

## Call for Law and Policy Reforms to Prevent and Address Sexual Bribery in Sri Lanka

*9th December 2022, Colombo, Sri Lanka*

On International Day for Anti-Corruption, the Centre for Equality and Justice (CEJ) with like-minded organisations and individuals, draws attention to the issue of sexual bribery and its concerning impact on individuals, and society at large.

We, as part of our continuing advocacy for the amendment of laws and policies to prevent and address sexual bribery in Sri Lanka appeal to the international community and United Nations mechanisms, particularly the UN Treaty Bodies and Special Procedures, to support us in our endeavour.

Bribery and corruption are deep-rooted issues in Sri Lanka that have plagued the country, and its citizens. 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. According to the 'Global Corruption Barometer 2019 Sri Lanka' over 60% had first-hand experience with demands for sexual bribes or knew of persons who had that experience. Corruption has been a cancer drastically stalling the national economy. It has also led to the violation of individual rights and human dignity as evinced by studies conducted by the CEJ regarding the impact of sexual bribery on the lives of women and LGBTQI persons in particular.

Sexual bribery has been defined as "the abuse of power to obtain a sexual benefit or advantage. It is a form of corruption in which sex, rather than money, is the currency of the bribe." Sexual bribery differs from other forms of abuse such as sexual harassment in that sexual harassment does not carry a corruption component whereas sexual bribery consists of both sexual abuse and a corruption component. Further, sexual bribery has three dimensions an act of corruption, human rights violation, and a crime. Sexual bribery violates multiple human rights including the right to bodily integrity, equality, right to privacy, and the right to a remedy. Sexual bribery extorted in the context of employment, in accessing essential services and interacting with state officials, can also lead to an infringement of the right to engage in productive employment, the right to access health care, and even the right to life. In violating the safety and dignity of the individual person, sexual bribery also amounts to a criminal offence, and is further exacerbated when it is used as a tool to prevent the due process of law and procedure, obstruct the administration of justice and the carrying out of public functions. As mentioned above, it evidently amounts to corruption as 'sex, rather than money, is the currency of the bribe'.

In Sri Lanka, sexual bribery often preys upon the vulnerable segments of the community, including women and members of the LGBTQI community. Particularly, female heads of households, such as war-affected women and military widows are rendered vulnerable as the perpetrators are well aware of their economic precarity. Limited education prevents them from securing sustainable forms of employment, they are often in debt, and bear the burden of having to support several family members.

LGBTQI persons are also particularly vulnerable since they do not have equal protection under the law.

Perpetrators of sexual bribery wield economic power or influence over the victim-survivors, and exploit this position of power. Such perpetrators, who mostly constitute men as per several studies conducted by CEJ, range from state or quasi-state actors to humanitarian workers and religious leaders. In Sri Lanka, several essential services such as health and education are provided by the state, resulting in high levels of individual interactions with the state. Studies have shown more than 50% of female respondents stating that they have experienced bribery or corruption and that victim-survivors do not see the law, legal institutions, or its personnel as defending their rights, but instead view them as perpetrators.

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In Sri Lanka, relevant legislation including the Bribery Act of 1954 and the Penal Code have yet not succeeded in addressing some of the lacunae in the law with regard to sexual bribery. **Firstly**, the current legal regime does not recognize a separate offence of sexual bribery. Instead, it is subsumed into the broader offence of bribery and/or gratification. **Secondly**, the law penalizes bribery in two main parts – (1) the act of offering any gratification/bribe as an inducement for the performance (or non-performance) of a particular task, and (2) a public officer soliciting or accepting any gratification/bribe as an inducement for the performance (or non-performance) of a particular task. The same two-part offence is applied to sexual bribery. This would hence place any woman/LGBTQI person who acquiesced to the demand for sexual bribes at risk of prosecution and not factor in the power imbalance between perpetrator and victim-survivor, or element of coercion in such instances. Further, this does not take into consideration the sexual nature of the offence and its violation of bodily integrity and human dignity. **Thirdly**, the law also fails to take cognizance of newer ways in which sexual bribery may be elicited, such as through digital or social media, including through sextortion. These shortfalls and other considerations regarding the elements of sexual bribery have not been adequately addressed in the most recent attempt to reform anti-corruption laws through the proposed introduction of the Anti-Corruption Act in November 2022 in Sri Lanka.

Robust legal remedies and precise, well-defined laws are essential, especially as victim-survivors of sexual bribery face several other challenges apart from inadequate legal provisions, to vindicate their case. In a patriarchal society such as Sri Lanka, victim-survivors who are

women/LGBTQI persons face stigma, are subjected to psychological forms of pressure in most instances which contributes to their invisibility. They also face the threat of reprisals from perpetrators. Psycho-social support mechanisms are also limited and the stigma attached to accessing mental health services compounded by the stigma attached to reporting sexual violence prevents women/LGBTQI persons from accessing even the limited services that exist.

## **Recommendations**

In light of the above, we call upon the international community and the United Nations to:

- (a) Include an express provision addressing sexual bribery in the UN Convention Against Corruption;
- (b) Ensure that relevant United Nations Treaty Bodies and Special Procedures focus on the issue of sexual bribery in their country engagements with Sri Lanka;
- (c) Urge the Government of Sri Lanka (GoSL) to adopt enabling legislation to give domestic legal effect to the UN Convention Against Corruption whilst including provisions that comprehensively address sexual bribery factoring in elements such as gender-based violations, coercion and violation of bodily integrity;
- (d) Urge the GoSL to amend the relevant Sri Lankan laws pertaining to the offence of bribery including the Bribery Act, Penal Code and the CIABOC (Commission to Investigate Allegations of Bribery or Corruption) Act, No. 19, of 1994.  
When drafting a new law or introducing a specific offence of sexual bribery, it is essential to decriminalize the offering of and/or acquiescing to a sexual bribe, it is immaterial whether such sexual bribery or gratification was actually realized in practice, sexual bribery committed by both a person in authority, and a person holding out to be in authority (but in reality lacking such authority) should be criminalized. Further, sexual forms of bribery should also be recognized as a stand-alone offence and not grouped with monetary or other acts of bribery, should carry its own sentencing and/or punishment, and should include the necessity of paying compensation.
- (e) Urge the GoSL and put in place mechanisms to ensure the safety, wellbeing and dignity of the victim-survivor such as by protecting the identity of the victim-survivor;
- (f) Urge the GoSL and the private sector to establish institutional codes of conduct and/or revise the Establishment Code coupled with effective internal complaint mechanisms to enforce a zero-tolerance policy on sexual bribery in both the state and non-state sectors;
- (g) Ensure that the formulation of all international and local policies to prevent, investigate, prosecute and remedy sexual bribery is done with the participation of all stakeholders, including, in particular, women and members of the LGBTQI community.