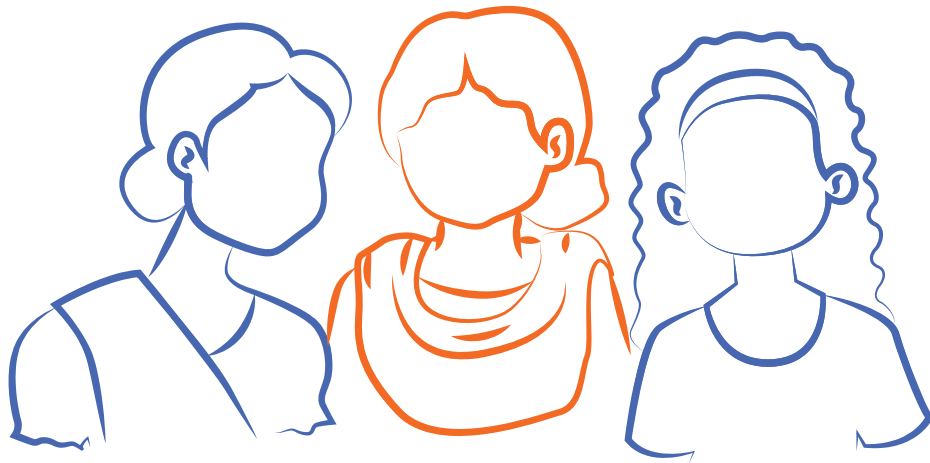


ASKING FOR MY SOUL

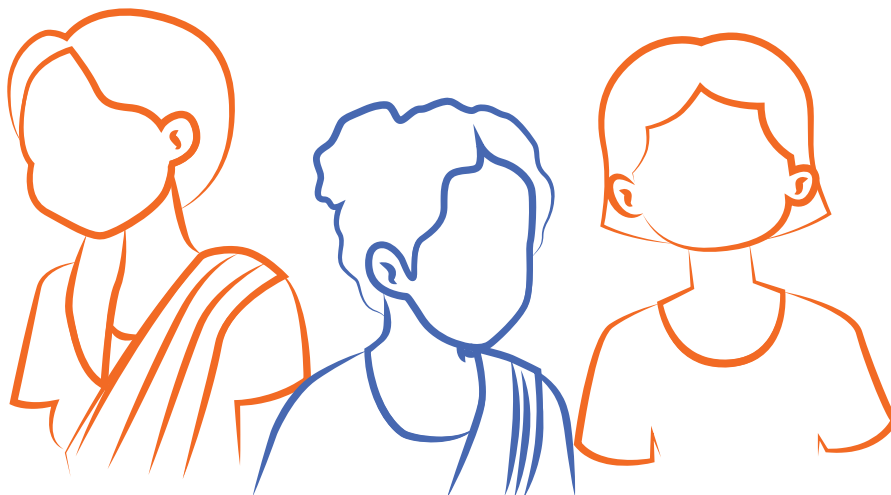
A STUDY ON SEXUAL BRIBERY IN
THE HEALTH AND JUSTICE SECTORS
IN SRI LANKA





ASKING FOR MY SOUL

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THE HEALTH AND JUSTICE SECTORS
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Design and layout by Danushri Welikala

Printed and published in January 2023

Supported by The Asia Foundation.

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For further information please contact:
Centre for Equality and Justice
16/1, Maurice Place, Colombo 5, Sri Lanka
Tel/Fax: +94 11 2055404
email: srilanka.cej@gmail.com

ISBN 9786245847174

FOREWORD

The Centre for Equality and Justice (CEJ) has been carrying out research since 2015 to bridge the knowledge gaps on sexual bribery, a form of corruption that disproportionately affects women.

CEJ conducted a qualitative study into the prevalence of sexual bribery in 2021/22 in the health and justice sectors of the public service in Sri Lanka. The critical role played by these two essential public services became even more decisive following the COVID-19 pandemic and the economic and political crisis in the country.

This study confirms that the implications of sexual bribery among women victim-survivors are severe and that it is further compounded for the LGBTIQ community. The study also found that sex workers are also vulnerable to sexual bribery. The experiences of victim-survivors reveal that the effects are deeply traumatic, stigmatizing and have other negative consequences, including economic and social consequences.

This research was carried out for CEJ by Dr. Dinesha Samararatne, Senior Lecturer at the Faculty of Law, University of Colombo. CEJ would like to thank Dr. Samararatne for designing the methodology in collaboration with CEJ and compiling the report. CEJ also thanks the interviewees who shared their experiences with CEJ.

CEJ would also like to express its gratitude to the many consultants who supported us with the research. We hope this publication will be useful to the academic community, civil society organizations, policymakers, and other stakeholders interested in bringing about reforms to laws and policies on sexual bribery.

Shyamala Gomez

Executive Director

Centre for Equality and Justice


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ABBREVIATIONS

CEJ	Centre for Equality and Justice
CIABOC	Commission to Investigate Allegations of Bribery or Corruption
FGD	Focus Group Discussion
LGBTQI	Lesbian, Gay, Bi-sexual, Trans, Queer, Intersex
SGBV	Sexual and Gender Based Violence



**Your Rights
No Conditions**

Sexual bribery is an unacceptable
form of corruption

 **1954**
to report sexual bribery

EXECUTIVE SUMMARY

Sexual bribery is not explicitly criminalised in Sri Lanka. It can be punished under the general criminal law on bribery but there are no known cases of the courts of final record which have done so. International soft law has recognised sexual bribery or 'sextortion' as a serious human rights issue and as a grave manifestation of corruption. The definition of 'sextortion' by the International Association of Women Judges has been endorsed today both by the International Bar Association and Transparency International. In Sri Lanka, women and members of the LGBTQI community are anecdotally known to be more vulnerable to Sexual and Gender-Based Violence (SGBV) and therefore, also more vulnerable to sexual bribery. Women in Sri Lanka have reasonable access to health care and education. However, due to their political and cultural marginalization, they are vulnerable to discrimination and sexual violence. The criminalisation of sexual acts 'against the order of nature' in Sri Lanka and the lack of specific protections for gender diversity and sexual minorities have placed members of the LGBTQI community in the margins of the legal system and of society.

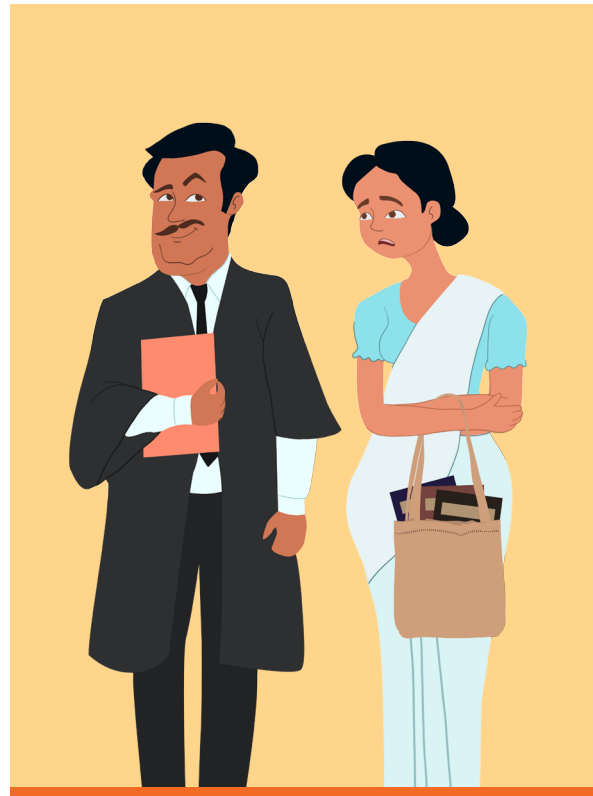
Previous studies by the Centre for Equality and Justice have examined the incidence of sexual bribery in war-affected provinces and war-affected communities. There is a knowledge gap about the prevalence of sexual bribery beyond those regions and groups. The present study responds to that gap by examining the occurrence of sexual bribery in the Central, Western, Southern, and Sabaragamuwa provinces of Sri Lanka. The study focuses on the occurrence of sexual bribery in the public service in the health and justice sectors, as it impacts

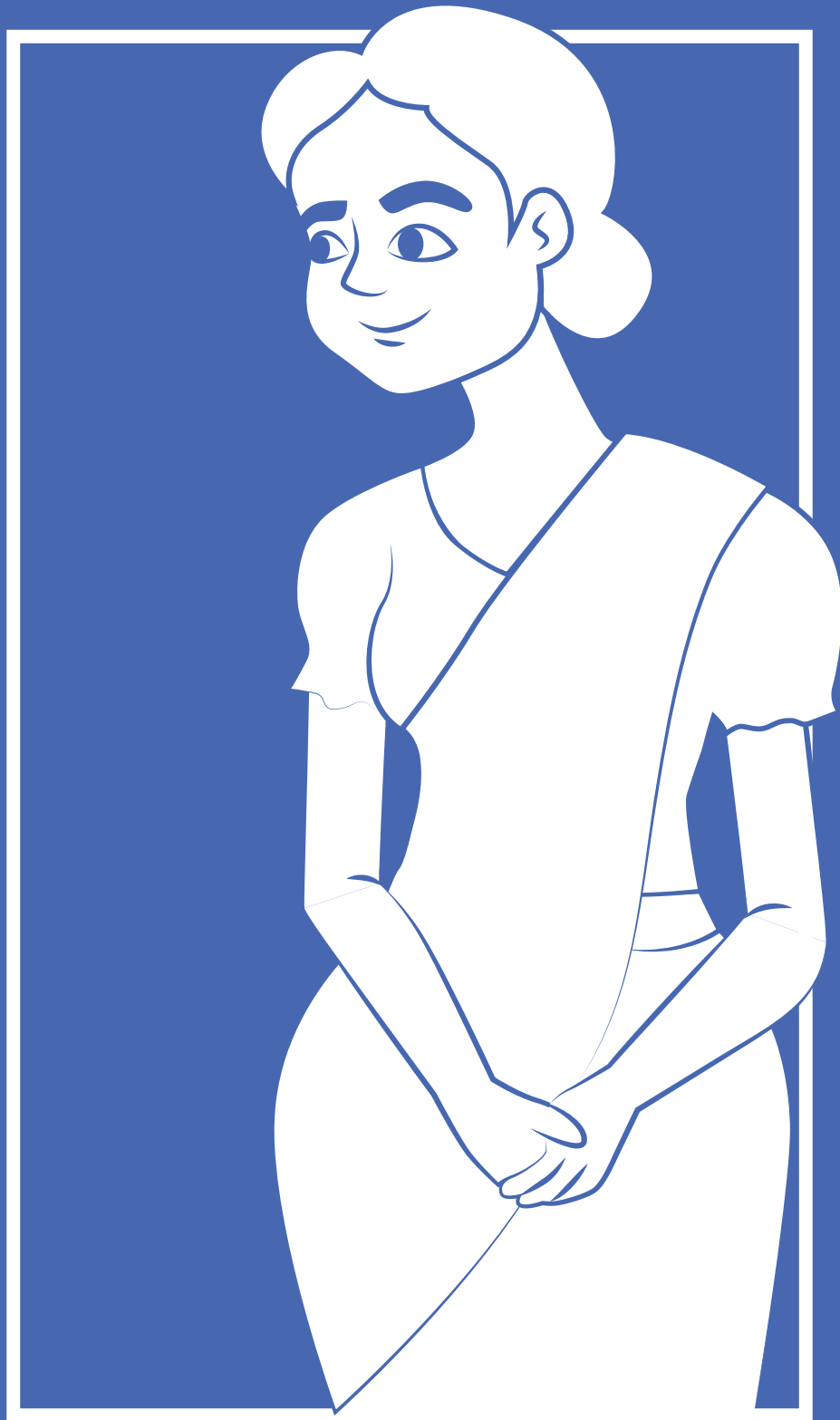
women and members of the LGBTQI community. This is a qualitative study, carried out in compliance with research ethics, including informed consent and confidentiality. 19 self-identified victim-survivors of sexual bribery and 12 key informants from the health and justice sectors were interviewed for this study respectively. For each sector three of the key informants were from the regional and from the national level respectively. The study further draws from 5 Focus Group Discussions (FGD).

The findings reveal that the personal impact of sexual bribery is severe on the individual. It violates their bodily integrity and acts as a barrier to the enjoyment of their economic rights. The trauma and stigma experienced by victim-survivors suggest that the psychological impact is grave. All these serious consequences are compounded when members of the LGBTQI community are subjected to sexual bribery. Most participants explicitly noted that they welcomed the opportunity to contribute to the study. Most victim-survivors had kept the experience of sexual bribery a secret due to concerns about the way in which it would stigmatise them and their immediate family. Moreover, because victim-survivors have to forego or limit access to public services to avoid sexual bribery, it has an impact on the immediate family members of the victim-survivors. Tools of communication technology, such as WhatsApp was used in most instances to solicit sexual bribes and to continue to harass the victim-survivor. Most victim-survivors do not and cannot seek professional help to come to terms with their trauma but some have found solace through their informal support systems. Several victim-survivors observed that they only consented to appease the sexual demand made by the perpetrator due to severe pressure. Some others noted that

the perpetrator did not seek their consent. According to them, the perpetrators objectify them, pretend to show affection or have a transactional approach to sexual acts. Victim-survivors had strong negative perceptions about sexual bribery and described its devastating impact on their life. Many of them did not think that the law could provide them with an effective remedy. In fact, they perceived the legal institutions and law enforcement authorities as protecting perpetrators, making it very difficult for them to even make complaints about sexual bribery and therefore, actively violating their right to equal protection of the law. In some cases, the COVID-19 pandemic made them more vulnerable to sexual bribery. In other cases, the restriction of movements gave them some protection. These findings on the incidence of sexual bribery suggest that the Sri Lankan state has failed to fulfil its responsibility to respect and protect several human rights and to prevent their violation. Sexual bribery requires a three-dimensional framing and response. It ought to be understood as a form of corruption, a human rights violation and a criminal justice issue. Recommendations by victim-survivors to the state to address this problem includes, measures to explicitly criminalise sexual bribery, provide for effective and independent investigation and prosecution and for compensation for victim-survivors. Recommendations to civil society include, monitoring efforts by the state to prevent, investigate and remedy sexual bribery. Further recommendations are to cultivate a network of support and solidarity among women-survivors. Recommendations to the private sector and professional bodies include, the review of professional codes of conduct to prohibit sexual bribery, to provide for an effective complaints mechanism and to adopt a zero-tolerance policy on sexual bribery. International Non-Governmental

Organizations are recommended to ensure that projects and grant cycles effectively respond to ground realities of sexual bribery. International Organizations are recommended to develop global norms, principles, and standards for dealing with sexual bribery while ensuring local ownership and adaption.





1. INTRODUCTION

Bribery and corruption are serious concerns in Sri Lankan society. However, the study of its incidence and dynamics is in the early stages. Moreover, given the illegal nature of bribery and corruption, studying the prevalence of sexual bribery is challenging. These challenges arise from the perspective of research design and ethics and at a practical level in terms of identifying and selecting participants, obtaining information and conducting interviews. At the global level, there is growing awareness of the need for a specific and targeted approach to addressing sexual bribery. Sexual bribery is multi-layered and multi-dimensional. It is a form of sexual violence distinct from other types of sexual violence, such as sexual harassment and corruption. It is a crime and a human rights violation that targets an individual. However, as evidenced in this report, often the individual is targeted for this crime because of that individual's gender or class identity. Moreover, sexual bribery is often a cause and a symptom of an entrenched culture of corruption. To address sexual bribery domestic law (fundamental rights guarantees, criminal law and law against corruption) and international human rights law should be considered together and in relationship with each other. International human rights law has developed consensus at the international level for defining the offence and clarified state responsibility in this regard. Public law (Constitutional law, administrative law, and criminal law) at the national level has to recognise sexual bribery as a form of corruption, a violation of fundamental rights guarantees, of administrative justice as well as a specific criminal offence.

These challenges are compounded in relation to the study of sexual bribery. The

incidence of sexual bribery is discussed anecdotally. Systematic studies of its incidence, contributing factors etc, are notably absent. As discussed in section 3, CEJ has conducted several exploratory studies on this subject. These studies confirm the anecdotal evidence on the occurrence of sexual bribery.

1.1. OBJECTIVES OF THE STUDY

This study is the fourth systematic study of sexual bribery in Sri Lanka by the Centre for Equality and Justice. It was designed to study its occurrence among women and the LGBTQI community and to identify factors that contribute to the occurrence of sexual bribery. Through this present study, the CEJ aims to build an evidence base with which law enforcement authorities, academics, activists, and policy makers can address sexual bribery in their spheres of work. The CEJ also intends to draw on the findings of the study to make recommendations for policy and legal reform. Therefore, the secondary aims and objectives of this study are to intervene in the contemporary discourse on forms of corruption and Gender-Based Violence (GBV) in Sri Lanka and globally; to propose the inclusion of sexual bribery as a specific and serious form of corruption and GBV in Sri Lanka; to disseminate knowledge on the prevalence of sexual bribery in the country; to generate awareness among policymakers about the occurrence of sexual bribery in Sri Lanka.

This study focuses on the health and justice sectors. In Sri Lanka, the offence of bribery applies to the public sector. Of the public sector, the CEJ chose to study the justice sector given the significant role they play in the fulfilment of the responsibility of the state towards human rights of its people and the health sector given its central role in general but also during the COVID- 19 pandemic. As care givers,

home makers, and as patients, more women have interacted with this sector in the recent past. Moreover, the high incidence of gender-based violence that is being reported suggests that women engage with the justice and health sectors frequently and are more susceptible to becoming victim-survivors of sexual bribery. The LGBTQI community was also selected for the study for two reasons. First, to be gender inclusive in CEJ's work and second, because it is now established that they experience it in several aspects of their day-to-day life in Sri Lanka.¹

1.2. THE SRI LANKAN STATE

The state has a strong and unique position in the day-to-day life of individuals and communities in Sri Lanka. Sri Lanka is a welfare state with a long history of strong social indicators for health and education. The state provides education and health care and offers several subsidies, including for fertilizer and fuel. Due to the land reform policies adopted in the 1960s, approximately 80% of land in Sri Lanka is owned by the state. Moreover, Sri Lanka has a large public service and includes over 500 state-owned enterprises.² The number of public servants in Sri Lanka is approximately 1.1 million (excluding the armed forces).³

Individual interactions with the state are therefore, routine and necessary particularly for persons at risk of poverty,

violence and discrimination. In general, individuals and families regularly access health care and social services. A study found that 87.6% households accessed health services, 54.9% households accessed the office of the District Secretariat and that 25.7% had accessed the police and the judiciary within the six months preceding the study.⁴ 52.3% of women who had participated in that study had experienced bribery or corruption.⁵ In a political culture where corruption is wide spread (as it seems to be the case in Sri Lanka), dependency on the state places many persons at risk of being subjected to sexual bribery.

1.3. BRIBERY AND CORRUPTION IN GENERAL

Globally accepted indicators suggest that bribery and corruption are systemic issues in Sri Lanka. Sri Lanka ranks 102 out of 180 countries on the Corruption Perceptions Index, and Sri Lanka's score for 2021 is 37 out of 100.⁶ According to the Global Corruption Barometer, 79% think that government corruption is a 'big problem', and 16% of public service users had paid a bribe in the previous 12 months (as per data available in 2020).⁷ The legal system has not effectively prevented or remedied this problem. More recently, civil society has drawn attention to sexual bribery as a specific form of bribery in society.⁸

¹ 'Knowledge, Attitudes and Perceptions Survey Report: Sri Lankan society's views about sexuality and LGBT people's experiences in Sri Lanka' (Social Scientists' Association 2021); 'Rethinking laws and policies that leave LGBTIQ+ Sri Lankans behind' (Westminster Foundation for Democracy 2021).

² State of State Enterprises in Sri Lanka – 2019 (Advocata Institute 2019) 8.

³ Census of Public and Semi Government Sector Employment – 2016 (Dept of Census and Statistics 2018) 6.

⁴ 'Women's Experience of Corruption in the Public Service' (Transparency International, Sri Lanka, June 2014) 15-16.

⁵ 'Women's Experience of Corruption in the Public Service' (Transparency International, Sri Lanka, June 2014) 15.

⁶ 'Corruption Perception Index 2021' (Transparency International 2022) 3

⁷ 'Global Corruption Barometer Asia 2020' (Transparency International 2021) 51

⁸ See for instance, 'Sexual bribery: The silenced side of corruption' Daily FT 3 September 2020, accessed at <https://www.ft.lk/Opinion-and-Issues/Sexual-bribery-The-silenced-side-of-corruption/14-705482>; 'Quid pro quo: A study of sexual bribery in Sri Lanka' Daily FT (24 January 2020) accessed at <https://www.ft.lk/Opinion-and-Issues/Quid-pro-quo-A-study-of-sexual-bribery-in-Sri-Lanka/14-694260> 'Sextortion: A new name, an age-old crime' Ceylon Independent 4 January 2020 (accessed at <http://www.independent.lk/sextortion-a-new-name-an-age-old-crime/>)

1.4. STATUS OF WOMEN AND LGBTQI COMMUNITY

The status of women in Sri Lanka is a well-documented paradox. They enjoy high social indicators and formal equality before the law with some exceptions. However, they are severely underrepresented in representative politics and in positions of leadership in broader society. Furthermore, women work under exploitative conditions in Sri Lanka's garment industry, plantation sector, and as migrant workers. Violence against women is a serious concern and has prevailed despite the enactment of targeted legislation.

'Voluntary carnal intercourse against the order of nature' and 'any act of gross indecency' are criminalised under Sri Lanka's Penal Code (a colonial legislation).⁹ This provision has been used to target individuals with diverse sexual orientations.¹⁰ Only heterosexual marriages are recognised in Sri Lanka. Sex work is not criminalised in Sri Lanka, except for the running of brothels.¹¹ However, the Vagrants Ordinance (another colonial legislation) is used to arrest and convict sex workers of different sexual orientations and different genders in Sri Lanka.¹² Consequently, sex workers and members of the LGBTQI community come under severe pressure in Sri Lanka and are vulnerable.

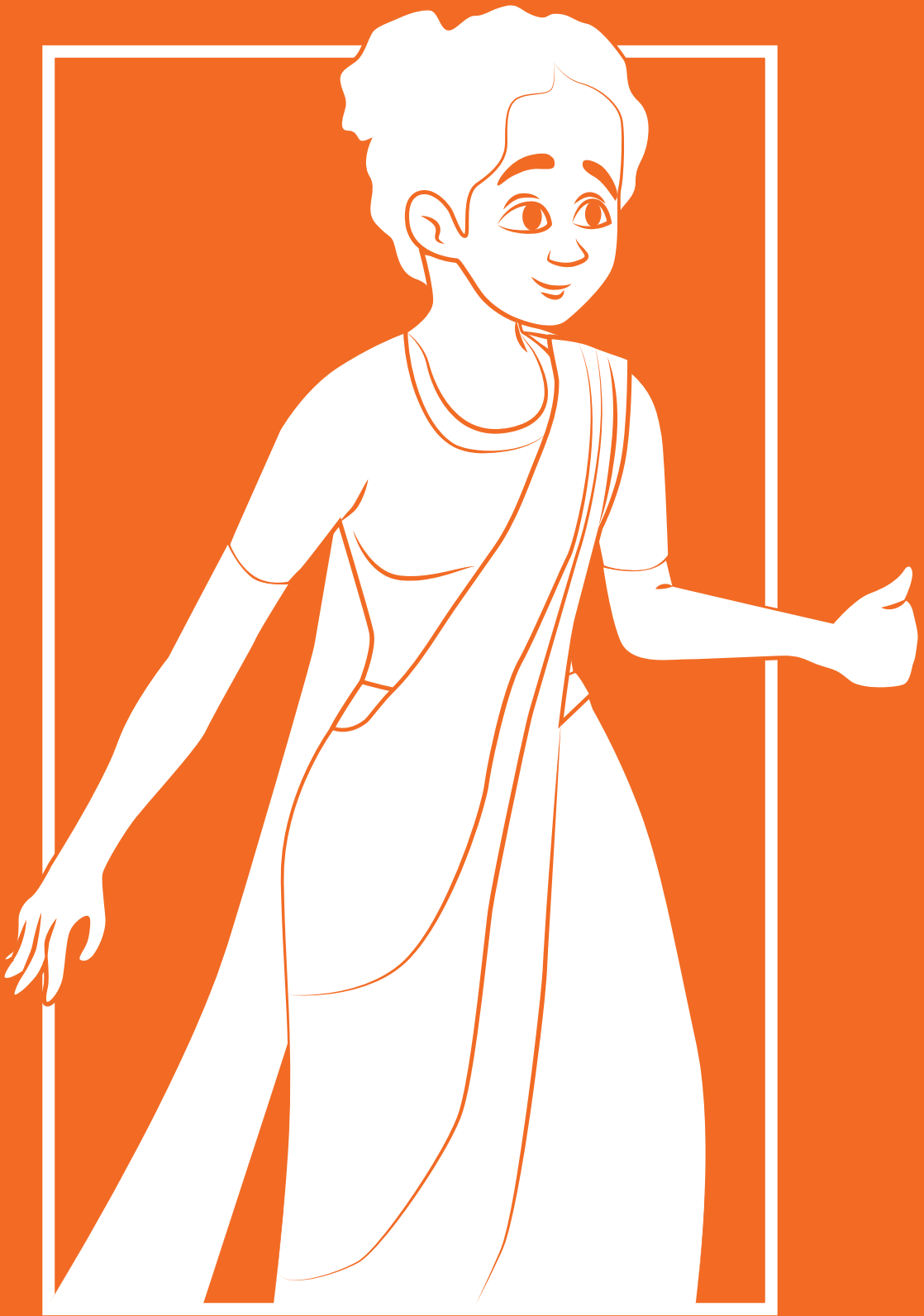


⁹ Section 365 and section 365A of the Penal Code 1883. This offence is punishable by up to 10 years in prison.

¹⁰ 'Knowledge, Attitudes and Perceptions Survey Report: Sri Lankan society's views about sexuality and LGBT people's experiences in Sri Lanka' (Social Scientists' Association 2021); 'Rethinking laws and policies that leave LGBTQI Sri Lankans behind' (Westminster Foundation for Democracy 2021).

¹¹ Brothels Ordinance 1889 as amended.

¹² Vagrancy Ordinance 1841 as amended.



2. LEGAL FRAMEWORK

2.1. INTERNATIONAL LAW

Sexual bribery is increasingly recognised at the international level as a unique form of bribery and corruption that targets women and members of the LGBTQI community.

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) requires state parties to guarantee substantive equality to women and CEDAW has been interpreted to include a prohibition on violations against women. Studies on sexual bribery illustrate that women are often subjected to sexual bribery and that sexual bribery is a form of sexual violence that violates substantive equality (or equality of opportunity). Because most perpetrators self-identify as men and most victim-survivors self-identify as women, it is evidence of systemic and structural discrimination against women. However, as with violence, sexual bribery is not explicitly prohibited under CEDAW.

The International Association of Women Judges is the first international body to have recognised sexual bribery as a specific human rights violation, criminal offence, and form of corruption. They use the term 'Sextortion' to describe this phenomenon. Their toolkit against 'Sextortion' describes it as including two components: a sexual component and a corruption component. According to them, 'Sextortion involves an explicit or implicit request to engage in sexual activity in exchange for a government benefit.'¹³ Sextortion involves an abuse

of authority, a quid pro quo exchange, and psychological coercion rather than physical force.¹⁴ They note, in particular, the challenges of prosecuting 'Sextortion' under existing laws. The lack of consent is an essential component for current definitions of sexual offences. Evidence of physical injury or physical coercion is used to establish the lack of consent. As their report illustrates, sexual bribery is a specific crime and can occur with consent (victim-survivor often is left with no choice but to engage in the solicited sexual activity due to their vulnerability) and therefore, might be in the absence of physical harm.

Transparency International, the leading international non-governmental organization against bribery and corruption, recognizes 'Sextortion'. They note that 'sex, rather than money, is the currency of the bribe'. It is not limited to certain countries or sectors, but can be found wherever those entrusted with power lack integrity and try to sexually exploit those who are vulnerable and dependent on their power.¹⁵ The International Bar Association, the global professional body for the legal profession, too has recognised sexual bribery as a serious concern. They too adopt the definition developed by the International Association for Women Judges.¹⁶ Currently, there are no express prohibitions in international human rights treaties against sexual bribery or sextortion. The African Union Convention on Preventing and Combating Corruption recognises that corruption is the 'solicitation or acceptance, directly or indirectly by a public official or any other person, of any goods of monetary value, or other benefit, such as a gift, favour, promise or advantage for

¹³ Naming, Shaming, and Ending Sextortion: Toolkit (International Association of Women Judges 2012) 9

¹⁴ Naming, Shaming, and Ending Sextortion: Toolkit (International Association of Women Judges 2012) 9-11

¹⁵ Breaking the Silence around Sextortion: The links between power, sex and corruption 8 (Transparency International 2020)

¹⁶ Sextortion: A Crime of Corruption and Sexual Exploitation (International Bar Association 2019)

himself or herself or for another person or entity, in exchange for any act or omission in the performance of his or her public functions.¹⁷ The definition of corruption by two United Nations conventions, the United National Convention against Corruption in 2004 and the United Nations Convention against Transnational Organized Crime too can be interpreted as, including sexual bribery. The definition of a bribe in these conventions is reproduced below.

The solicitation or acceptance by a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties.¹⁸

A. The promise, offering or giving to a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties;

B. The solicitation or acceptance by a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties.¹⁹

Sri Lanka ratified these conventions in 2004 and 2006 respectively.

2.2. CONSTITUTION AND FUNDAMENTAL RIGHTS

The Sri Lankan Constitution recognises The Commission to Investigate Allegations

of Bribery or Corruption (CIABOC) since 2001. Under the 19th Amendment to the Constitution in 2015, the CIABOC was incorporated into the Constitution. The Amendment made specific reference to Parliament's duty to implement the UN Convention against Corruption and 'any other international Convention relating to the prevention of corruption, to which Sri Lanka is a party.'²⁰ This was the highest- ever recognition of the state's responsibility to address the issue of bribery and corruption in Sri Lanka. This clause was repealed by the 20th Amendment to the Constitution in 2020.

The Right to Equality under the Constitution has been interpreted by the judiciary to include a prohibition on arbitrary executive or administrative actions. This jurisprudence has been developed over the last three decades in Sri Lanka, following the Indian jurisprudence on what was then known as the 'new doctrine of equality.'²¹ Moreover, in 2016, for the first time, in the case of Manohari Pelaketiya, the Sri Lankan Supreme Court recognised that sexual harassment is a violation of the right to be free from discrimination.²² In that case, the Supreme Court, for the first time, made reference to the Convention on the Elimination of All Forms of Discrimination Against Women.

2.3. BRIBERY ACT AND THE CIABOC ACT

The Bribery Act of 1954 criminalises bribery and corruption in Sri Lanka. This law does not explicitly criminalise sexual bribery.

¹⁷ Art 4 (1)(a) African Union Convention on Prevention and Combating Corruption 2003

¹⁸ Art 15(b) United Nations Convention against Corruption

¹⁹ Art 8(1) United Nations Convention against Transnational Organized Crime 2000

²⁰ Art 156A(1)(c) under the 19th Amendment to the Constitution of Sri Lanka

²¹ See in this regard, Dinesha Samararatne, Judicial Borrowing and Creeping Influences: Indian Jurisprudence in Sri Lankan Public law 2(3) (2018) Indian Law Review 205

²² Manohari Pelaketiya v Secretary, Ministry of Education SC/FR 76/2012, SC Minutes 28 Sept 2016.

The Bribery Act declares that soliciting or providing 'gratification' for obtaining a public service or for influencing the performance of public service amounts to a bribe.²³ The Act defines 'gratification' broadly.²⁴ The Court of Appeal has decided in 1998 that 'gratification' under the Bribery Act 'is used in its larger sense... The craving...for sexual intercourse is an example of mental and bodily desires, the satisfaction of which is gratification which is not estimable in money.'²⁵ This was a case where a male Senior Security Manager of the National Housing Development Authority was convicted under the Bribery Act for soliciting a sexual bribe from a female security guard. This is the only reported case in Sri Lanka where sexual bribery was recognised as falling within the Bribery Act. Therefore, it is possible for law enforcement authorities and for the judiciary to interpret the Bribery Act to include a prohibition on sexual bribery. There are no other known instances in which sexual bribery has been successfully prosecuted. However, sexual bribery continues to be reported. This suggests that an indirect prohibition of sexual bribery is inadequate and ineffective. Moreover, under the Bribery Act the public officer soliciting a sexual bribe as well as

the individual providing the gratification may be prosecuted.²⁶ This provision can prevent victim-survivors from making complaints. It can also be taken advantage of by perpetrators to threaten their victims and to prevent them from making complaints.

Moreover, it has been noted by the Centre for Equality and Justice that the Sri Lankan High Court has recognised that sexual bribes can be considered a form of gratification.²⁷ The Centre for Equality and Justice has convened discussions with stakeholders and advocated for amendments to this Act to specifically criminalise sexual bribery.²⁸ These efforts at dialogue, advocacy, and lobbying for law reform by the CEJ are ongoing.

The CIABOC Act of 1994 establishes a Commission mandated to investigate and prosecute offences under the Bribery Act.²⁹ The effectiveness of CIABOC in the prevention and prosecution of bribery and corruption is hampered by many factors, including issues related to its independence, legal authority, and the broader political culture of impunity.³⁰ More recently, the Commission's efforts at combating bribery and corruption include the adoption of a

²³ Bribery Act of 1954 as amended.

²⁴ Section 90 of the Bribery Act.

²⁵ *Kathubdeen v Republic of Sri Lanka* [1998] 3 Sri LR 107, 117. The Court cited *H S Gour*, Penal Law of India, (Law Publishers India) Vol 1 (edition not specified in the judgement).

²⁶ For instance, section 19 of the Bribery Act provides as follows. 'A person- (a) who offers any gratification to a public servant as an inducement or a reward for that public servant's performing or abstaining from performing any official act, or expediting, hindering or preventing the performance of any official act whether by that public servant or by any other public servant, or assisting, favouring, hindering or delaying any person in the transaction of any business with the Government, or (b) who, being a public servant, solicits or accepts any gratification as an inducement or a reward for his performing or abstaining from performing any official act or for such expediting, delaying, hindering, preventing, assisting or favouring as is referred to in paragraph (a) of this section, or (c) who, being a public servant solicits or accepts any gratification, shall be guilty of an offence punishable with rigorous imprisonment for a term of not more than seven years and a fine not exceeding five thousand rupees ;

²⁷ *Sri Lanka v Abdul Rashak Kuthubdeen* as cited in *Amending Law and Policy to Address Sexual Bribery in Sri Lanka* (Centre for Equality and Justice 2008) 7. Also cited in *Report of The Leader of the Opposition's Commission on the Prevention of Violence against Women and the Girl Child* (December 2014) 48 (available at <http://gbvforum.lk/r-library/document/Report%20of%20the%20Leader.pdf>)

²⁸ *Amending Law and Policy to Address Sexual Bribery in Sri Lanka* (Centre for Equality and Justice 2018)

²⁹ In 2001, this Commission's independence was secured through the 17th Amendment to the Constitution. This Amendment established a Constitutional Council to propose nominees for specific statutory commissions including CIABOC. The Constitutional Council was repealed under the 18th Amendment (2010), restored in a revised form under the 19th Amendment (2015) and repealed again under the 20th Amendment (2020). Even during the periods in which appointments were made to CIABOC through the Constitutional Council, it has not been effective in dealing with large scale allegations bribery and corruption in an effective manner

National Action Plan (2019-2023) and the development of guidelines, including on conflict of interests and also concerted efforts at awareness raising for the public and training for its staff. The National Action Plan does not recognise sexual bribery as a specific issue to be addressed. In addition to the National Action Plan, CIABOC has published proposals for legislative amendments. Among these proposals, CIABOC has proposed that sexual bribery be defined as a specific form of gratification under the Bribery Act. CIABOC proposes the following definition for sexual bribery:

‘...[A]s sexual favours solicited and received by persons in power or authority, in the exercise of that power or authority. Such favours are solicited as a condition for giving employment, a promotion, a right, a privilege or any other service, favour or advantage. A “sexual favour” could be sexual intercourse, or any act that would not amount to sexual intercourse, but will amount to or constitute physical, verbal, or non-verbal conduct of a sexual nature.’³¹

2.4. ACCESS TO JUSTICE AND LEGAL LITERACY

Access to justice and legal literacy requires significant improvement in Sri Lanka. The state-funded legal aid programme is limited. The Sri Lanka Bar Association and some civil society organisations offer limited legal aid services.³² The Human Rights Commission has several branches across the country and therefore is an accessible non-judicial remedy available. The Human Rights Commission can only make recommendations which do not carry the force of a legal order. Moreover, time to time, the independence of the Commission has been undermined and called into question each time the process for appointing the Commission has been politicised.³³

However, petitions claiming violation or imminent violation of a fundamental right has to be filed within one month to the Supreme Court, located in Colombo.³⁴ Furthermore, CIABOC is located in Colombo with no branches elsewhere. Legal literacy has not been measured through a systematic study in Sri Lanka. Lack of knowledge about the law, the availability of remedies, and the inability to access legal advice often has a further disempowering effect on persons subject to human rights violations, including sexual bribery.

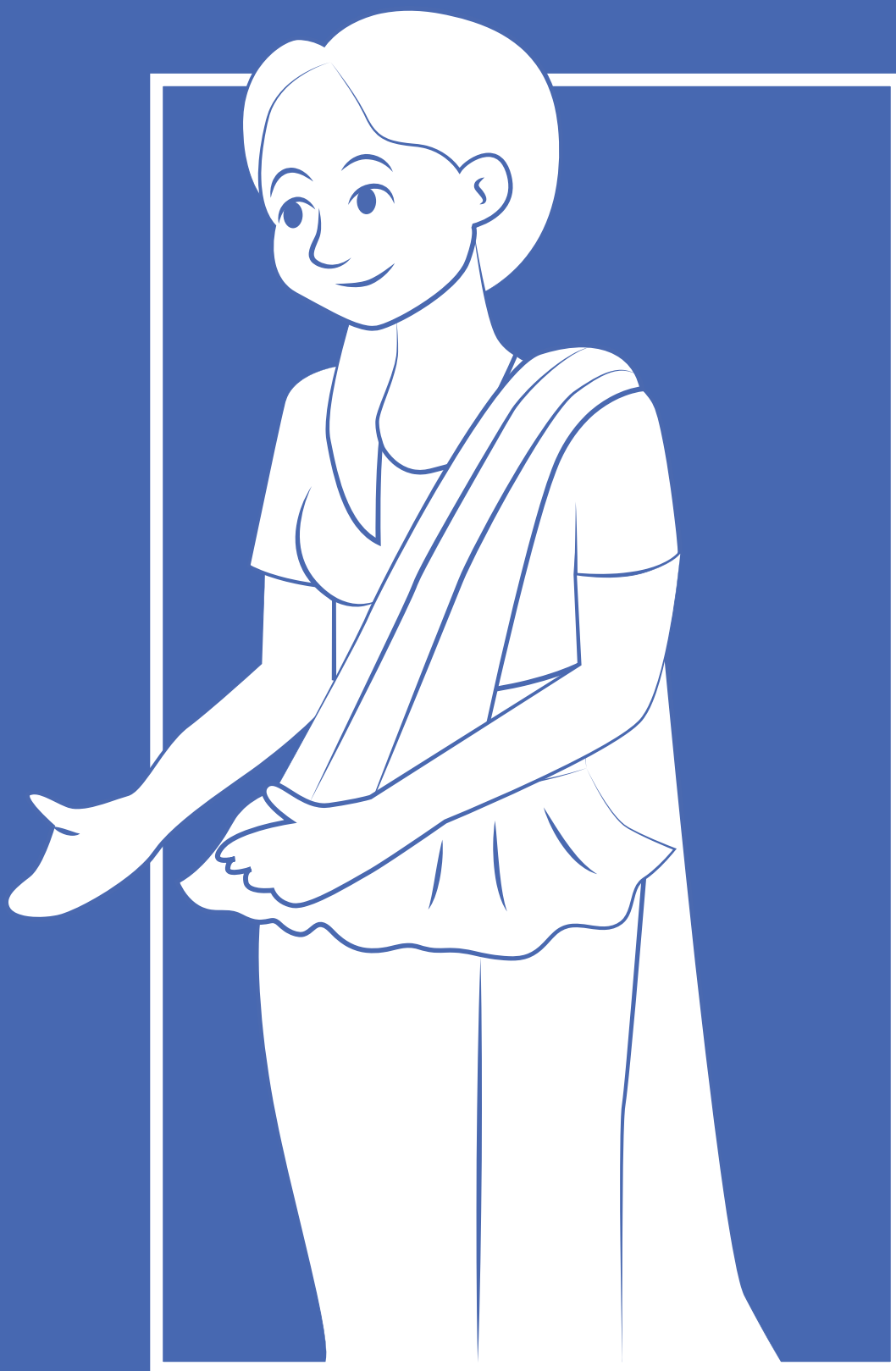
³⁰ According to the Performance Report of the Commission, in 2019, the Commission successfully prosecuted 46 cases. Of these, the Chief of President's Staff was a high-profile case but others were minor officers. But the accused was subsequently acquitted. Annual Performance Report (CIABOC 2019) 18

³¹ 'Policy Suggestions for Proposed Legislative Amendments', Handbook 4 (CIABOC 2019) 38

³² For a detailed study, see, The Legal Aid Sector in Sri Lanka: Searching for Sustainable Solutions (2009) a joint publication of The Asia Foundation, Ministry of Justice and Law Reforms, Ministry Constitutional Affairs and National Integration, United Nations Development Programme's Equal Access to Justice Project, and United Nations High Commission for Refugees. Sri Lanka.

³³ See for instance, 'Rethinking laws and policies that leave LGBTQI+ Sri Lankans behind' (Westminster Foundation for Democracy 2021)

³⁴ Art 126 of the Constitution.



3. CEJ ADVOCACY ON SEXUAL BRIBERY

3.1. MANDATE

The Centre for Equality and Justice is a women's organization based in Colombo, working primarily on the rights of war-affected women from the Sinhala, Tamil, and Muslim communities and the rights of those affected by political violence and other forms of civil unrest. CEJ works with partner organizations throughout the country, with policy makers at the central government, and also partners with state officials at provincial and local authority levels. CEJ has made extensive and effective interventions in relation to human rights concerns of female heads of households, reparation for victim-survivors of transitional justice, and since 2016 led the advocacy efforts on prevention and remedy of sexual bribery.

3.2. EXISTING KNOWLEDGE ON SEXUAL BRIBERY IN SRI LANKA

The Centre for Equality and Justice has pioneered advocacy against sexual bribery in Sri Lanka. The CEJ advocacy initiatives have been based on three studies undertaken in the last several years on the issue. The study titled 'Sexual Exploitation of Female Heads of Households Affected by War in the North of Sri Lanka' (5 March 2016) was based on twenty-five case studies of the experiences of victim-survivors of sexual bribery. These victim-survivors are from the war-affected Northern Province and the Puttalam district. 'Shrouded in Secrecy: Sexual Bribery of Muslim Women in Post War Districts' (July 2018) is a study

based on ten interviews among Muslim women about the incidence of sexual bribery. The participants in this study were drawn from Batticaloa, Ampara, Trincomalee, Polonnaruwa, and Puttalam districts. 'Sexual Bribery of Military Widows in Sri Lanka' (July 2018) is a study based on ten case studies from Anuradhapura, Kurunegala, and Galle districts. The report, 'Amending Law and Policy to Address Sexual Bribery in Sri Lanka' (August 2020) by the CEJ, makes recommendations for reforming Sri Lanka's law to specifically criminalise sexual bribery.³⁵ The findings of these studies resonate with the findings of the present study in relation to factors that contribute to the incidence of sexual bribery, the factors that make individuals vulnerable to sexual bribery, the nature of the offender as well as with regard to the issues in the law (both its substance and its enforcement).

The 'Global Corruption Barometer 2019 Sri Lanka' report offers some general insights on the incidence of sexual bribery (sextortion) in the country. According to this report over 60% had first-hand experience with demands for sexual bribes or knew of persons who had experienced it.³⁶ 46% of respondents 'felt sextortion happened occasionally, often or very frequently.'³⁷ Urban respondents had perceived sextortion to be more prevalent than rural respondents. Notably, half of the participants in the sample from the estate sector had felt that 'sextortion occurred frequently or very frequently.'³⁸ A study on women's experiences in accessing public service, conducted in 2014 found that 52.3% of women had experienced bribery and corruption in the preceding six months. This study was based on 501

³⁵ Ending Sexual Bribery in Sri Lanka: Legal and Procedural Reforms Part II (Centre for Equality and Justice, April 2022)

³⁶ Global Corruption Barometer 2019 Sri Lanka' (Transparency International 2019) 30

³⁷ 'Global Corruption Barometer 2019 Sri Lanka' (Transparency International 2019) 19

³⁸ 'Global Corruption Barometer 2019 Sri Lanka' (Transparency International 2019) 19

households and ten major sectors in public service. Corruption was reported as 58.1%, 30.9%, and 28% respectively in the legal sector, Divisional Secretariat and health sector respectively. This study reports that women from the plantation sector (65.6%) and conflict-affected areas (64.8%) were more at risk for being approached for bribery or corruption. More women in rural areas (68.2%) reported being subjected to bribery and corruption than urban women (38.6%). Finally, female headed households (59.7%) were more susceptible than male headed households (49.6%).³⁹ The average amount paid as a bribe was calculated by this study as SLR 1429.00.

3.3. THE KNOWLEDGE GAP

The studies on sexual bribery undertaken thus far in Sri Lanka by CEJ focus on distinct communities, such as the war-affected community in the Northern province, Muslim minority communities, and military widows. Studies undertaken by other organizations have examined bribery and corruption in the public sector generally. Thus far, specific sectors have not been the focus of these types of studies. Moreover, several regions have not yet been reached to study the nature and incidence of sexual bribery. The present study was designed to address this knowledge gap. It focuses specifically on the justice and health sector and examines the experiences of women and members of the LGBTQI community in several provinces.



³⁹ 'Women's Experience of Corruption in the Public Service' (Transparency International, Sri Lanka, June 2014) 42



4. METHODOLOGY OF DATA COLLECTION

4.1. RATIONALE FOR A QUALITATIVE STUDY

This study is undertaken in a context in which the study of the broader issue of bribery and corruption is at an early stage in Sri Lanka.⁴⁰ Against this backdrop, even less is known about sexual bribery. Moreover, sexual bribery is a criminal act that carries stigma and other serious consequences, particularly for victim-survivors. Therefore, CEJ chose to undertake a qualitative approach to its study. A qualitative approach allows for an in-depth examination of personal experiences about sexual bribery and its incidence.

4.2 METHODOLOGY

This was an exploratory study aiming to examine the incidence of sexual bribery and the factors contributing to its occurrence. The study interpreted the incidence, nature, and impact of sexual bribery collected through qualitative data and from the perspective of the participants of the study. It included three components: in-depth interviews conducted with individuals who self-identify themselves as victim-survivors of sexual bribery; Focus Group Discussions (FGD) with women and members of the LGBTQI community; and in-depth interviews with key informants in the justice and health sectors. The snow-balling method was used by CEJ to identify interviewees for the in-depth interviews through like-minded civil society organizations and individuals.

4.3. STUDY DESIGN

Data for this study was gathered through qualitative in-depth interviews with self-identified victim-survivors of sexual bribery, FGDs, and interviews with key informants. Given the sensitive nature of the subject matter, establishing a close rapport with the respondents was essential for the success of data collection.

CEJ has previously conducted studies on sexual bribery in war-affected communities. These studies were conducted in the Northern, Eastern, North Central, Southern and Northwestern provinces. Therefore, this study excluded these provinces (except the Southern Province) and studied the occurrence, impact, and nature of sexual bribery among other communities in Sri Lanka. Taking account of CEJ's institutional partnerships with other local organizations and the possibility of seeking out victim-survivors of sexual bribery through these partnerships, and the financial limitations of the project, the study aimed to include up to 30 participants for the in-depth interviews and one FGD per province (5-10 participants each). 6 Key Informants were interviewed from each sector, totalling 12 interviews. Three were drawn from regional and national levels, respectively, for the two sectors.

At the FGDs participants were invited, subject to their informed consent, to attend through the local partner civil society organizations and trusted networks or like-minded groups or individuals. The objective of the group discussion was to identify perceptions about sexual bribery, perceptions about its incidence and to gather recommendations to prevent

⁴⁰ Bribery and corruption is being monitored by Transparency International in Sri Lanka. Studies on contributory factors including socio-economic and cultural factors are rare. Empirical studies for reasons for the failure of institutions to address bribery and corruption are not available.

sexual bribery. The FGDs were distributed to cover rural, urban and estate sectors.

Key informants from the justice and health sectors were approached for in-depth interviews. The objectives of these interviews were to understand their views on sexual bribery; to understand views about the current legal and policy framework in place to prevent the occurrence of sexual bribery and their implementation and enforcement; to identify perceptions about the gaps, weaknesses in the relevant laws and policies; and to identify their recommendations for reform. The Key informants were approached from the institutions listed under the justice and health sectors respectively, subject to approval from relevant authorities and their informed consent. They were approached based on access and availability. The study aimed to conduct interviews with key informants in each sector (total of 12), preferably with three each at the provincial level and three at the level of the central government. In implementing this design, CEJ successfully conducted in-depth interviews with 19 individuals, focus group discussions and 12 interviews with Key Informants.

4.4. LIMITATIONS

In an exploratory and qualitative study on a challenging topic such as sexual bribery, several limitations apply. Participants may conceal, modify or exaggerate information. However, the study presents the perspectives and experiences of survivors of sexual bribery. This study aims to describe the incidence and nature of sexual bribery generally and to identify factors that seem to contribute to it, from the perspective of victim-survivors.

Every possible effort was taken to make the sample selection for the interviews of victim-survivors as representative as possible and to build a good rapport with respondents by building trust and assuring the confidentiality of the information.

A significant limitation of this study is that despite several attempts by CEJ to include Tamil speaking participants, they were unable to reach any. It should also be noted that the CEJ was compelled to work within budgetary constraints. The target sample size had to be adjusted accordingly.

4.5. IMPLEMENTATION OF THE STUDY

Persons conducting the interviews were guided in conducting interviews on sensitive topics. They were also guided in obtaining informed consent and in general research ethics in gathering data. Due to travel restrictions imposed during the pandemic, this guidance was offered remotely. The in-depth interviews were conducted in accordance with an interview guide provided.⁴¹ All persons in this study entered into confidentiality agreements with the Centre for Equality and Justice.

The actual number of in-depth interviews, key informant interviews, and FGD conducted are provided in Table 1. Informed consent of the participants has been documented by CEJ. The scripts of the interviews have been translated into English and anonymised. Please see Annexure III for the detailed and anonymised description of the interviewees. The report uses pseudonyms when referring to the participants.

⁴¹ See Annexure I for the Interview Guide.



5. FINDINGS ON INCIDENCE OF SEXUAL BRIBERY

The insights gathered from the qualitative data are discussed and analysed in this section. These insights are inter-related and overlap. It is clear from these insights that the intersectionality of social, economic and political realities further aggravates the negative consequences of sexual bribery. For identification and analysis, these insights are discussed under separate headings.

5.1. PERSONAL IMPACT

The deeply personal impact on victim-survivors was described in wide-ranging ways by the participants. The experience impacted victim-survivors psychologically and financially. It also impacted their prospects on several fronts, including prospects for livelihood, social interactions and quality of life.

5.1.1. PSYCHOLOGICAL IMPACT

According to in-depth interviews and FGDs, the impact of sexual bribery on a person's sense of dignity is severe. In some of the case studies, the experience is one in which sexual bribery has been solicited but not materialized. Even in such instances, the victim-survivors speak of how the experience affected them psychologically due to emotions such as fear, stress, and anxiety. The trauma thus experienced seems to remain with victim-survivors for a long time.

‘

I was under a lot of pressure, I questioned my existence and thought that I should not be born again. ,

Ramani, Ambathenna, Central Province

‘

I was scared as I had been threatened. I was also afraid that they (the husband and the perpetrator) would fight because they are both in nursing. I was more scared thinking that man would take revenge on me.,

‘

I was really dejected that [he is] to take advantage of me when my husband is in this condition.,

‘

After this incident, I was really scared to talk too much with a man. Let alone look at their faces when speaking. I was afraid to talk about this issue even with a government officer. ,

Seetha, Hatton, Central Province

Victim-survivors describe how they worry and stress about their experience because it had to be kept a secret. They also mention a deep sense of shame and disgust about the incident.

‘

I felt ashamed when my family got to know about this, thinking that they would look at me as if I did something wrong. I felt that my mother-in-law was suspecting me. My husband looked at me as if I did something wrong. They said I was at fault for talking to that person so much that he asked me to meet him. [They said] I was wrong to even speak with him. I didn't talk with him like that. But people don't see it that way. ,

Rani, Matale, Central Province

‘

Suffering? Do you need to even ask about it? Crippled or disabled, I am a woman who lived nicely with self respect, doing my job. Wasn't me having to nest with that man enough already? Maybe what I did was wrong. But, the first time, when he forced himself on me, I couldn't escape. How could I, an incapable woman, struggle and escape the hold of those two-by-two arms of that man? ,

Iromi, Matara, Southern Province

The severe trauma and stigma experienced by Manori led her to feel even suicidal.

‘

I was absolutely dejected [by the incident]. Because I had done nothing wrong. I am not a person who would even wear revealing clothes. After the incident, I don't sleep well, I can't concentrate and I have become very forgetful. I wonder why such things happen to me as similar incidents had happened even before. I keep thinking of such previous events. Since that day [Sexual bribery incident], until today, I still think of those incidents [cries].

After this incident, with all the previous memories storming my mind, I have even considered taking my own life [cries]. ,

Manori, Kandy, Central Province

Consequently, some victim-survivors blame themselves for being approached for sexual bribery or for giving in to the request for sexual bribery. One of the victim-survivors expressed sadness and surprise at being approached for sexual bribery.

‘

[He said] "a room was booked". I was really upset by this incident. I definitely did not go to the hostel. I felt an immense sadness at that

time. I wondered how a person could make such a request to another person without any shame. I suspect, maybe he has done similar things before as well. ,

Priya, Hambantota, Southern Province

‘

I didn't dress inappropriately or behave in a way that would arouse his feelings. ,

Rupa, Ratnapura, Sabaragamuwa Province

For one of the victim-survivors, the experience of sexual bribery triggered trauma that she had experienced and retained from previous experiences of sexual abuse.

‘

I have had previous experiences of such trouble from my relatives as well. There had been various coercions. There were times I have had narrow escapes. It affected me a whole lot when something like this happened in the midst of all that. All those previous incidents started to haunt my mind. ,

Manori, Kandy, Central Province

One of the victim-survivors demonstrated a strong sense of resilience. She was matter of fact about what had happened to her and seemed to have moved past the incident without any negative impact.

‘

Mentally affected? How silly... why do you need to be mentally affected by these? Are these even considered issues? After a while, they become nothing. It will end when you forget about them.

There are not great, big issues. We shouldn't take these to heart. There was no need to even tell anyone about it. ,

Jeya, Galle, Southern Province

In contrast, most victim-survivors speak of the stigma associated with the experience of sexual bribery. This stigma is personal in that it affects the victim-survivors' perceptions about themselves. The stigma is also external and impacts the victim-survivors' immediate and extended family. Victim-survivors living in rural communities describe being ostracised by members of the village due to rumours about the incident.

‘

Since I haven't shared it with anyone I haven't felt any stigma. ,

Rupa, Ratnapura, Sabaragamuwa Province

‘

I didn't tell this to anybody else because I felt embarrassed. I didn't complain to the Police because I was worried about my job. I was worried that I would be re-victimized if I went to the Police and therefore, I didn't lodge a complaint. ,

Rupa, Ratnapura, Sabaragamuwa Province

wouldn't even be able to live in the village. 'Why did I talk with strangers until 1, 2 am in the night?' I feel bothered by this. [I feel that] he asked me that without any shame or fear because there was even infinitesimal encouragement from my end. ,

Gayani, Hambantota, Southern Province

‘

Everyone looked at me in the wrong way. The reason why I say this is because the people who usually spoke to me near the shop stopped talking to me [after this].

It is only a dream to catch these things [through law] publicly. Who goes around talking about these things? Plus, the rumors don't reflect what really happened. Women don't tell these things to anyone out of shame. ,

Lakshmi, Hambantota, Southern Province

5.1.2. ECONOMIC IMPACT

The experience of sexual bribery resulted in some form of economic loss for many interviewees. It led them to abandon a course of action through which they were expecting to gain financially. In Ramani's case, she was compelled to abandon litigation to claim title to land owned by her deceased husband because the lawyer she consulted solicited a sexual bribe.

‘

I let go of my land issue as well. The only reason why I tolerated this even for one or two weeks is because I needed to get my work done. ,

Ramani, Kandy, Central Province

‘

I am ashamed of myself. I felt sad for myself. All went well because no outsider got to know about this. Otherwise, I

For sex workers like Jenny, Rita and Wathsala, it was their gender identity, coupled with their livelihood that placed them at risk of being targeted for sexual bribery. When subjected to sexual bribery, in addition to the violence and trauma they experience, for that time period, they are

also denied the opportunity to earn a living and engage in a livelihood of their choice.

In Jeya's case (Galle, Southern Province), she was targeted for sexual bribery because she required documentation from the police to complete her benefit report prior to leaving for employment overseas. Among the victim-survivors who participated in this study, Jeya is unique in that she exercised her agency and resisted the demand for sexual bribery. Nevertheless, it is her economic need that placed her at risk of sexual bribery.

In Iromi's case, sexual favours were demanded from her when she wanted to appeal against a transfer. Iromi is a woman with physical disabilities and a transfer would have caused her considerable personal and financial difficulties. This prompted her to approach the higher authorities, which resulted in her being a victim-survivor of sexual bribery.

5.1.3. IMPACT ON SECURITY

Some victim-survivors reported being threatened by the public officer who solicited a sexual bribe. Seetha, for instance, mentioned that when she refused to provide a sexual bribe, the male nurse got angry with her and threatened to lie to the victim-survivor's husband and relative about an affair. Many victim-survivors mentioned that they were compelled to make drastic choices due to fear or due to fear of recurrence.

Manori made significant and permanent changes to her life including her residence, her phone number and her presence in social media.

‘

After this incident, I had to change my SIM card. I deactivated Facebook. Even the residence had to be changed. We changed our address. ,

Manori, Gampola, Central Province

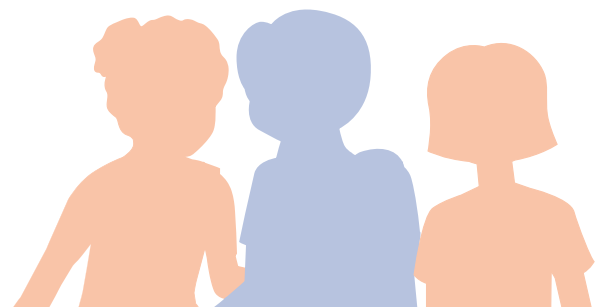
Jeeva describes a permanent state of fear of her spouse finding out about any possible demands for sexual bribery that the perpetrator can make over the phone. This leads to her to make a lifestyle choice to keep her phone silent on a regular basis.

‘

I got into the habit of keeping my phone on silent or turning it off whenever my husband was at home. If not even he would think this is what I do while at home. In that way, I was really scared. ,

Jeeva, Matale, Central Province

Jeeva and Gayani describe the fear and trauma they experience when she sees a police officer or prison officer because it triggers their memory and trauma of sexual bribery.



‘

Now I am afraid to even ask for directions from a policeman... Even today, my heart starts pounding when my phone rings with a call from an unknown number. ,

—
Jeeva, Matale, Central Province

‘

The only consequence I had was that now I feel disgusted whenever I see even a prison bus. If I see a policeman or a prison officer on the road I feel suspicious of everyone. I have a lot of hatred for them. I think they are all the same. ,

—
Gayani, Hambantota, Southern Province

These quotes reveal the deep and traumatic impact that a demand for sexual bribery can have on a victim-survivor. It affects their outlook on life, their perceptions about public officers as well as their perceptions about their safety.

5.1.4. IMPACT OF PARTICIPATING IN THE STUDY

Most interviewees noted that participating in the in-depth interview was a positive experience. They commented that it had a cathartic effect. The observations reproduced below suggest that the stigma and trauma they experienced due to the incident meant that they kept it a secret. They had few opportunities to

share their experience and process it with another person in a safe and confidential environment.

‘

This is really good. I feel relieved after talking to you about this. I have never told the complete story to anyone. I don't have anyone to talk to. If I tell someone, they would think wrongly of me. ,

—
Ramani, Kandy, Central Province

‘

There are things in our minds that only get buried in the earth later. ,

—
Lalitha, Matale, Central Province

‘

I am very happy. My story was a story that was kept locked up in my mind. ,

—
Rani, Matale, Central Province

‘

Actually this is a big relief to me. My mind gets relieved. I have attempted suicide while keeping these things imprisoned in my mind. I have

told you things that I have not told even my mother and father. My mind felt relieved when talking with me. I am really glad. ,

Manori, Kandy, Central Province

Moreover, these observations offer an interesting counterpoint to the concern about re-traumatising victim-survivors during the process of fact-finding or research on sexual violence.

5.1.5. UNIQUE IMPACT ON MEMBERS OF THE LGBTQI COMMUNITY

The personal impact of sexual bribery on women and LGBTQI persons is severe. In the context of members of the LGBTQI community, the severity is compounded by the severe stigma and exclusion they experience in their day-to-day lives. The comments reproduced below suggest that their consent is immaterial when approached by police officers for sexual bribery.

‘ If it is the police, I cannot say no. I am doing this job dressed as a woman. They threaten me. I just want to do it and escape. ,

‘ One time, I was with 6 people. It was over 3 hours. When transport was open suddenly during the COVID lockdown

period. It was around 2 am. It was just me and my friend. ,

‘ I felt I’ve had enough of this life. They were cops. I didn’t see them afterwards. I hope I don’t. ,

Rita, Colombo, Western Province

Members of the LGBTQI community are extremely vulnerable to sexual bribery by the police because ‘unnatural sex’ is criminalised in Sri Lanka. According to the interviewees, the police officers abuse their discretion to take sexual advantage of transgender persons who work as sex workers.

‘ Then he asked me, “Then what do you have that you can give us? Stay with us [implied: sexual] if you don’t want to take this to the courts. Entertain us.” ,

‘ I am telling [you] all this, so this won’t happen to someone else. ,

‘ They snatch our phones when they catch us. They only take us to courts if they feel like it. Sometimes they take our money. If we were with a client, they take their [the client’s]

money and stay with us. Or they beat us. These are the sort of things that happen all the time. ,

Nuzrath, Western Province

Sex workers from this community are further marginalised in multiple ways due to their gender identity and the nature of their work. Persons interviewed for this study noted that they engage in sex work due to a lack of other opportunities. Many members of the LGBTQI community do not have access to social security or a social network because they have been excluded and discriminated against due to their gender identity.

‘

We do this job because we have no other way of living. If we had another job, we wouldn't do this. They [police] take all we have, have sex, take our money, and throw away our bags when they leave. If we had a way of earning, we wouldn't do this. We have no other way of earning. If we had siblings, they would have taken care of us. No way of living... ,

Nuzrath, Colombo, Western Province

‘

I felt dejected about the job. If we had a proper job this wouldn't have happened. I was fed up with my whole life. I wonder why we were born. ,

Wathsala, Colombo, Western Province

One of the interviewees noted being subject to sexual bribery repeatedly and attempting to change their location and fearing for their life due to the incident.

‘

They came to catch me. I ran. After these incidents, I had to change my locations [areas of work]... ,

‘

I was mostly scared that they would kill me if I didn't obey their demand. Would they come looking for me? Would they shoot me down if they saw me on the road? Or would they tell my family about me? I was really scared at those instances. ,

Nuzrath, Colombo, Western Province

Interviewees also noted how sexual bribery impacts their health. In this case, the unexpected nature of the solicitation for sexual bribery placed a transgender person at risk of being infected with a sexually transmissible disease.

‘

Later, I got a test done at a Sexually Transmitted Diseases (STD) clinic because condoms weren't used [during the incident of sexual bribery]. ,

Rita, Colombo, Western Province

These incidents are normalised for sex workers of the LGBTQI community. Moreover, if they do not comply with the illegal demands made by the police for sexual bribery, an interviewee noted that they could place their entire community at risk.

‘

After this incident, a lot of our friends blamed me. The friend whose house we went to that night didn't speak to me for a long time. Everyone said that it was wrong of me to take them to the friend's house. But we had to do that so we won't be taken by the police and to get our IDs (National Identity Card) back. I was in a really inconvenient position at that time. Everyone who was [living] with us didn't talk to me. Our friends are the only people we have to share our woes and happiness and everything. Even my family doesn't know my profession...

I was thinking of all the issues back at home. We couldn't

even find a daily wage. Our bodies were aching. Didn't go to get medicine. This is very normal for us. ,

Wathsala, Colombo, Western Province

Sexual and gender identity places women and members of the LGBTQI community at risk of being approached for sexual bribery. In the focus group discussion among members of the LGBTQI community, it was evident that this risk was common, and they were subject to it on a daily basis. In the case of women, their gender identity makes them initial targets and the risk is increased when they are placed in an unequal relationship.

In the instances described in the in-depth interviews, women victim-survivors are compelled to approach a public officer to obtain a service, and in delivering that service, the public officer has a discretion. It is at this point that the victim-survivor is placed at risk and is approached for a sexual bribe.

These examples illustrate how perceptions about power, hierarchy, literacy, and poverty come together to place a woman or member of the LGBTQI community at risk of sexual bribery. Despite the severity of these incidents, the interviewees typically do not pursue legal action or seek the protection from the law. The lack of specific legal protection for the rights of sexual and gender minorities means that do not see the law as offering them protection. Moreover, due to their precarious social status, they do not have the financial capacity to afford legal representation.

‘

If we tell a friend, they will say that we should go to a lawyer. We don't have money, miss. ,

Nuzrath, Colombo, Western Province

‘

It is embarrassing if these incidents drag on. My two children wouldn't be able to go out. Therefore, I am just going to stay quiet minding my own business. ,

Gayani, Hambantota, Southern Province

5.2. IMPACT ON FAMILY AND COMMUNITY

Even though victim-survivors often seek to keep experiences of sexual bribery as a secret, there are instances in which rumours about the incident spread to the community. As in the case of sexual violence, the community then attaches stigma to the individual, their nuclear family and even their extended family. Interviewees noted how they anticipated this impact and therefore maintained secrecy about the incident.

In one case, an interviewee noted the way in which keeping the incident a secret affected her relationship with her intimate partner.

‘

My husband has not spoken at all about this openly with me. But I felt the respect he had for me in his mind was reduced. ,

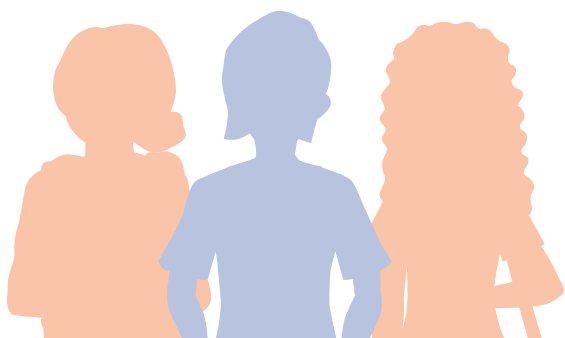
Malani, Kandy, Central Province

‘

In these circumstances, if I talk about my predicament, there will be more stories about my daughter. ,

Lalitha, Matale, Central Province

Moreover, the occurrence of sexual bribery compels victim-survivors and their family members to refrain from seeking health care or justice. This response can have other severe consequences for the victim-survivor and their family. In the two extracts produced below, both interviewees, Rani and Malani, had discontinued accompanying their family members to the hospital for receiving care at the hospital clinic. They did so in order to avoid being solicited for sexual bribery.



‘

My in-laws thought I had an extra-marital affair. My mother-in-law had told my husband about this. When my husband explained the situation to her, even my mother-in-law said that I need not go to the clinic again. My husband removed the phone number when he came home. The issue ended there. ,

Rani, Matale, Central Province

‘

After blocking the number he started talking from other numbers. Finally I blocked the sim. Stopped going to the clinic too. Began to send my mother with my sister-in-law. After deactivating the sim, if I took my mother to the clinic I would have to face that man. ,

Malani, Kandy, Central Province

In some other instances, if the victim-survivor refused to give into sexual demands, the perpetrator refused to provide the service he is under a legal obligation to provide. A victim-survivor had the following to say about a police officer's reaction after she had refused the sexual bribes sought by him.

‘

After that, he makes a face and snubs us when we go to the police. ,

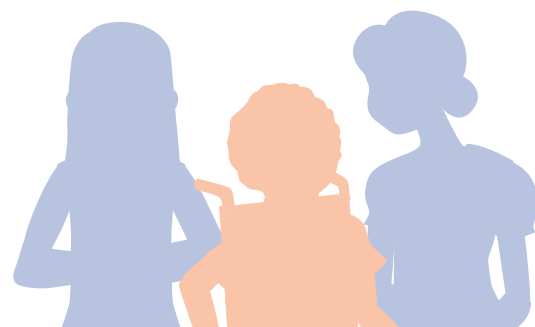
Jenny, Gampaha, Western Province

Not all victim-survivors of sexual bribery go through the experience alone. Some interviewees noted how their spouse or child made efforts to intervene to stop the perpetrator. In Malani's incident, that did not stop the perpetrator. In the second instance, Jeeva (the child's mother) did not allow the child to get involved due to fear of reprisals against him. The intervention by her spouse was successful in Rupa's experience.

‘

After that he started calling from that night itself. Began calling all the time. Began sending voice messages to WhatsApp. After that I gave this number to my husband. Husband had called him and asked not to talk to me. Still he would not listen. Would take calls all the time. ,

Malani, Kandy, Central Province



‘

No, mother, how could he do that? Let us go and tell the OIC., , [Jeeva's son said].

‘

Getting my son's name written in the police book means that he will not be able to get a job even in the future. It can have a negative impact. I viewed [the issue] from that angle. I was quite afraid. ,

Jeeva, Matale, Central Province

‘

My husband threatened to leak all the phone recordings and the lawyer challenged him to do so. He [the perpetrator] said, "Do whatever you can". Then my husband showed him one of the recordings and the lawyer backed out. ,

Rupa, Ratnapura, Sabaragamuwa Province

‘

I told a friend of mine in the village. I felt relieved afterwards. I felt a lot lighter. ,

Ramani, Kandy, Central Province

‘

My father brought me back home and helped me relax. He is like a counsellor. Had Appachchi (father) not been there, I would even have committed suicide. ,

Priya, Hambantota, Southern Province

None of the individuals who were interviewed for this study had sought or been offered the services of a psycho-social counsellor to deal with their trauma. This is not unusual in Sri Lanka where psychological well-being is not seen as requiring professional intervention or care. Even if individuals recognise the need to improve their mental health, they may not necessarily have access to or be able to afford such professional services in a consistent manner.

5.3. INFORMAL SUPPORT

Most victim-survivors refer to the ways in which they relied on their informal support structures in dealing with the trauma and stigma of the experience of sexual bribery. In most cases, they found some solace in confiding with a trusted friend, and in some other instances with a family member.

5.4. SOCIAL AND CULTURAL FACTORS

The experiences of the victim-survivors reveal the factors that place victim-survivors in a position of vulnerability and at risk of being approached for sexual bribes. Most victim-survivors are self-aware of these factors and that certain social, economic, and cultural factors place

them at risk. Moreover, perceptions about masculinity were identified as a barrier for being open about the occurrence of sexual bribery even within the immediate family.

‘

This can't be explained to husbands. They will become violent. If he asks the policeman "why did you call my woman?", it would create issues for my husband. They don't understand this. ,

Jeeva, Matale Central Province

‘

I thought that these things happened to me because my husband is not at home. I was very sad and dejected. There was anger too. I scolded [him]...

Trapping a woman whose husband is not at home is not something that a man would do. But that man used to laugh when I scolded him. As if to win my sympathy. I felt that he was encouraged by my scolding. ,

Malani, Kandy, Western Province

‘

[Not even the daughter of the victim knows of this incident. She has not told of this to her husband either.] "Men are very aggressive. If they get into trouble after I tell them this, they will have to stay inside [in prison] forever. ,

Jenny, Gampaha, Western Province

Another factor that places individuals at risk of sexual bribery is their involvement in illegal activities, either directly or indirectly. In Jenny's case, because she was a sex worker and her husband was in detention for charges related to illegal substances, she and her teenage daughter were being approached for sexual bribery.

‘

I cried the whole day, alone... in sadness. What to do? Who is there for me? I can't even tell anyone. Whom can I tell it to I can't even tell the gods. We are also in the wrong. These things happen to us because we also must have done something, right? I promised that I wouldn't do this again and that we will manage to survive somehow. I stopped it

Where the husband is absent from the marital home due to reasons including overseas employment, the wife could be at risk of being approached for sexual bribery.

[the profession] from the next day onwards. They still come. Those devils still came, without reason. They took away my husband again even recently. ,

Jenny, Gampaha, Western Province

Manori had the same experience. She became a target of sexual bribery because she sought visitation rights to see her husband in detention.

Two factors placed Iromi at risk. One was her physical disability and the other was her job. She wanted to request that her transfer be cancelled as it was difficult for her due to her condition. That vulnerability placed her at risk of sexual bribery.

‘
My mind was set on doing anything for my job. However, I had to sacrifice my whole life for my job. He called me for two days. I agreed to comply on the second day as I was helpless and did not have any other option. He was thrilled when I told him that I would come wherever he wanted me to. ,

Iromi, Matara, Southern Province

5.5. VICTIM-SURVIVOR PERCEPTIONS ABOUT SEXUAL BRIBERY

Many victim-survivors were of the view that sexual bribery was categorically wrong. Lalitha noted that it was an intractable problem. She was of the view that it was not easy to find solutions for it. Rani expressed similar views because of the secretive way in which sexual bribery takes place.

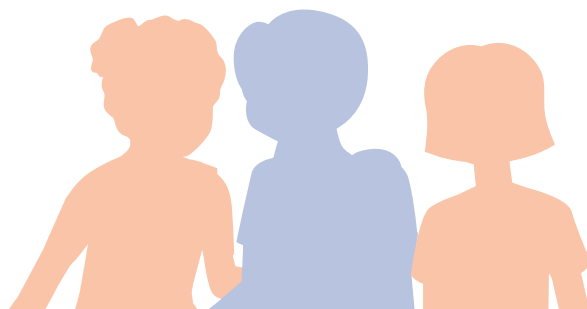
‘
I thought that it is definitely a big offence for a person, who is there to protect the law, to be behaving like this. ,

Lalitha, Matale, Central Province

‘
Since everything happens through phones these days, I think it will be possible to ban or eliminate this in Sri Lanka. ,

Rani, Matale, Central Province

Manori expressed strong emotions of anger, frustration, and fear due to the experience of sexual bribery. Jeeva described it as life-destroying.



‘

Actually, I was really angry and sad with that policeman. Because he did this when I was alone and helpless. I was extremely helpless. I haven't even done anything wrong. ,

Manori, Gampola, Central Province

drink some water. I didn't know what happened to me. I didn't even have the strength to scold this man. I don't know how to explain what I felt at that time, whether it was sadness, anger or fear. ,

Gayani, Hambantota, Southern Province

‘

This is the lowest form of bribery. This is similar to asking for someone's soul. ,

Jeeva, Matale, Central Province

It is noteworthy that several interviews were sensitive to the possibility that others too may have been subjected to sexual bribery by the perpetrator. Each victim-survivor seemed to imagine a silent community of victim-survivors.

‘

He is a beast. [He will be] cursed some day. ,

Iromi, Matara, Southern Province

‘

Talking [about the incident] like this helps to build up my mind. I think it is important to speak [about it] like this. How many might be out there like me...? ,

Manori, Kandy, Central Province

Gayani described the strong and negative emotions and physical reactions she experienced when she was approached for sexual bribery. These observations clearly indicate the deeply traumatic impact of sexual bribery on its victim-survivors.

‘

I was shocked. I was sweating and shivering. I quickly hung up [the phone] and ran out to

‘

We should take action instead of thinking of these [sexual bribery] as just small things. This is like we are keeping them hidden. There must be women who are troubled by these issues worse than this. ,

Malani, Kandy, Central Province

‘

How many more helpless people must be there like me? I mean, people who have not been exposed to society as much and possess little knowledge will become really helpless. Tend to give in to these. They would let these drag on by answering the calls. How many innocent women would there be? ,

—
Jeeva, Matale, Central Province

‘

I don't know the details but definitely, he may have requested other women to do the same. If he was courageous enough to walk over to me and hold my hand then I can only imagine the plight of his other female clients. ,

—
Rupa, Ratnapura, Sabaragamuwa Province

Moreover, Malani took the view that the perpetrator was a habitual offender. Rita, a transgender person, noted that she perceived sexual bribery as merely transactional for both parties. She understood that this favour was being sought from her in return for the service she required. She also understood that she was not the first but that she was yet another victim-survivor in a pattern of such incidents.

‘

[He] must have done this before. I felt like he asked this out of habit. Otherwise, [he] wouldn't ask such a thing anywhere without fear. To call me the next day and ask if I remember him, he must be used to this. ,

—
Malani, Kandy, Central Province

‘

I just wanted to get the thing done and go see my father as soon as possible. He said that he had an affair with a trans person previously as well and that she stopped talking to him after migrating. Someone like me. Whom he met at that same hospital... ,

—
Rita, Colombo, Western Province

5.6. PERCEPTIONS OF THE PERPETRATOR (AS REPORTED BY VICTIM-SURVIVORS) OF SEXUAL BRIBERY

This study focused on the experiences of self-identified victim-survivors of sexual bribery. All of them commented on the perpetrator and offered their insights on how the perpetrator perceived sexual bribery. In many instances, the victim-survivor was objectified and reduced to a source of sexual pleasure, regardless of consent on the part of the victim-survivor. In three instances, the perpetrator

expressed some form of affection for the victim-survivor but the victim-survivor identified that affection as purported.

‘

(He said) keep on talking with me. I am interested in you. ,

Malani, Kandy, Central Province

‘

He said that he desires me when he sees me and asked whether I could come and meet him alone. I moved my hand away and asked him to go back to his seat. ,

Rupa, Ratnapura, Sabaragamuwa Province

‘

[He said] Aney patiyo [an endearing term used among people with close relationships], but you need to come to me tomorrow night. I will come to your place later at night. ,

Gayani, Hambantota, Southern Province

‘

I knew what this was about. I understood. I am not that naive. [He said] “I get feelings when I touch you. Even though I touch thousands of patients, I get deep feelings for you.” He said that like a slimeball. Disgusting. “Touching wasn’t enough, send me photos of them, without clothes” [he said]. Then at last he said he wants me. He doesn’t mean it out of love when he says he wants me. He wanted me to sleep with him. ,

Lakshimi, Hambantota, Southern Province

‘

The man said that he likes to have a relationship with me. These people have no shame at all. Why else [would he ask that], except to make me his mistress and [have me] sleep around with that beast? Some nasty words [sic] came to my mind. My blood boils when I think of those things even now...

The thing is... they think, we, women are there to satisfy the sexual desires of men. This is the main issue here. ,

Iromi, Matara, Southern Province

Another perpetrator lured the victim-survivor into a situation in which he solicited sexual bribery. The seemingly regular nature of the invitation resulted in the victim-survivor letting her guard down.

‘

“Without thinking wrong of me, would you come out for dinner with me to Colombo? [he asked].” I wondered why he suggested Colombo when there were so many places in Galle. I told him that Colombo was too far and that I would come to Galle. He said he can’t because Galle is not safe for him. He said we will have to go to Colombo. He asked me to come without telling anyone about it. ,

Priya, Hambantota, Southern Province

Another perpetrator, a police officer, suggested to the victim-survivor, Jeya, that sexual bribery was merely quid pro quo for processing the paperwork for the family background report (the applicant was aspiring to travel overseas for work).⁴² The same approach was demonstrated by a hospital attendant in allowing the victim-survivor, Rita, to visit her sick father without a pass.

‘

Then he started talking. “Shush shush, don’t shout..” he said in a low voice. “Don’t you know what you can give instead of money, being a woman?” he said, hinting at my chest with his eyes. ,

Jeya Galle, Southern Province

‘

[He said] “Help me out as well. Come with me to the washroom for five minutes. Let’s go to the toilet.” I didn’t even have a condom on me at that time. But I did it. ,

Rita, Colombo, Western Province

Iromi spoke about feeling utterly helpless because of the unexpected and threatening conduct of the perpetrator, a public officer in the health sector she had to speak to, about her impending transfer.

‘

When I told him of my woes, he threatened me. He scolded me in filth. (It was) indecent. He said, “Not only your transfer, but I will also make you lose

⁴² The Sri Lanka Bureau of Foreign Employment requires women under 45 years to provide a family background report prior to departure as a migrant worker. This requirement has been identified as discriminatory of women and as resulting in imposing a severe burden on women seeking employment overseas. See for instance, ‘Sri Lankan Female Migrant Workers and the Family Background Report’ (International Labour Organization, June 2018)

your job and send you to jail.” He said some nonsense to the effect that I seduced him by visiting him for unsavoury things. He said he is only giving me 24 hours for my decision. To whom should I tell this? I don’t even have money on me like others to go to the police or courts. If I lose my job, everyone will have to starve. ,

Iromi, Matara, Southern Province

5.7. PERCEPTIONS ABOUT CONSENT

Participants to the study were invited to comment on their consent to engaging in sexual activity as a form of bribe. The responses revealed a complex issue in the incidence of sexual bribery. Some victim-survivors attempted to refuse verbally, and some were compelled to use physical violence to say no. Not all of them were successful. In other instances, the consent or lack of it was immaterial to the incident. These findings provide important insights that should be taken into account when engaging in legal or policy reform to prevent and punish sexual bribery. Consent cannot be the criteria by which the law can determine whether sexual bribery occurred or not.

According to Malani and Manori whether she consented or not to the sexual actions was immaterial.

‘

But I didn’t get my right [to consent] when I refused. I survived only by using the strength of my limbs. Other things could have happened. But everything happened without consent. ,

Manori, Kandy, Central Province

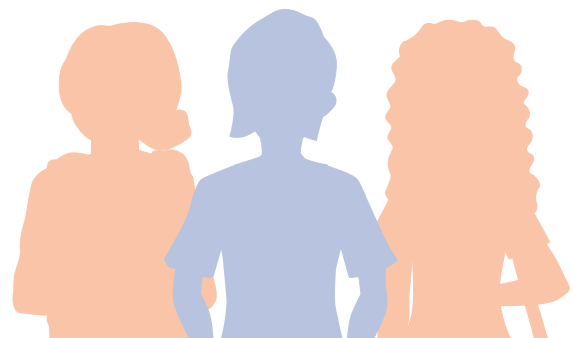
Malani noted that society has a tendency to not believe that women are not willing participants in sexual bribery and are compelled by circumstances.

‘

Should change the way we perceive this issue. No matter how correct a woman may be, it is not seen that way. ,

Malani, Kandy, Central Province

For Rupa, it was very clear that sexual acts can take place only with the consent of both parties. Any other form would be illegal. Similarly, Nuzrath understood that she had a right to consent or withhold her consent.



‘

A sexual act happens with the consent of two people. It shouldn't happen by force and if so it is abuse and harassment. ,

Rupa, Ratnapura, Sabaragamuwa Province

‘

I am a sex worker. I have a right. I should be willing to give my body. In this case, it is coercion. ,

Nuzrath, Colombo, Western Province

Iromi too had similar views about the right to consent to sexual activities.

‘

But we, women, have an independent right to decide on what we like, dislike. (And the right) to choose. There is definitely a right to refuse as well. As far as I know, this is the same for sexual matters as well... And this is not about willingness, this is a human right... Society should know this. If not, we are done for. ,

Iromi, Matara, Southern Province

Rita, on the other hand, was a seemingly willing participant in sexual bribery. She understood that it was a quid pro quo. However, as a transgender person, she lacks legal protection for several rights, such as the right to liberty, freedom of expression and association. Therefore, she is often compelled to negotiate her way through life in unusual and unlawful ways.

‘

There was no force. I did it willingly. To get the pass. [He] asked me whether I wanted anything to eat as well. ,

Rita, Colombo, Western Province

Iromi too understood the quid pro quo nature of the incident.

‘

He asked "Don't we get anything for resolving your burden?" It was obvious that he asked for my body. To sleep with me, he asked that and dragged me into the middle room ,

Iromi, Matara, Southern Province

Rupa noted that her perpetrator seemed taken aback by her refusal to consent. This suggests that most victim-survivors are not in a position to assert themselves against the perpetrator.

‘

While walking towards his chair he said that I was the only person who turned down his invitation. ,

Rupa, Ratnapura, Sabaragamuwa Province

‘

I never expected that a person such as a lawyer would demand sexual bribery from someone like us. I didn't think too far. Because there is a big gap between us and them. ,

Ramani, Kandy, Central Province

5.8. ACCESS TO JUSTICE

A clear pattern that comes out of the interviews is that victim-survivors do not see the law, legal institutions, or its personnel as defending their rights. In fact, most victim-survivors speak of the law and its agents as perpetrators of their rights. With regard to the incidence of sexual bribery, the issues with the law are multi-dimensional. It does not specifically prohibit sexual bribery. In addition, according to victim-survivors who participated in the study, the discretion vested with law enforcement personnel is sometimes abused to solicit sexual bribery. Furthermore, institutions in the justice sector are seen by some victim-survivors as perpetuating sexual bribery. Many do not think the justice sector can offer viable remedies for sexual bribery. The law and its agents are perceived to be contributing to the incidence of sexual bribery.

For instance, Ramani, was solicited for a sexual bribe by a lawyer, the very professional who was expected to represent her before the law. Her case involved a land matter which she eventually discontinued because of this experience of sexual bribery.

As evident in the observations made by Lakshmi, Gayani and Jenny below, victim-survivors do not think that the rule of law is being respected. They do not think that they can seek or achieve justice through the law or legal institutions. Jenny notes that the discretion vested with law enforcement authorities is abused to solicit sexual bribes.

‘

I don't want to go to police stations and courts for nothing. The law favours them. At the end of the day, we just get shamed. ,

Gayani, Hambantota, Southern province

‘

If it is the law, it should be the law. Punishing wrongdoing is something else... if proper justice is done. Is this the law? For them to take bribes and girls? Is that the law? ,

Jenny, Gampaha, Western Province

5.9. AVAILABILITY OF EFFECTIVE REMEDIES

Stemming from their lack of trust and confidence in the law, legal institutions and law enforcement authorities, victim-survivors are reluctant to pursue remedies through the law. They are aware that even attempting to do so could lead to further trauma and stigma.

‘
If such a complaint was made, it would keep bothering me. It would be a mental burden. Plus, I wonder if this story would reach my children, siblings, or the village people. If I keep this tightly wound up in my own mind, there will be no issue. ,

—
Ramani, Kandy, Central Province

‘
I didn’t make a complaint, but I told the Grama Sevaka officer [Village Officer]. That is also a complaint in a way. I told the Grama Sevaka thinking it would be better. But it was futile. That woman (the officer) doesn’t know about sexual bribery. ,

—
Iromi, Matara, Southern Province

‘
If we lodge complaints, they will come and kill us. ,

—
Nuzrath, Colombo, Western Province

Because many instances of sexual bribery involve personnel from the justice sector, victim-survivors do not think that the investigation and inquiry would be impartial or confidential. They do not find proceedings to be accessible or reliable.

‘
There is some fear on how to go to the same police station even for a different issue since the police officer who is involved in the [sexual bribery] incident could be present. ,

—
Lalitha, Matale, Central Province

‘
I won’t be able to even walk on the road if these matters leak. Plus, what can two girls do at a police station? I am anyway scared to even look at a police station. What strength do we have to file a case against the doctor? Back then, I just wanted to know what my ailment was for sure, not legal justice. ,

—
Lakshmi, Hambantota, Southern Province

‘

They use their weapons, guns, and their power to influence and take advantage of us. This should change. ,

Nuzrath, Colombo, Western Province

As in the case of Manori's experience, women and LGBTQI persons are at risk of sexual bribery due to gender, poverty and social status. In her case, because her husband was in police custody she had no means of making any complaints about her experience. This experience suggests that in certain circumstances, seeking services from the state can place individuals at risk of sexual bribery.

‘

My mother makes bricks for a living. Therefore, I don't even have anyone to take me to the police. I go alone. As far as I can remember, I went to the police station on and off for about a week and a half to try to get my husband released. We are scared because he [the perpetrator] is from the police. If he is removed from the police first, we can obtain legal assistance. We have evidence. But they have the power. We can show evidence. Can even get a lawyer. But we are scared. ,

Manori, Gampola, Central Province

As noted by Farah and Jeeva, when the perpetrator is from the police or other institution in the justice sector, victim-survivors are rendered helpless before the law. They have no other recourse.

‘

We go to the police seeking help. But if these things happen there as well, who do we seek help from? ,

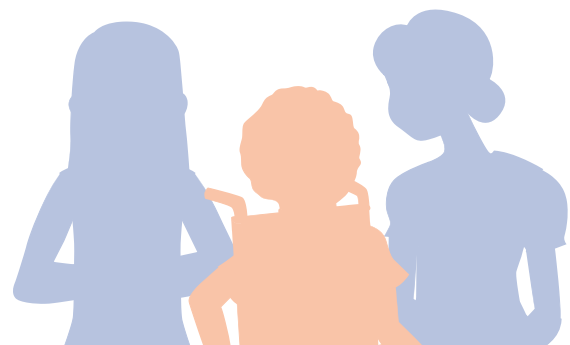
Jeeva, Matale, Central Province

‘

The Police is the only place that is there for us to lodge a complaint and seek justice. If Police Officers also behave this way, how can we place our trust in law enforcement authorities? Women should feel secure wherever they go. ,

Farah, Sabaragamuwa Province

According to Rupa, the offenders take advantage of their position of authority in the justice sector to target victim-survivors. They are confident that they can do so with impunity.



‘

Right now there's no mechanism in place but these incidents happen frequently because perpetrators know that there's no system in place to apprehend them. They can always seek support from someone with money or power and evade the law. ,

Rupa, Ratnapura, Sabaragamuwa Province

One notable exception was an experience where Farah stated that she received support from the Legal Aid Commission in a maintenance matter at a time when a police officer was soliciting a sexual bribe from her.

Gayani pointed out that the process of making complaints is public. That public process itself deters victim-survivors from taking action against sexual bribery.

‘

Then all my details will get recorded. That is not what the government should do. If an officer demands such a thing, we should be able to instantly call a hotline like 119. ,

Gayani, Hambantota, Southern Province

These accounts suggest that the process in place for making complaints is not victim-survivor-friendly. It does not encourage victim-survivors to seek remedies through

the law. For instance, even though Priya's father lodged a complaint with CIABOC that was discontinued because the victim-survivor was unwilling to pursue the matter.

‘

My father had called CIABOC (Bribery Commission) to lodge a complaint and to get advice. He said that they were very supportive. [Bribery Commission] had asked [my father] to find proof to prove the case. But it didn't proceed because I didn't want it to. I also felt that my father also didn't want that. He just wanted to make me to return to normalcy at that time. ,

Priya, Tissamaharama, Southern Province

All the difficulties and challenges discussed above are compounded in the case of members of the LGBTQI community. They note that it is not possible for them to seek remedies against the police. Their gender identity, in practice, denies them the protection of the law

‘

Our [complaints] aren't accepted. Even at the police (station). They drag on too far if we go to the Human Rights [Commission].

There is no point telling policemen these things. ,

Rita, Colombo, Western Province

‘

We can refuse if they are normal citizens. But if they are from the police or army, they have power. Even the army can hand us over to the police. Then there is nothing we can do. ,

Wathsala, Colombo, Western Province

5.10. ABUSE OF COMMUNICATION TECHNOLOGY

Several interviewees spoke of the way in which communication technology was abused for sexual bribery. In some instances, public officers or professionals had used contact details that were available to them in the course of their official duties to target victim-survivors for sexual bribery. Several victim-survivors spoke about being harassed repeatedly over the phone by the perpetrator who solicited a sexual bribe. In other instances, requests were made by perpetrators for sexually explicit photos via social media platforms such as WhatsApp.

‘

This became a real nuisance to me. I started to keep my phone

switched off. I couldn't even receive a call from the hospital about my husband. The moment I turn on the phone, [he] calls. Always calls at night. He talks for half an hour, an hour. I even stopped going to the hospital for a week... Then [he] started threatening me as well. Finally, I removed my SIM as well. ,

Seetha, Hatton, Central Province

‘

I was scared that [he] would ask me to come and threaten me, because I live alone. He knows all my personal details. ,

Ramani, Kandy, Central Province

‘

He said that he got my number from my phone at the counter because he wanted to help me in any way he could... He told me his name was Padmasiri. But it was a fake name. ,

Gayani, Hambantota, Southern Province

‘

He started calling me from that night itself. He kept calling continuously. [He] sent voice messages through WhatsApp. Then I gave this number to my husband. My husband called him and asked him to not call me again. He still didn't listen. Kept calling all the time. ,

Malani, Kandy, Central Province

The use of communication technology, including digital technology, to solicit and engage in sexual bribery adds other dimensions. The unauthorised use of contact details is a violation of an individual's right to privacy. Digitised sexual bribery places a victim-survivor at very serious risk of being subjected to other forms of sexual exploitation. Most victim-survivors were approached via WhatsApp phone calls, Facebook, and text messages.

‘

Finally, I blocked that number. Then [he] started to call me from a different number. I blocked that as well. ,

Lalitha, Matale, Central Province

‘

Then that officer who attends court started taking video calls to me at night. He didn't need to call me and check what I was

doing or if I ate... During the daytime, he took normal calls. In the night, he takes video calls. I did not answer the video calls at all. I answered the calls during the day because he said he would give me information about my husband. ,

Manori, Kandy, Central Province

‘

The one who was [had sex] with me messaged me on WhatsApp. Sent me nude photos of private areas. Said he wanted to meet again. I avoided all of them. The other one was with my friend. I had no trouble with him. My friend hadn't had any trouble with him either. ,

Wathsala, Colombo, Western Province

‘

Once I told [him] that I wouldn't agree to these, I finally blocked the number from my phone. I went to the clinic only after blocking the number. When I went to the clinic, he seemed angry and was scowling at me. He didn't talk to me even once. He hadn't obtained a number for us to join the queue. That particular day we were in the

queue until nearly 2 pm. Then I stopped going to the clinic. ,

Rani, Matale, Central Province

‘

He called and troubled me for more than a month. ,

Farah, Sabaragamuwa Province

‘

He added me on Facebook and pressured me into accepting the friend request. Then he started chatting on Facebook as well. He took video calls through WhatsApp. No matter how much I disliked him, I didn't dare block him until my husband returned. I was scared. ,

Manori, Kandy, Central Province

Communication technology and social media platforms multiply the risks that victim-survivors of sexual bribery face. The solicitation of sexual bribery can be continued after a physical encounter and persist. In several instances, this involves a breach of data privacy as well. Due to the power dynamics of each case, victim-survivors find it impossible to resist the advances and requests made through mobile phones and social media platforms.

5.11. IMPACT OF THE PANDEMIC

The pandemic has had an impact on the instances of sexual bribery described by the participants of the study. In some cases, for instance, as noted by Rani from the Central Province, the restriction of movement during lockdowns has offered some level of protection.

In some other instances, it placed women and members of the LGBTQI community at further risk of sexual bribery. The pandemic heightened needs leading to vulnerability to sexual bribery.

‘

Those days, corona (COVID-19 pandemic) was still new. People had all types of misconceptions. Therefore, people did not like to give us boarding (place to stay). ,

Priya, Hambantota, Southern Province

‘

Army people came in a red cab. I and my friend didn't have money or food during the early days of corona. We went out at around 7 pm and planned to come back by midnight. Back then curfew was imposed by 11 pm. We didn't think much. It looked just like a normal cab. They said, 'get in, get in' to us and asked for our IDs. They asked us to get in. We got in.

We were taken to a place near a police station... [They said they will] hand us over to the police. We were scolded asking why we can't do jobs. But (the reality is) when we go for interviews, they just drop us saying they would call us later. To whom do we tell these? ,

Wathsala, Colombo, Western Province

Requires targeted study. Will help to understand the impact of other similar crises.

5.12. OTHER INSIGHTS

In addition to the above themes that emerged from the in-depth interviews, the following comments are interesting. Victim-survivors had views about the general incidence of sexual bribery. Lalitha had the view that victim-survivors are not entirely helpless in all instances.

‘ I thought these things must be happening everywhere and that there must be people who get caught in these things. But I also thought we could escape if we used our heads. ,

Lalitha, Matale, Central Province

Some victim-survivors pushed back against sexual bribery through an active exercise of their agency. Lakshmi recalled an instance in which extra-legal violence was resorted

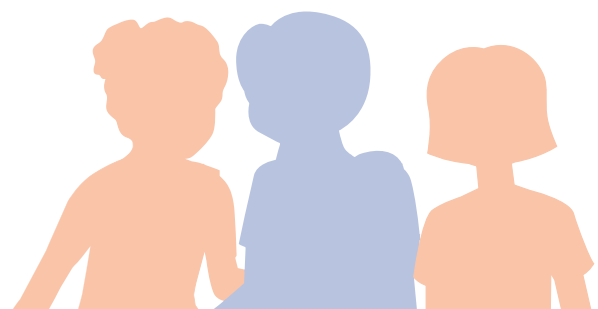
to. Gayani and Lalitha both discussed how she resorted to verbal abuse to push back against sexual bribery.

‘ Not too long after, he had tried to do the same to another woman in our village and she had beat him up. The people in the village also took this up and chased him away from the village. ,

Lakshmi, Hambantota, Southern Province

‘ I can't even remember how I scolded him. I scolded him for over half an hour. He was mute the whole time. It ended there. I didn't get any calls afterwards. ,

Gayani, Hambantota, Southern Province



‘

When I left after shouting at him, he was left embarrassed. My voice is not low either. I even toppled the chair by accident. Since he didn't know what to do, he said that it was only a joke. The funny thing is I got the police report and went abroad after all. ,

Gayani, Hambantota, Southern Province

5.13. FURTHER INSIGHTS FROM FOCUS GROUP DISCUSSIONS

The Focus Group Discussions confirmed the insights obtained through the in-depth interviews, particularly concerning the personal impact of sexual bribery, the reluctance to seek remedies for the offence and the prevalence of sexual bribery. Many believed that sexual bribery should be specifically criminalised and that offenders should be punished. The FGDs with members of the LGBTQI community, however, provided significant insights and is discussed further below.

Notably, many in the FGDs could not distinguish between sexual offences more broadly and sexual bribery specifically. Moreover, they did not distinguish between private and state actors who solicited sexual bribes. Participants gave several examples of private actors, including bank managers, telecommunication agents, private labs, and micro-finance agents who had solicited sexual bribery.

5.13.1. INSIGHTS FROM THE LGBTQI COMMUNITY

This FGD highlighted the additional layers of complexity evident in the incidence of sexual bribery amongst the LGBTQI community. Many of the participants were sex workers. They had almost no protection through the law from sexual bribery. The non-recognition of persons of sexual and gender minorities and the non-recognition of commercial sex workers meant that they were marginalised by the law itself.

Given this legal context, according to the participants in the FGD, police officers abused their discretion to solicit for sexual bribes. Reflecting on this reality, participants described sexual bribery in the following ways.

‘

Giving your body to save yourself. ,

FGD participant, Western Province

‘

Sexual bribery [to her] means they would have sex if given the opportunity. For instance, when we were caught by the police they didn't ask us for money. They say "We will let you go if you give some good time". ,

FGD participant, Western Province

‘

They are taking our bodies by force. Therefore, it must be illegal. ,

FGD participant, Western Province

It appears that the police officers seek to benefit from the absence of legal protection for LGBTQI persons and for commercial sex workers

‘

One time I was on the job near the bridge. A man in civilian clothing directed a torchlight at us. Then he took Rs 2,500 from my customer. The policeman who was in civilian clothing knew me. This was our area [of profession]. Therefore, he just asked me to go. Then he asked me if I did the job. I told him, “You didn’t let me do it, sir”. Then the policeman gave me Rs 500 from the bribe he took and left. ,

Kumari, FGD, Western Province

‘

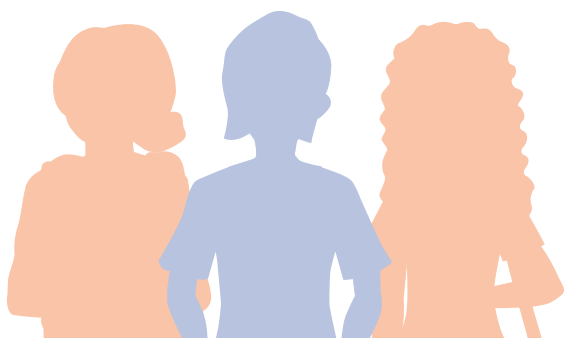
There are 3 of us at the junction. When we were there the police told us that we would be jailed for 6 months if we didn’t give them money this time. [They] had asked for Rs 5,000 from my colleagues... Once when they asked me to get into their jeep, I ran away and got into a long-distance bus and got down at a different junction. By then my colleague had given them Rs 5,000. Later we got to know that they had filed a case against her and fined her after taking the bribe. I, too, will be taken some time, I know. ,

FGD participant, Western Province

‘

When a trans person has sex with another, it seems as if they are with a woman. But when two men have sex, they catch them and threaten that they will reveal this to their families. Sometimes that man could be married. Could have kids. It is easy to take sexual bribes. I think they [men] are victims of sexual bribery more than us. ,

FGD participant, Western Province



This situation is further compounded when others pretend to be police officers in order to abuse sex workers and to take advantage of them.

‘

Sometimes, people who come in civilian clothing say they are from the police. Most of the time they don't ask to show our IDs. When we ask them what they need to be done, then they ask us to have sex with them if they are to leave us alone. ,

FGD participant, Western Province

‘

These bribery incidents happen a lot when we go out at around 9 pm as trans women. This happened to my colleague and me. We had no clients till early morning. When two policemen came we told them we were trying to earn something. We were scolded in filth, saying that we have been asked not to stay. The two came on a motorcycle. So we stayed [had sex] with both of them. We asked them to give us at least Rs 100 since this was our first job for the night. We explained to them that we won't get anything on credit if we go to a shop early in the morning and asked for at least Rs 100. But they got their job

done, scolded us in filth and pushed us before leaving. ,

FGD participant, Western Province

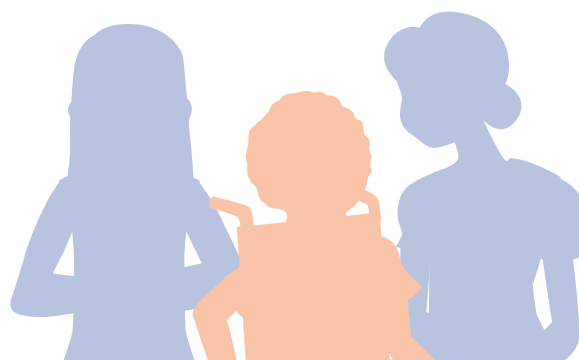
A participant spoke of the gruesome nature of sexual bribery. The account reveals the brutal experience that sex workers are subjected to.

‘

We suffer hellish torture when we are demanded sexual bribes. They are like beasts. Sometimes they bite. There is no limit when it is oral sex. Our throats and necks get injured. Their hands are strong. It is a mess after they pull our hair from their hands. It hurts for days. ,

FGD participant, Western Province

Because members of the LGBTQI community are marginalized by the law and stigmatized by society, participants at the FGD noted that subsequent to encounters that require them to offer sexual bribes, it is difficult for them to access health care services.



‘

We have many issues when we go to STD clinics. In 2019, all including trans people went to the same clinic. If someone is a transgender sex worker, there are problems starting at the gate itself. We go inside by giving Rs 50-100 as a bribe. Now we don't go to STD clinics. We have moved away from them. However, now they have made separate spaces at the clinic for trans people. ,

FGD participant, Western Province

sold the baby to a police officer. She had been harassed after her cash was taken away as well. This happened during the COVID-19 times. She had been forced and threatened to have sex in order to stay on the road. She doesn't like to talk about this even today. But she told us some details in the early days. ,

FGD participant, Western Province

The pandemic placed them at increased risk of sexual bribery. The restriction of movement meant that they were cut off from obtaining essential items for safety in sexual and reproductive health such as condoms.

From the perspective of the participants, sexual bribery is quid pro quo. The law does not provide them with specific rights. They are compelled to daily negotiate their existence and their work by offering sexual demands to appease law enforcement authorities.

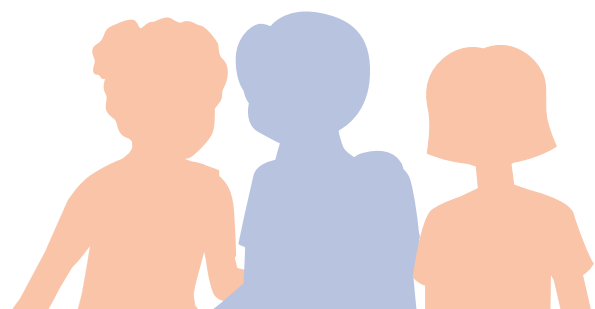
‘

We had no place to buy condoms during the lockdown. Although organisations (Civil Society Organisations) had condoms, they had no way of delivering them to us. We had a friend who was a female sex worker... A policeman had sex with her without a condom during the pandemic and she conceived. She tried many things to abort. She was screaming in pain because of complications during delivery. Once the baby was born, she

‘

We have to go to court, keeping aside all our work, until the case ends. No one compensates for the loss that causes. Therefore we try to escape the law by doing anything. ,

FGD participant, Western Province



‘

When policemen take sexual bribes, they tell others. Then more people come looking for us. It is very troublesome for us. ,

FGD participant, Western Province

‘

I would give sexual bribes in order to save myself. ,

FGD participant, Western Province

‘

Since I am a trans person, I am scared to oppose it. ,

FGD participant, Western Province

‘

I will give [sexual bribes] in order to carry on with my job. ,

FGD participant, Western Province

‘

I will give [sexual bribes] because I need to escape. ,

FGD participant, Western Province

5.14. INSIGHTS FROM KEY INFORMANT INTERVIEWS (KII)

The institutional focus of this study is on the health and justice sectors. The in-depth interviews and FGDs considered above, suggest that existing procedures and institutional arrangements are being abused by perpetrators of sexual bribery. Examples include, the exercise of discretion over visitation rights to persons held in remand custody by prison officers, the exercise of discretion in determining transfers or hostel facilities in the health sector, or follow-up actions by the police when persons lodge complaints. Moreover, current institutional practices do not include mechanisms for preventing sexual bribery in a proactive manner. No policies or programmes are in place to ensure that standard operating procedures are robust leaving minimal room for abuse of authority. There are no mechanisms for making complaints or seeking an alternative course of action.

The interviews conducted with 12 key informants of the health and justice sectors confirmed the findings of the in-depth interviews. These key informants were able to identify and explain sexual bribery. Most were aware that this is already an offence under the general law that criminalises bribery. This group included a Consultant Psychiatrist (National level, Western Province), a Post Graduate Trainee Doctor (National level, Western Province), a Women Police Inspector (Central Province) and a lawyer (Western Province). However, many also noted that sexual bribery has not been specifically criminalised. One interviewee commented that the Sri Lanka Medical Council receives complaints about sexual harassment by patients as well

as by doctors.⁴³ It was not clear though, whether these complaints also included sexual bribery.

A key informant from the justice sector noted that sexual bribery takes place in the sector but that people are reluctant to make formal complaints due to 'secondary victimization', that is to say being victimised by the criminal justice system.⁴⁴ This interviewee described *'anyone who is unable to withstand an appropriate advance or request for a sexual favour'* as a victim-survivor of sexual bribery.⁴⁵ The mutual benefit was considered to be a key factor, by this key informant, for the incidence of sexual bribery. A key informant from the legal profession noted that *'junior female lawyers may form the majority of victim-survivors of sexual bribery'* in the legal profession.⁴⁶ Another key informant noted that sexual bribery occurs *'in situations where victim-survivors have to come in contact with a perpetrator more than once.'*⁴⁷ The same interviewee also noted that delays and inefficiencies in the public sector further place victim-survivors at risk of being approached for sexual bribery.⁴⁸ Another key informant stated that she has made complaints about sexual bribery committed by judicial officers to the Judicial Service Commission (JSC). She noted that the JSC has in such instances transferred the Magistrate but has not taken further action.⁴⁹ Many of them were of the view

that perpetrators are generally men who take advantage of their relative position of authority or privilege to compel the victim-survivors to offer sexual bribes. One key informant noted that she has heard of instances in which females in homosexual relationships have been perpetrators.⁵⁰ Victim-survivors were described as *'mostly minor female staff, younger males who are in homosexual relationships, junior female doctors and interns and persons who are vulnerable in general.'*⁵¹

It was noted that sexual bribery *'comes with how we perceive women in society.'*⁵² Another interviewee identified poverty and language issues as contributory factors.⁵³ The same key informant noted that *'because most victim-survivors are women, they will have to face horrible consequences and absolutely no benefits'* when seeking remedies for sexual bribery.⁵⁴ It was noted that *'victim-survivors do not want to be recognised or singled out for making a complaint against an influential medical professional.'*⁵⁵ Another interviewee noted that *'victim-survivors get transferred or demoted because they tried to open up about their experiences.'*⁵⁶ The same interviewee also noted that victim-survivors are *'denied leave, overtime and promotions, singled out for reporting, falsely accused of trying to malign the reputation of a well-known health care professional.'*⁵⁷

⁴³ Medical Doctor and Academic,

⁴⁴ Officer of the National Authority for the Protection of Victims and Crime and Witnesses

⁴⁵ Officer of the National Authority for the Protection of Victims and Crime and Witnesses

⁴⁶ Legal Practitioner

⁴⁷ Officer of CIABOC

⁴⁸ Officer of CIABO

⁴⁹ Legal Practitioner

⁵⁰ Medical Doctor and Academic

⁵¹ Medical Doctor and Academic

⁵² Consultant Psychiatrist

⁵³ Public Health and Midwife

⁵⁴ Consultant Psychiatrist

⁵⁵ Medical Doctor and Academic

⁵⁶ Retired Nurse and Academic

⁵⁷ Retired Nurse and Academic

Another key informant noted that holding perpetrators accountable through internal inquiries can be futile because such inquiries are 'difficult to launch' and *'take a long time to conclude.'*⁵⁸ An informant from the justice sector noted that *'there is a huge lack of empathy and sensitivity towards victim-survivors, particularly victim-survivors of sexual crimes when it comes to our law enforcement and prosecuting authorities.'*⁵⁹ Another interviewee pointed out that the supervision of staff is weak and that a reporting mechanism is not provided for within the health sector.⁶⁰ This same individual noted that *'junior staff should be protected under laws against sexual bribery.'*⁶¹ Another interview suggested a complaints box and an *'independent administrative inquiry process'* without undue delays.⁶² The provision of effective legal aid was suggested as a remedy by another interviewee. The same interviewee also suggested *'a third party to audit hospitals.'*⁶³

A key informant pointed out that one successful prosecution of the offence of sexual bribery could encourage victim-survivors to make complaints. A successful prosecution, according to this key informant, would also be one which guarantees the dignity of the victim-survivor is protected and one in which the victim-survivor is granted adequate compensation.⁶⁵ Moreover, the same interviewee noted that any law reform or policy should take into account ground realities. For instance, the fact that the victim-survivors are probably in

close contact with the offender and are dependent on the offender for the provision of a service, approval, recommendation etc.⁶⁵ This interviewee proposed that the victim-survivor Protection Authority should establish branches throughout the country and be accessible and available to support victim-survivors of sexual bribery.⁶⁶ She further suggested that a network of public servants who will resist and protect others against sexual bribery should be established.⁶⁷

A female legal practitioner noted that the lack of clear evidence is a common barrier for victim-survivors who wish to seek remedies for sexual bribery.

“...most of these victim-survivors of sexual offences do not have evidence (pictures or recordings) to prove that such an inappropriate request or advance was made. Then it becomes extremely difficult for them to initiate and sustain legal proceedings.”⁶⁸

Justice Sector, Female Legal Practitioner, Western Province

⁵⁸ Postgraduate Medical Trainee

⁵⁹ Legal Practitioner

⁶⁰ Medical Doctor and Academic

⁶¹ Postgraduate Medical Trainee

⁶² Medical Doctor and Academic

⁶³ Retired Nurse and Academic

⁶⁴ Officer of the National Authority for the Protection of Victims of Crime and Witnesses

⁶⁵ Public Health Midwife

⁶⁶ Officer of the National Authority for the Protection of Victims of Crime and Witnesses

⁶⁷ Officer of the National Authority for the Protection of Victims of Crime and Witnesses

⁶⁸ Legal Practitioner

Several suggestions were made by key informants for addressing sexual bribery in Sri Lanka. These included amending the Bribery Act as per a proposed draft, training more staff at CIABOC to work in Tamil, education and including a module on bribery and sexual bribery.⁶⁹ Another key informant noted that the training manuals for the police do not include material on sexual bribery.⁷⁰



⁶⁹ Officer of CIABOC

⁷⁰ Police Inspector



6. PREVENTION OF SEXUAL BRIBERY AS STATE RESPONSIBILITY

Drawing from the experiences and views of victim-survivors of sexual bribery and KILLS in the justice and health sectors, this section analyses sexual bribery from the perspective of state responsibility. This responsibility is three-dimensional. First, sexual bribery is a grave and pernicious form of corruption. It is indicative of severe and structural issues that affect democracy, the rule of law, and constitutional government. Second, sexual bribery is a violation of several human rights of a victim-survivor. In this regard, the state has an obligation to respect, protect and fulfil its human rights obligations. Moreover, it also has the obligation to prevent violations of human rights. The incidence of sexual bribery is symptomatic of a state's failure to fulfil these responsibilities. In all these instances, the victim-survivors experience a violation of their human dignity, right to equality, and right to be free from discrimination. Third and relatedly, sexual bribery is a criminal offence against a person. It causes grave physical and psychological harm to victim-survivors. Its occurrence gravely impacts the social fabric. Ensuring justice for victim-survivors requires accountability, punishment, rehabilitation, and compensation.

6.1. SEXUAL BRIBERY AS A HUMAN RIGHTS VIOLATION

Where sexual bribery occurs in the context of employment in the health or the justice sectors, it has a negative impact on the

employee's right to work, in particular, the right to 'full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual' and 'safe and healthy working conditions'.⁷¹ The victim-survivor experiences trauma and stigma which impacts the victim-survivor's self-perception and experience of employment.

When sexual bribery occurs in the health sector, it has a direct impact on the right to health of victim-survivors or their dependents.⁷² Victim-survivors have described foregoing health care for themselves or for others in order to avoid the perpetrator of sexual bribery. In other instances, they are at risk of sexual bribery in seeking to enjoy their right to health. Most victim-survivors of sexual bribery report a severe negative impact on their mental health.

In most instances of sexual bribery discussed in this report, victim-survivors experienced an invasion of their privacy. This included unsolicited communication on their mobile phones. Their data privacy was breached and compromised. Their right to privacy, therefore, was encroached upon.⁷³

6.2. SEXUAL BRIBERY AS A CRIMINAL OFFENCE

When sexual bribery takes place in the justice sector, it acts as a barrier to access to justice and criminal justice. This has very severe consequences for the victim-survivor and their dependents. In other instances, particularly as reported by members of the LGBTQI community, the justice sector becomes the barrier to access to justice.

⁷¹ ICESCR Art 6(2), Art 7(ii)(b)

⁷² ICESCR, Art 12

⁷³ ICCPR, Art 17 and General Comment 16 of the Committee on Civil and Political Rights.

The manner in which some personnel of the justice sector abuses their discretion places them at risk of sexual bribery due to the lack of specific rights protections for sexual minorities in Sri Lanka.

It was reported by victim-survivors of sexual bribery as well as by key informants of the health and justice sectors that victim-survivors do not report sexual bribery due to problems in Sri Lanka's criminal justice system. Consequently, they are denied a right to due process as well as the right to a remedy for the several human rights violations that they experience.

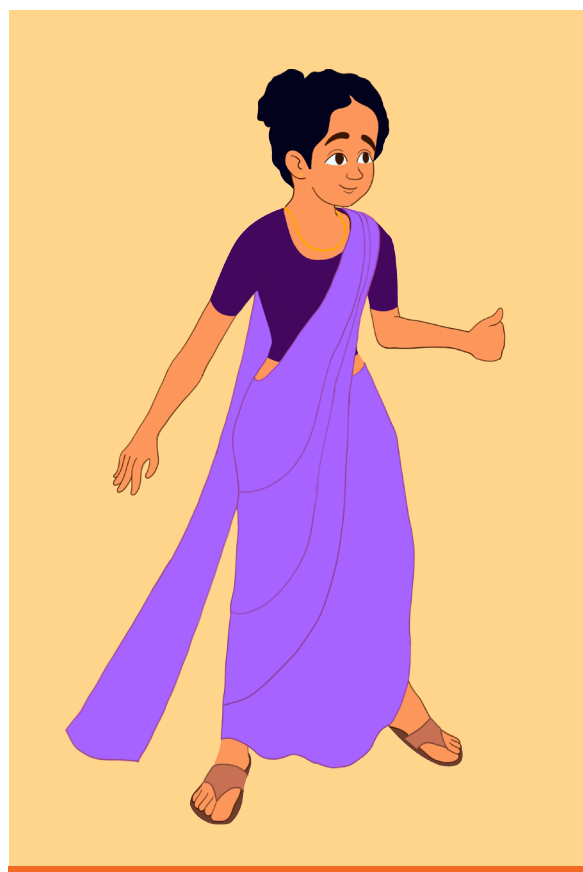
The Sri Lankan state has failed to specifically criminalise sexual bribery. Furthermore, the state has not required the public sector to adopt specific policies to prevent and remedy sexual bribery. This amounts to a failure to respect the human rights of those at risk of sexual bribery. The state is required to act with due diligence and take reasonable measures to prevent sexual bribery and provide effective investigation, prosecution, punishment and remedy for the offence.

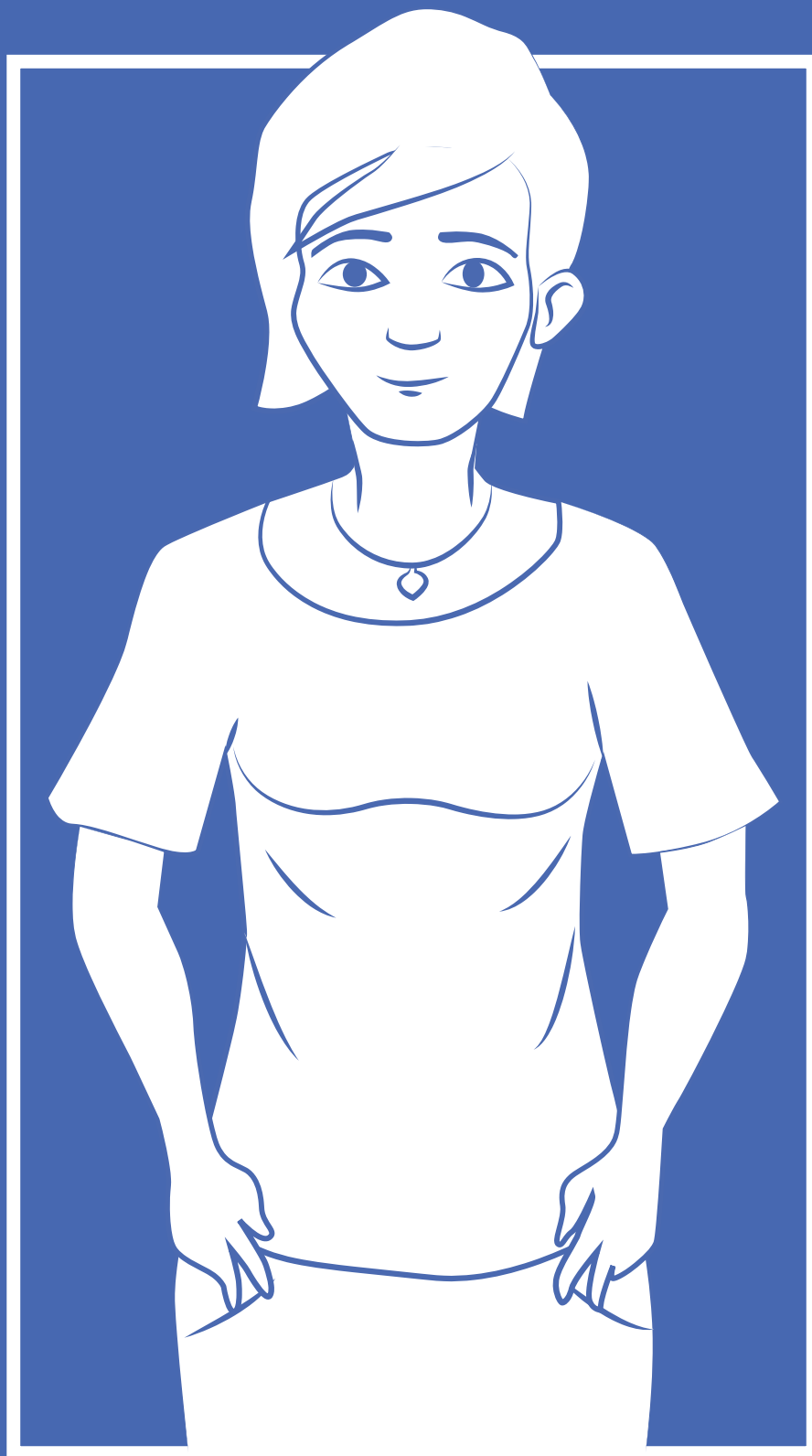
6.3. SEXUAL BRIBERY AS CORRUPTION

Bribery and corruption are antithetical to democracy and constitutional governance. Public power is exercised only in trust and on behalf of the people. In Sri Lanka, the Constitution declares that sovereignty lies in the people and that this sovereignty is inalienable. The Sri Lankan Supreme Court has consistently held that any arbitrary action, including abuse of power, by the state is a violation of the right to equality.

The incidence of sexual bribery examined for this study is a particularly egregious form of abuse of power. Agents of the state abuse the authority and discretion vested

in them by law, to demand sexual favours to provide services that they are obliged to provide, by law. The case studies analysed here reveal that perpetrators act with impunity, and victim-survivors are left to deal with the trauma and stigma attached to them. They do not have effective legal remedies available to them. Sexual bribery therefore is evidence of entrenched corruption. It is evidence of a failure on the part of the state to serve its core function – that is to use its unique authority and power to serve its people. Sexual bribery is also an indication that democracy is failing. Representatives and agents of the people are not only failing to perform their duty within the limits of the law but are actively abusing the authority they derive through the ballot and the law.





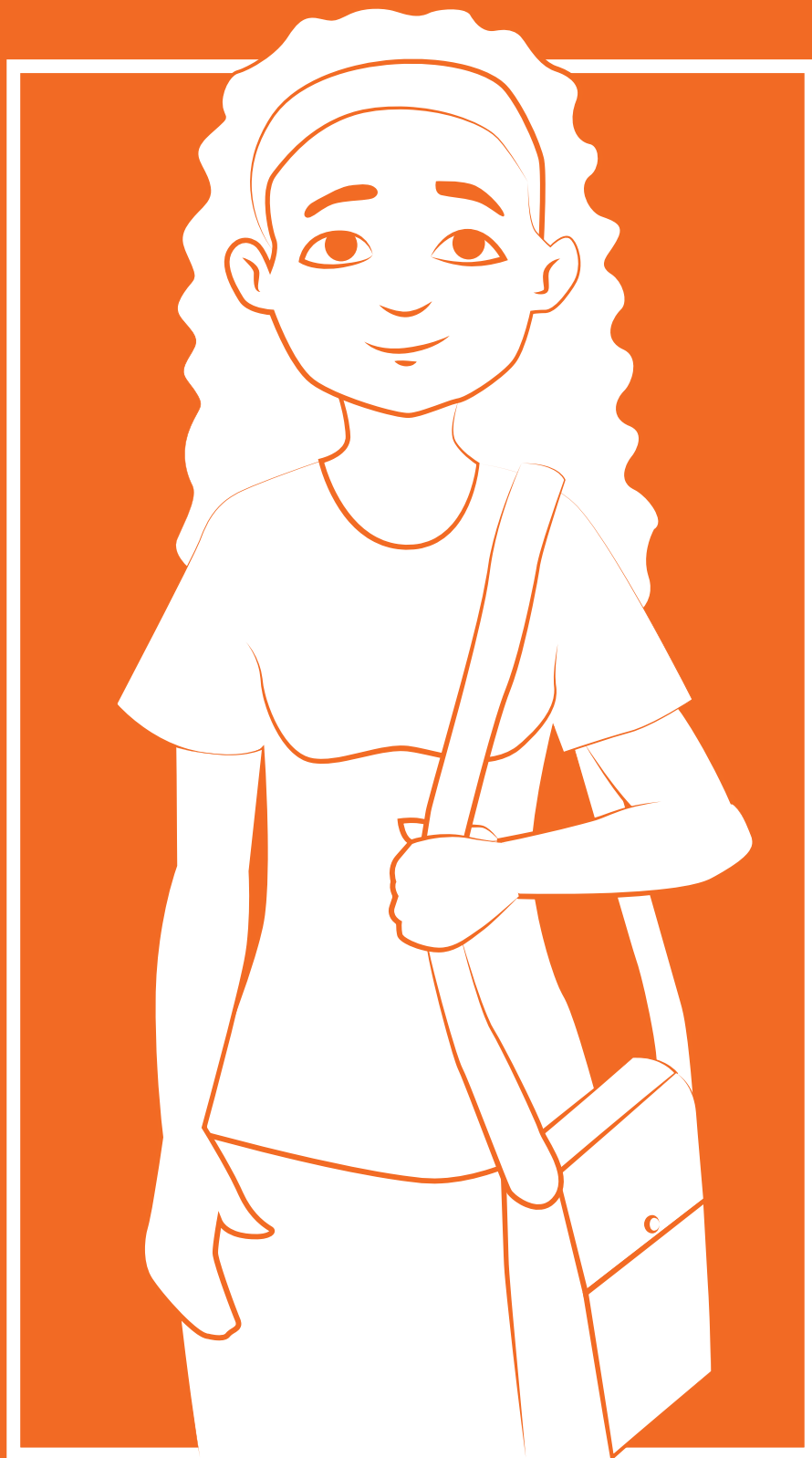
7. CONCLUSION

Through a qualitative examination of the experiences of self-identified victim-survivors of sexual bribery, this study confirms its incidence and describes its severity. Sexual bribery has been reported in the health and justice sectors and the perpetrators are state agents. The experiences of victim-survivors of sexual bribery reveal that the effects are deeply traumatic, stigmatising and have other negative consequences including economic and social consequences. Sexual bribery impacts not just the victim-survivors but, through them, their immediate families too. The experiences of women victim-survivors are severe, but the severity is further compounded for members of the LGBTQI community who were interviewed for this study. Sex workers are another category of persons who are extremely vulnerable to sexual bribery. Where members of the LGBTQI community engage in sex work, their vulnerability is that much more severe.

Sexual bribery has three dimensions: a dimension of corruption, a human rights dimension, and a criminal justice dimension. When the impact of sexual bribery on the individual and greater society is taken into account, it is evident that sexual bribery has a pervasive effect on human dignity. Its occurrence violates a range of human rights including, the right to bodily integrity, equality, the right to privacy, and the right to a remedy. None of the participants of this study had the confidence that they could make a complaint and seek a remedy through the legal system for the harm they suffered. The lack of confidence in the law and legal institutions is striking and consistent. In fact, sexual bribery is solicited by agents

of the state, that is to say, personnel who are expected to give force to law and policy -and state agents who are expected to guarantee equal protection of the law to all persons. The reality of sexual bribery acts as a barrier to seeking any solutions to sexual bribery through the law, institutions and its personnel. Therefore, it is very difficult to ensure criminal accountability for sexual bribery. The law itself is implicated each time sexual bribery takes place. Victim-survivors, therefore, are even doubtful as to whether the law can effectively prevent or remedy sexual bribery. In fact, they have pointed out that the legal system and its culture promote impunity and protect perpetrators of the law. Sexual bribery understood as corruption, therefore, points to the ways in which sexual bribery occurs due to the abuse of discretion authority by the agents of the state. Sexual bribery is indicative of a crisis of accountability and governance.





8. RECOMMENDATIONS

All participants in this study had specific recommendations in mind. Drawing from these suggestions, this section proposes measures that can be adopted to effectively prevent, investigate, prosecute and punish sexual bribery in Sri Lanka. Some of the recommendations are drawn directly from the participants to the study. The recommendations are specific to the state, civil society, professional bodies and organizations at the international level. Recommendations to the state are further specified in terms of recommendations to elected bodies, administrative bodies and independent institutions such as the police, the Human Right Commission of Sri Lanka and CIABOC.

8.1. PREVENTION

RECOMMENDATIONS FOR THE STATE

Elected Bodies

8.1.1. Explicitly prohibit and criminalise sexual bribery through legislative reform.

8.1.2. Repeal sections 365 and 365A of the Penal Code that criminalises ‘voluntary carnal intercourse against the order of nature’ among consenting adults.

8.1.3. Repeal the Vagrants Ordinance of 1841.

8.1.4. Explicitly recognise equal rights of sexual and gender minorities in all areas, including access to public places and public services.

8.1.5. Enact legislation to legalise and regulate commercial sex work after a process of consultation.

8.1.6. Adopt enabling legislation to give domestic legal effect to the UN Convention against Corruption.

8.1.7. Adopt specific policies at the national level to prevent, investigate and prosecute and remedy sexual bribery. Such a policy must be developed through an inclusive and participatory process involving all stakeholders. In particular, women and members of the LGBTQI community who are at risk of being subjected to sexual bribery should be consulted in drafting a national policy. The national policy must be subject to periodic review.

Administrative Bodies

8.1.8. Review and update the Establishments Code to include a zero-tolerance policy on sexual bribery.

8.1.9. Design and implement mandatory and periodic training on the responsibilities of public officers, including on the prohibition of sexual bribery.

8.1.10. Implement targeting awareness-raising programmes among future potential perpetrators such as public officials and the police.

Independent State Institutions

8.1.11. Guarantee the independence of the Commission to Investigate Bribery or Corruption through the re-introduction of an independent Constitutional Council.

8.1.12. CIABOC to conduct studies to inquire into the reasons for the incidence of sexual bribery. These studies should be consultative, with input from all stakeholders.

8.1.13. Publicly share the findings of such studies.

8.1.14. Create awareness among the public on sexual bribery and its severity.

Awareness raising must occur at all levels from the national to the community level. Ensure that women gender and sexual minorities are reached through such programmes.

Involve theatre and the arts in awareness raising.

Use social media such as Facebook to create awareness.

Create community-level awareness through public servants and at community-level meetings such as meetings for Samurdhi recipients.

8.1.15. Proactively work towards a change of mindset about the stigma related to sexual bribery among public servants as well as among the public.

8.1.16. Train police officers to create awareness about the complicity of some of their colleagues in the incidence of sexual bribery. Such training should be aimed at preventing the occurrence of sexual bribery through the police and establishing a zero-tolerance policy for sexual bribery.

8.1.17. Offer a tailor-made course aimed at training stakeholders and the public at a higher education level such as the university level. Such a programme of study should be designed to address sexual bribery as a human rights violation, as a criminal offence as well as a manifestation of corruption.

RECOMMENDATIONS FOR CIVIL SOCIETY

8.1.18. Undertake quantitative and qualitative studies, and assessments to review the fulfilment of state responsibility to prevent sexual bribery

8.1.19. Monitor the effectiveness of the current legal regime and remedies in the prevention of sexual bribery

8.1.20. Civil society organizations should proactively create awareness among the public about the incidence of sexual bribery and the severity of its impact.

8.1.21. Support victim-survivors to take collective action to prevent and seek remedies for sexual bribery.

8.1.22. Educate and empower victim-survivors to speak publicly about their experiences of being victimised for sexual bribery. This will create awareness and reduce the stigma that is attached to victim-survivors of sexual bribery. Such public engagement might also encourage them to seek justice.

RECOMMENDATIONS FOR PRIVATE SECTOR, PROFESSIONAL BODIES

8.1.23. Review and revise professional codes of conduct to explicitly prohibit sexual bribery and to provide for a robust and fair complaints mechanism.

8.1.24. Support efforts by civil society to monitor the incidence of sexual bribery.

8.1.25. Support and sponsor efforts to lobby for law reform to explicitly criminalise sexual bribery.

8.1.26. Train lawyers to create awareness about the complicity of their colleagues and some personnel in the justice sector in the incidence of sexual bribery. Such training should equip lawyers to use and consider existing legislation such as the Bribery Act, public law remedies (fundamental rights and writs) and even private law remedies to seek legal remedies for victim-survivors of sexual bribery.

RECOMMENDATIONS FOR INTERNATIONAL BODIES

International Non-Governmental Organizations

8.1.27. Adopt or continue to apply (as the case may be) a context-specific approach to the study of sexual bribery.

8.1.28. Design grant or project cycles to allow for long-term study of sexual bribery including its incidence and effectiveness of remedies.

8.1.29. Ensure that awareness raising or research on sexual bribery is conducted in collaboration with different actors working at different levels. The lived experiences of victim-survivors and their agency should be respected and promoted in such work.

International Organizations

8.1.30. Consult all stakeholders in developing knowledge on incidence, prevention and remedy for sexual bribery with special emphasis on consulting victim-survivors.

8.1.31. Develop global norms, principles and standards for dealing with sexual bribery which can be adapted to suit local contexts, including local ownership.

8.2. INVESTIGATION AND PROSECUTION

RECOMMENDATIONS FOR THE STATE ELECTED BODIES

8.2.1. Review the CIABOC Act and the Human Rights Commission Act to identify whether these legal regimes should be amended to authorise the two Commissions to investigate or inquire into complaints of sexual bribery.

8.2.2. Fully implement the Assistance to and Protection of Victims of Crime and Witnesses Act 2015.

8.2.3. Amend the Victims and Witnesses Protection Act to specifically provide for victim protection, particularly in public reporting of crimes and complaints of crimes.

8.2.4. Review procedures for making complaints about sexual bribery so that intermediaries may make complaints on behalf of victim-survivors.

Administrative Bodies

8.2.5. Create and maintain independent and effective complaints mechanisms to make complaints about sexual bribery

Independent State Institutions

8.2.6. Establish a confidential hotline to make complaints.

8.2.7. Employ undercover sleuths to identify perpetrators of sexual bribery.

8.2.8. Court proceedings relating to sexual bribery should be held in camera.

RECOMMENDATIONS FOR CIVIL SOCIETY

8.2.9. Women ought to take collective action to make complaints about sexual bribery.

8.2.10. Because sexual and gender minorities generally experience discrimination, they could collectively organize and mobilise to seek remedies for sexual bribery and to prevent its occurrence in the future.

RECOMMENDATIONS FOR PRIVATE SECTOR, PROFESSIONAL BODIES

8.2.11. Implement a zero-tolerance policy on sexual bribery which should amount to professional misconduct

8.2.12. Ensure transparency and accountability when inquiring into complaints about sexual bribery at an institutional level.

8.2.13. Design and implement measures to prevent repercussions on complainants and for their safety in professional contexts.

RECOMMENDATIONS FOR INTERNATIONAL BODIES

International Non-Governmental Organizations

8.2.14. Create and maintain networks of solidarity for victim-survivors of sexual bribery

8.2.15. Design and implementation programmes for transnational learning and experience sharing in seeking accountability for sexual bribery by civil society actors and victim-survivors.

International Governmental Organizations

8.2.16. Monitor and review state actions including law reform, policy-making and programmes for investigating and prosecuting sexual bribery.

8.2.17. Make recommendations to the state for improving effectiveness in victim and witness protection
Offer support (financial, training etc) for the effective investigation and prosecution of sexual bribery

8.3. REMEDY

RECOMMENDATIONS FOR THE STATE ELECTED BODIES

8.3.1. Reform the Bribery Act to ensure that punishment for sexual bribery includes a heavy fine.

8.3.2. Implement a ban from employment for perpetrators in the public service found guilty of engaging in sexual bribery in a court of law following due process for a period proportionate to the gravity of the incident of sexual bribery.

8.3.3. Provide effective compensation for the victim-survivor.

Administrative Bodies

8.3.4. Provide effective monetary compensation for victim-survivors.

Independent Bodies

8.3.5. Provide counselling for police officers.

Maintain local data on outcomes of investigations and prosecutions for sexual bribery.

RECOMMENDATIONS FOR CIVIL SOCIETY

8.3.6. Cultivate a network of solidarity and support among victim-survivors.

RECOMMENDATIONS FOR PRIVATE SECTOR, PROFESSIONAL BODIES

8.3.7. Contribute to funds to support victim-survivors of sexual bribery.

8.3.8. Lobby for law reform to ensure effective remedies for victim-survivors of sexual bribery.

RECOMMENDATIONS FOR INTERNATIONAL BODIES

International Non-governmental Organizations

8.3.9. Maintain data on a global scale on the incidence of sexual bribery, its investigation, prosecution and remedies.

8.3.10. Consult victim-survivors and perpetrators to study the impact and effect of available remedies for sexual bribery.

International Organizations

8.3.11. Monitor the implementation of remedies for victim-survivors of sexual bribery

8.3.12. Develop guidelines and recommendations for granting remedies for victim-survivors and for the rehabilitation of perpetrators



ANNEXURES

ANNEXURE I: QUESTIONNAIRE USED FOR THE STUDY

GUIDE FOR SEMI-STRUCTURED INTERVIEW

A. GENERAL NOTES

- The purpose of this interview is to learn about the experiences of women and individuals from the LGBTQI community who have experienced sexual bribery in their interactions with the health and justice sectors.
- Your role is to record, as accurately as possible, the experience and perceptions of the interviewee and why the interviewee has those perceptions.
- Allow the participant to talk freely even when what is said does not seem directly relevant to the interests of the research.
- Wait for the participant to be comfortable before asking direct questions as the subject matter is sensitive.
- Ask questions about their experience with sexual bribery only after you feel that the participant is at ease.
- If at any point during the interview, the interviewee decides to discontinue the discussion, or experiences any discomfort/ trauma in relating her experience, do not force her to continue.
- Feel free to depart from this guide and ask follow-up questions about anything that the participant states.
- Please probe and get further insights if the participant mentions something

that is of relevance that needs further elaboration.

- Take time to make your own notes and observations about the interview. Please include a note for each interview in which you describe your own perceptions.

B. STARTING THE INTERVIEW

- Begin by introducing yourself and the Centre for Equality and Justice (CEJ).
- Start with the known -
- start with an introduction to yourself OR
- talk about something that would be of common interest such as something unique to the location etc.

C. Informed consent

- Explain the purpose of the interview, the general areas that will be covered during the interview and the participants rights – to ask questions, to refuse to participate and to withdraw at any point. Participants must be assured of confidentiality and anonymity.
- Obtain informed written consent and have a follow-up conversation if needed. Allow time for the participant to feel at ease with you before you proceed to the next stage.

D. SUBSTANTIVE ASPECTS

- In this section, you should encourage the interviewee to talk about the interviewee's story. You can ask questions about the interviewee's general life experience, about the interviewee's family, where the individual grew up etc so that you get to know the interviewee and so that the interviewee becomes comfortable in

talking to you.

- Questions can include - Can you tell me something about yourself? If someone were to ask you to introduce yourself, what would you say?
- Direct the conversation to raise the following (mandatory) questions:

1. Profile of the interviewee

1. Name
2. Contact no (only to be used to get consent and feedback)
3. Age
4. Place of permanent residence (district/ village/GN)

2. Incident-related to sexual bribery

This is the most important aspect of the interview. Please follow the following format to ensure that you cover all aspects of the incident related to sexual bribery. Please establish and clarify the following details of the incident.

2.1 Under what circumstance was sexual bribery (could be overt/ covert) demanded/ requested?

- Sector or state agency in which the incident occurred
- Designation of relevant officers (if known) etc
- Date
- Time (indicate the duration of the incident as it could be over days and months)
- Place

2.2 Whether one incident or a series of incidents took place

- How long have you been undergoing the act of sexual bribery-related actions

in the past? Or at the present?

2.3 What form/ type of sexual bribery did they request? (Describe)

Eg: Below mentioned behaviours following a request for obligatory government service/ support

- Visiting the home of a single woman at night while intoxicated and demanding sexual favours.
- Sexual harassment and inappropriate behaviour
- Demands to start an affair
- Asking a widow to meet the perpetrator alone in the evening, outside the office/ to go on a trip with him
- Being subject to suggestive comments and sexual innuendo as well as intimate, probing questions being asked
- Verbal threats and delaying tactics when a sexual bribe is refused or avoided.

2.4 What consequences did you identify in relation to this incident?

Relevant incidents before and after the critical events. Eg.. had to move away, stigma caused, fear of reprisals, people got to know, how children were affected etc.

2.5 Do you know whether the person who asked you for sexual favours also requested the same from other women? If so please describe.

Mental health, stigma and support system

2.6 What was your mental/emotional status when the abuse/violence took place and afterwards?

2.7 Whom did you seek help from/go to if you were mentally/emotionally affected?

2.8 How did you feel/what was your mental status when you were giving/were coerced into sexual bribery? What was your immediate reaction when the incident occurred?

2.9 Have you experienced any stigma due to the incident? What kind of stigma (internal/external)? self, social stigma?

Eg

Fear of losing honour and respect within the community, and being perceived as the wrongdoer.

victim- survivors' perception of self (feeling worthless) and their aspiration negatively impacted following the incident.

2.10 How did you cope with it (if the individual does at all)?

2.11 Did you seek any medical assistance? If so, from where? How? hospital, private doctor, pharmacy, family doctor). Did you have any challenges at the time of receiving this service?

2.12 What/who were the structures/ persons that supported you during this time? (friends, relations, Grama Niladhari, counsellors, counselling assistants, midwives.)

2.13 When you were affected by this incident, did you need counselling? If so, from which structure/ mechanism did you expect it?

3. Sexual acts without consent

3.1 What is your understanding of a sexual act?

3.2 What is your understanding of consent? Do you think that you have the right to choose/ not to consent to such sexual acts?

4. Redress

4.1 Did you make a complaint to anyone at this specific instance?

4.2 If yes, to whom and when? How long after the incident/incidents did you make the complaint?

4.3 Was there any action taken? Or not? If yes, what action was taken? If not, why do you think any action was not taken?

4.4 Did you not complain? If not, what was the reason?

4.5 Did you seek any other service provided by the government with regards to the above-mentioned? If so, what was the service?

4.6 Was language a barrier to making a complaint? Were you able to make the complaint in the language you are comfortable with?

4.7 Was language a barrier when you went to the police station/ hospital in relation to this incident?

5. Law

5.1 What is your understanding of the law prohibiting bribery and corruption?

5.2 Do you think that sexual bribery should be prohibited by law?

5.3 Do you know whether what she experienced is prohibited by law and why?

5.4 Does the interviewee think the treatment/violation experienced may have violated any laws in Sri Lanka? If so, what law/laws have been violated?

- If not what type of laws do we need to introduce/ implement to end sexual exploitation /bribery?
- Do you think the sexual bribery/ exploitation, which you underwent, should fall into the Bribery Act of Sri Lanka?
- In your opinion, what does the state need to do at the policy level?
- What type of mechanism/ structure should be set up? Or do you think it exists already?

6. Action

6.1 What can we do to end sexual bribery?

6.2 Would you be willing to follow up on what happened to you with the relevant authorities such as the Bribery Commission, and Human Rights Commission? for example, by giving an affidavit, by making a complaint in this regard?

6.3 If you think such a route is ineffectual, what other methods might be more effective?

6.4 How do you think we can change people's attitudes about sexual exploitation/ sexual bribery?

6.5 Do you think it is necessary or important to share the findings of this research (without revealing details of victims) with other women in the community?

6.6 If so, what would be the best way to take these findings and the message across to the women in the community? For example, through drama, movie, discussion, PowerPoint presentation, forum theatre, at community meetings, funeral committee meetings, women's

network meetings etc?

7. Pandemic

Did the pandemic have any impact either as a contributory factor or as a factor that complicated the incident or in any other related way?

8. Exiting the Interview

When all the substantive aspects have been covered, make sure to get feedback from the interviewee and clarify any questions.

- What did you think about the interview?
- Do you have any questions or comments?
- Is there any way in which we can help you with regard to this violation/ offence you were subjected to?
- Provide a copy of CEJ's referral document.
- Make your own notes and observations about the interview. Please include a note for each interview in which you describe your own perceptions.

ANNEXURE II: LIST OF INSTITUTIONS APPROACHED FOR STUDY

1. Commission to Investigate Allegations of Bribery or Corruption (CIABOC)
2. Sri Lanka Police Bureau for the Prevention of Abuse of Children and Women
3. National Authority for the Protection of Victims of Crime and Witnesses

ANNEXURE III: OVERVIEW OF INTERVIEWS AND FOCUS GROUP DISCUSSIONS

	Central	Western	Uva	Southern	Sabaragamuwa
In-depth Interviews	7	4		5	3
Focus Group Discussions	1	1	1	1	1

IN-DEPTH INTERVIEWS

No	Pseudonym	Summary	Alleged Perpetrator	Favour Offered/ Trigger Incident
CS 01 Kandy, Central Province	Ramani	40-50 aged woman, rural Widow, mother	Male Lawyer	Seeking legal advice due to land dispute within the extended family
CS 02 Hatton, Central Province	Seetha	40-50 aged woman, rural, mother, husband ill	Male Nurse	Extra care provided to husband while receiving in hospital care
CS 03 Matale, Central Province	Lalitha	[not given] Married, mother, incident occurred when husband working overseas	Male Police Officer	Due to police complaint about daughter failing to return home
CS 04 Matale, Central Province	Rani	20-30, Woman, Home maker	Male Hospital Attendant	Obtaining a number for clinical consultation at the hospital for mother
CS 05 Gampola, Central Province	Manori	20-30, woman, home maker	Male Police Officer	Obtaining bail for remanded husband
CS 06 Kandy, Central Province	Malani	30-34, woman, home maker	Male Hospital Attendant	Obtaining an early appointment for clinical consultation at the hospital for mother
CS 07 Matale, Central Province	Jeeva	40-50, woman, owners of a small tea plantation	Male Police Officer	Making a police complaint in order to replace lost identity card

No	Pseudonym	Summary	Alleged Perpetrator	Favour Offered/ Trigger Incident
CS 08 Sabaragamuwa Province	Jayani	Woman	Male lawyer	Seeking legal representation regarding a land dispute which gave rise to the need to obtain bail
CS 09 Ratnapura, Sabaragamuwa Province	Rupa	30-40, woman, mother	Male Lawyer	Seeking legal representation regarding a land dispute
CS 10 Sabaragamuwa Province	Farah	50-40, woman, mother	Male Police Officer	Law enforcement in divorce proceedings
CS 11 Hambantota, Southern Province	Lakshmi	School Student	Male Doctor	Seeking medical advice
CS 12 Hambantota, Southern Province	Gayani	Woman, mother	Male Prison Officer	Seeking visiting rights to remanded husband
CS 13 Matara, Southern Province	Iromi	Woman with physical disabilities	Male Public Officer in Health Sector	Seeking to prevent transfer
CS 14 Hambantota, Southern Province	Priya	Woman, medical student	Supervising Doctor	Seeking recommendation for hostel facilities during training
CS 15 Galle, Southern Province	Jeya	Woman, migrant domestic worker	Male Police Officer	Obtaining approval for Family Benefit Report prior to departure for migrant work
CS 16 Colombo, Western Province	Nuzrath	Transgender, sex worker	Male Police Officers	To refrain from pressing charges, to release from custody
CS 17 Gampaha, Western Province	Jenny	Woman, sex worker, mother	Male Police Officers	To release husband from custody
CS 18 Colombo, Western Province	Rita	Transgender, 20-30, sex worker	Male Hospital attendant	To provide a pass illegally
CS 19 Colombo, Western Province	Wathsala	Transgender 20-30	Male Police Officers	To refrain from pressing charges, to release from custody

KEY INFORMANT INTERVIEWEES

	Sector	Designation	Gender	Level
KII 01	Health	Consultant Psychiatrist	Male	National
KII 02	Health	Postgraduate Medical Trainee	Male	National
KII 03	Health	Medical Doctor and Academic	Male	National
KII 04	Health	Public Health Midwife	Female	Regional
KII 05	Health	Retired Nurse and Academic	Female	Regional
KII 06	Health	Public Health Midwife	Female	Regional
KII 07	Justice	Chief Inspector of Police	Female	National
KII 08	Justice	Officer of the National Authority for the Protection of Victims of Crime and Witnesses	Female	National
KII 09	Justice	Legal Practitioner	Female	Regional
KII 10	Justice	Officer of CIABOC	Female	National
KII 11	Justice	Police Inspector	Female	Regional
KII 12	Justice	Legal Practitioner	Female	Regional

FOCUS GROUP DISCUSSIONS

FGD	No of Participants	By Gender	Locations	Type of employment
01	10	Female	Southern Province	N/A
02	10	Female and Transgender	Western Province	Sex workers
03	10	Female	Sabaragamuwa Province	N/A
04	09	Female	Central Province	N/A
05	10	Female	Uva Province	N/A

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CENTRE FOR EQUALITY AND JUSTICE

16/1, Maurice Place, Colombo 05, Sri Lanka.

Tel/Fax: +94 11 2055404

www.cejsrilanka.org | srilanka.cej@gmail.com

 /CEJ.SL

 /cej_srilanka

 /CEJ_SriLanka

 /@CEJSriLanka

ISBN 9786245847174



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