherick (University of Oxford)

About this report

This report is based on six days of desk-based research. The K4D research helpdesk provides rapid syntheses of a selection of recent relevant literature and international expert thinking in response to specific questions relating to international development. For any enquiries, contact helpdesk@k4d.info.

K4D services are provided by a consortium of leading organisations working in international development, led by the Institute of Development Studies (IDS), with the Education Development Trust, Itad, University of Leeds Nuffield Centre for International Health and Development, Liverpool School of Tropical Medicine (LSTM), University of Birmingham International Development Department (IDD) and the University of Manchester Humanitarian and Conflict Response Institute (HCRI).