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Deficiencies Within Guatemalan Criminal Justice Institutions When Detecting and Prosecuting Sextortion Crimes

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**DEFICIENCIES WITHIN GUATEMALAN CRIMINAL JUSTICE INSTITUTIONS
WHEN DETECTING AND PROSECUTING SEXTORTION CRIMES**

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ABSTRACT

Sextortion is a form of corruption involving sexual exploitation, in which requests for monetary bribes are replaced by requests for sexual acts. Within Latin America, this crime is especially pertinent in Guatemala. Therefore, this study aims to identify which factors contribute to the occurrence of sextortion within Guatemala, while also analyzing the larger realm of violence against women. Based on semi-structured interviews with local experts and civil society activists, this study argues that sextortion is enabled by deficiencies within Guatemalan criminal justice institutions when detecting and prosecuting this crime. In order to effectively counter sextortion, more emphasis needs to be placed on bridging the gaps in legislation that fail to comprehensively criminalize sextortion, addressing barriers faced by victims when reporting the crime, eradicating the patriarchal ideology of the *machista* culture, increasing societal awareness regarding this crime, and providing sufficient resources and cadres for victims, law enforcement agents, judges, and civil society organizations.

Keywords: sextortion, corruption, Guatemala, violence against women

INTRODUCTION

Given the unique nature of sextortion, or a form of corruption involving sexual exploitation (Hendry et al., 2015, p. 9), there are multiple deficiencies within criminal justice institutions when addressing the crime. Many judiciary systems are “burdened by citizen demands” (Cavanagh and Sarat, 1980, p. 371) and lack the necessary resources to effectively deliver services (Bonanno, 2019, p. 136). Criminal justice institutions also fail to deliver services by only being accessible to certain groups, and therefore ostracizing other segments of the population (Beck, 2021, p. 27). This inaccessibility is often attributed to a lack of resources (Beck, 2021, p. 23). Some also argue that criminal justice institutions lack the institutional competence to effectively address the wide range of topics and questions that may arise (Cavanagh and Sarat, 1980, p. 372). Other criminal justice institutions lack support from government entities or administrations, making it increasingly difficult for the institutions to receive the appropriate funding (Beck and Stephen, 2021, p. 754).

Within the context of Guatemala, criminal justice institutions experience deficiencies when detecting and prosecuting sextortion crimes due to a lack of legislation explicitly addressing sextortion, barriers to reporting the crime, and a general deficit in knowledge regarding crimes against women due to limited funding, *machista* culture, and a poor organizational structure.

Sextortion occurs within both developed and developing countries (Feigenblatt, 2020, p. 2). It can be seen when women migrants and refugees are coerced by officials into providing sexual bribes for shelter, food, or water (Feigenblatt, 2020, p. 2). It also occurs within educational institutions when students are denied high grades unless they comply with their teachers’ sexual demands (Feigenblatt, 2020, p. 2). Additionally, in different countries,

sextortion is more prevalent within different sectors. For example, in Argentina, sextortion is a notable issue within the police force (Hendry et al., 2015, p. 33); officers may withhold services until their sexual demands are met. Contrastingly, in Mexico, sextortion is more typically seen among public officials (Hendry et al., 2015, p. 117); they may refuse to offer assistance or grant access to resources unless they receive a sexual act in return. In Rwanda, sextortion is more prevalent within the education sector and at the workplace (Mumporeze, Han-Jin, and Nduhura, 2019, p. 121). Since women make up the majority of victims of sextortion (Hendry et al., 2015, p. 9), it is necessary to adopt a gendered approach in order to fully grasp the extent of the issue.

Given the sexual and psychological violence that can ensue as a result of sextortion, it also ties back to the broader category of violence against women (VAW). VAW impacts women internationally and continues to hinder gender equality, security, and dignity. Until all aspects of VAW, including sextortion, are addressed from cultural, sociological, judicial, and legislative perspectives, gender equality will not be achieved.

The crime of sextortion does not have a specific name in most legal systems and the majority of legislations lack sanctioning mechanisms (Hlongwane, 2017, p. 8). Since sextortion is not explicitly criminalized, prosecuting perpetrators is increasingly difficult. Therefore, scholars argue that sextortion ought to be formally classified as sexual corruption (Hlongwane, 2017, p. 18). Although sextortion can occasionally be prosecuted under other laws, such as sexual harassment or corruption laws, these laws are not always applicable given the specific nature of sextortion (Feigenblatt, 2020, p. 25). Consequently, the current legal frameworks are “an imprecise fit and a patchwork of potentially applicable laws that might reach some, but not all sextortion conduct, leaving gaps that contribute to impunity” (Feigenblatt, 2020, p. 25).

Therefore, it is important to understand the types of deficiencies within the criminal justice systems and how they impact the ability of criminal justice institutions to respond to sextortion. This point raises the following question: *What are the deficiencies in Guatemalan criminal justice institutions when detecting and prosecuting sextortion crimes?* In an effort to address this research question, the study includes a literature review discussing the concept of sextortion, why institutions fail, the typology of deficiencies, and sextortion within the context of criminal justice institutions. Following the literature review is a description of the methodology, a background analysis of the topic, and an analysis of the data collected from interviews. After further discussing the findings, the conclusion articulates the key points and contributions of this study.

LITERATURE REVIEW

Sextortion

Sextortion is a type of corruption in which the currency of the bribe is sexual acts (Hendry et al., 2015, p. 19). The sexual component is marked by either an implicit or explicit request for unwanted sexual activity (Hendry et al., 2015, p. 19). The corruption component states that the person demanding the sexual favor must abuse his position of authority for his own personal gain. The three features of the corruption component include an abuse of authority, quid pro quo, and psychological coercion (Hendry et al., 2015, p. 19-20). The abuse of authority refers to instances where the perpetrator abuses his position of power for the purpose of receiving a personal benefit. Quid pro quo pertains to the demand for a sexual favor in exchange for a benefit that would otherwise be withheld. Psychological coercion refers to the coercive pressure placed on the victim by the perpetrator. Notably, due to the unequal power balance between the two parties, the perpetrator automatically exhumes coercive power (Hendry et al.,

2015, p. 20). Additionally, sextortion is not only limited to sexual relationships; it can also encompass posing for sexual photos, exposing private parts, and inappropriate touching (Hlongwane, 2017, p. 8-9). Victims of sextortion are typically women, but a wide range of individuals are affected, including children, vulnerable individuals (such as undocumented migrants), and even well-established professionals (Feigenblatt, 2020, p. 2). Contrastingly, the perpetrators are typically men holding positions of authority (Hlongwane, 2017, p. 10).

In 2008, the International Association of Women Judges coined the term “sextortion” after judges from around the world reported seeing a seldom discussed type of corruption (Feigenblatt, 2020, p. 7). In labeling this type of corruption, they hoped to name, shame, and end sextortion by addressing the abuse of power for sexual exploitation (Yusuph, 2016, p. 57). Sextortion continues to be a practice and point of concern within government services, educational institutions, places of employment, and the marketplace (Hendry, 2021, p. 315). In Latin America alone, 71% of people believe sextortion occurs at least occasionally (Feigenblatt, 2020, p. 12). As a result, the upward mobility of women is hindered since their access to public services is jeopardized by corrupt officials demanding sexual acts and behaviors. Not only is sextortion a violation of human rights, but it also hinders sustainable development (Eldén et al., 2020, p. 1); sextortion has the potential to limit economic growth and increase poverty and income inequalities (Mumporeze, Han-Jin, & Nduhura, 2019, p. 134).

Sextortion has also expanded to digital spaces, increasing the potential victimization of individuals all over the world (O’Malley and Holt, 2022, p. 258). Within the context of cyber sextortion, the perpetrator threatens to distribute sexual, intimate materials or images unless the victim complies with their demands (O’Malley and Holt, 2022, p. 258). Although this study does not focus on sextortion within online or digital spaces, it is necessary to acknowledge the

widespread nature of the crime in order to showcase the urgency and pressing nature of the issue. Notably, sextortion is a relatively under researched phenomenon since it has only been termed within the past 13 years, after the International Association of Women Judges recognized the occurrence of this seldom discussed type of corruption on a global scale (Feigenblatt, 2020, p. 7). More emphasis must be placed on this subject area and more research is needed on both regional and international scales.

Why Institutions Fail

Both the success and failure of institutions are reflective of a range of local, historical, anthropological, and sociological factors (Bonanno, 2019, p. 118). In many countries, the presence of weak institutions cultivates an environment rife for corruption, which restricts economic growth and development (Estrada, Staniewsk, and Ndoma, 2017, p. 1138). As a result, low income, infrastructural decay, and egregious poverty have been linked to corruption (Estrada, Staniewsk, and Ndoma, 2017, p. 1138). However, there are multiple theories as to why institutions fail.

Institutional failure can encompass policy, regulatory, and government failure (Derwort, Jager, and Newig, 2018, p. 281). One theory suggests that the process of delegitimation can result in institutional failure if private governance systems are deprived of the crucial resources required to accomplish their goals. Schleifer and Bloomfield argue that the presence of both inhospitable institutional environments and poorly executed legitimation strategies ultimately cause delegitimation and institutional failure (2015, p. I). Therefore, state institutions may fail if they are not receiving the necessary resources and support from the government. The lack of support then hinders the success of the institution and creates an inhospitable environment in which the desired goals cannot be accomplished, ultimately leading to failure.

In an analysis of why legal institutions in Asia fail to protect the human rights of vulnerable individuals, Cheesman and Fernando reference the institutionalism of task responsibility (2019, p. 2019). They argue that the Asian legal institutions do not view it as their job to ensure the preservation of the vulnerable individuals' human rights. Instead, they want and require an institutionalized notion of "task responsibility" that clearly outlines their obligations (2019, p. 2019). Since they are not explicitly obligated to address the issue, they will fail to do so given that it is not technically their responsibility.

There are also micro-level causes of institutional failure that occur due to individual actors, such as administrators or policy makers (Derwort, Jager, and Newig, 2018, p. 287). These types of failures can be attributed to political actors prioritizing personal interests or taking part in corruption (Derwort, Jager, and Newig, 2018, p. 287). However, not all instances of micro-level failures are intentional. Unintentional failures can also occur when individual bureaucrats lack expertise, competence, or foresight (Derwort, Jager, and Newig, 2018, p. 287). Therefore, it is important to analyze the individual actors who hold power and influence over institutions, along with their intent, decision-making, and qualifications.

Institutions may also fail due to the inefficient use of resources as a result of a lack of incentive (Derwort, Jager, and Newig, 2018, p. 287). Consequently, there is a low morale among the employees of the institution and poor management and performance (Derwort, Jager, and Newig, 2018, p. 287). This type of institutional failure often results in a lack of financial resources, deficient feedback mechanisms, a weak or nonexistent system of checks and balances, and a limited capacity to design and enforce policies (Derwort, Jager, and Newig, 2018, p. 287). The lack of incentive to efficiently run institutions leads to their downfall since the improper use of resources weakens the overall foundation.

Some institutions fail due to a flawed design that puts them at a disadvantage from the moment of creation. During the design negotiations, compromises are made that can result in flawed rules (Prakash and Potoski, 2016, p. 118). Rather than acknowledge the shortcomings, the consensus is that “imperfect rules are better than nothing” (Prakash and Potoski, 2016, p. 118). Therefore, failing to abide by the appropriate design principles leads institutions to underperform, and ultimately fail (Prakash and Potoski, 2016, p. 118).

In addition to design compromises, failure within institutions can also be caused by the creators’ lack of information regarding the preferences and desired resources of those who will be benefitting from the institution (Prakash and Potoski, 2016, p. 119). By failing to center the voices of the constituents, institutions are built upon their perceived needs, rather than their actual needs. As a result, some of the most pressing issues individuals face do not match the institutions that were created to govern them (Kettl, 2008, p. 25). Not only does this approach limit the purpose and effectiveness of institutions, but it may also deter individuals from taking advantage of them since they were not created with their interests in mind.

Rothstein and Uslaner introduce a new perspective by arguing that the quality of government institutions is reliant on the social trust within a community. Therefore, the higher degree of social trust within a local community, the higher the quality of government institutions (Bonanno, 2019, p. 136). When citizens only have trust in their families or social groups, as opposed to the community as a whole, they are less eager to contribute to the general public and may be deterred from paying taxes and engaging in social and political initiatives aimed at improving the quality of government (Bonanno, 2019, p. 136). As a result, more individuals depend on free-riding. Consequently, public authorities lack the resources and incentives to enforce policies, creating a vicious cycle (Bonanno, 2019, p. 136).

Outside factors, or macro-level causes, can also contribute to the failure of institutions (Derwort, Jager, and Newig, 2018, p. 287). Therefore, environmental, societal, and economic circumstances must also be considered (Derwort, Jager, and Newig, 2018, p. 287). Events such as natural disasters, or the breakdown of infrastructures, can threaten national security and lead to social unrest, negatively impacting institutions (Derwort, Jager, and Newig, 2018, p. 288). These types of occurrences can result in a set of challenges that existing institutions cannot cope with (Prakash and Potoski, 2016, p. 119). When institutions attempt to address issues they were not built to address, it contributes to their demise since they lack the necessary resources and background knowledge.

Typology of Deficiencies

There are various types of deficiencies within criminal justice institutions that have the potential to hinder their overall effectiveness. One deficiency is high attrition rates (Shaw, Dijk, and Rhomberg, 2003, p. 54). Attrition rates can be measured at a range of points, including the number of police-recorded cases of serious crimes which are actually prosecuted. Another point of measure could be how many recorded or prosecuted cases are convicted (Shaw, Dijk, and Rhomberg, 2003, p. 52). Based on these examples, jurisdictions in which reported cases have a low chance of prosecution or conviction are classified as having high attrition rates (Shaw, Dijk, and Rhomberg, 2003, p. 54).

Another deficiency is a low number of personnel and resources in relation to the number of inhabitants per police officer and per capita figures for judges and magistrates (Shaw, Dijk, and Rhomberg, 2003, p. 55). A lack of funding or low expenditure on the police, prosecution services and courts can also cause a deficiency within criminal justice institutions (Shaw, Dijk, and Rhomberg, 2003, p. 59). Additionally, unfair procedures deployed by the police can also

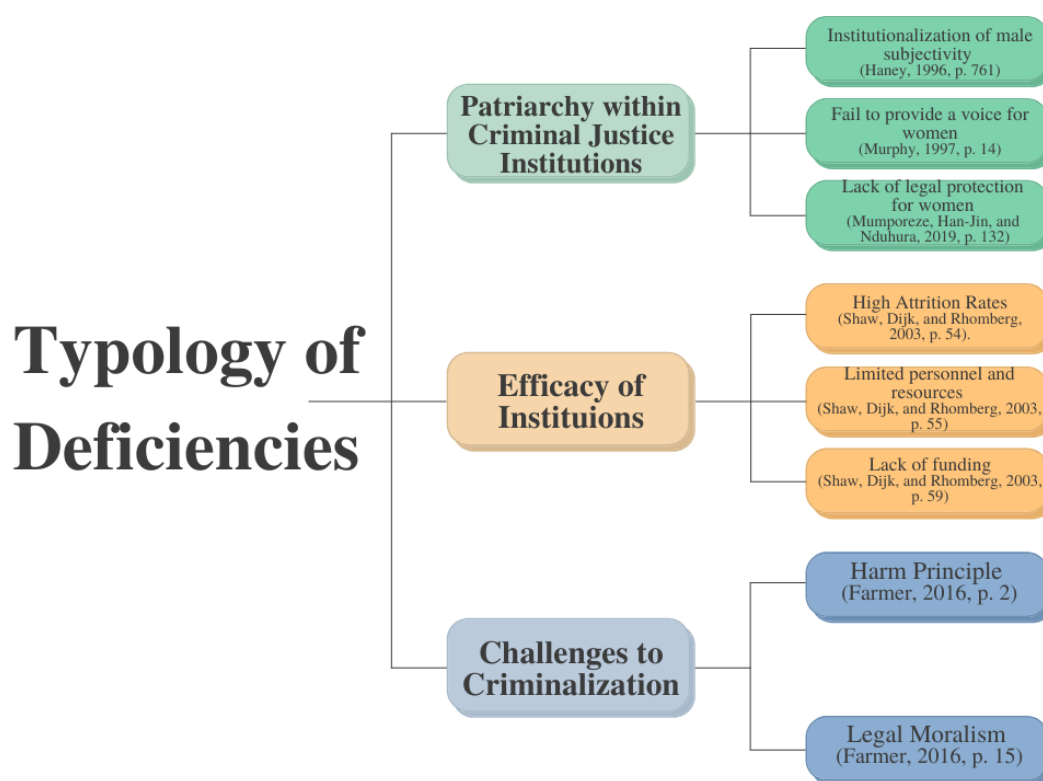
lead to negative interactions between the police and the public (Pryce and Wilson, 2020, p. 1287), hindering the effectiveness of the police by reducing trust and cooperation.

Patriarchy within criminal justice institutions also serves as a deficiency, especially in the context of gender-based crimes. States inevitably play a role in the formation and maintenance of gendered power relations (Einspahr, 2010, p. 14). Some feminist theorists argue that the viewpoint of the state and its institutions is essentially male; the state is the institutionalization of male subjectivity. Therefore, state laws and policies establish a social order that prioritizes the interest of men as a gender (Haney, 1996, p. 761). As a result, patriarchy continues to function as a structure of domination and allows for men's exploitation of women (Einspahr, 2010, p. 12).

Criminal justice institutions are not immune to the domination of patriarchy and often fail to rise above gender bias by not providing a voice for women as a whole (Murphy, 1997, p. 14). Therefore, reform within these institutions is increasingly difficult due to social and cultural biases that continue to deny women the "fundamental credibility and value when they arrive at the table of justice" (Murphy, 1997, p. 15). Some feminism studies argue that gender issues, such as sextortion, are rooted in an absence of legal protection for women (Mumporeze, Han-Jin, and Nduhura, 2019, p. 132). Notably, unequal legal protections continue to disadvantage women in the legal system. For example, corruption complaints filed by women are more likely to be dismissed compared to those filed by men (Feigenblatt, 2020, p. 30). To fully grasp the relationship between gender and criminal justice institutions, it is necessary to adopt a gendered perspective that acknowledges the role of women within patriarchal systems.

Another deficiency is the challenges that emerge during the process of criminalization. For example, the harm principle states that the only justification for intervention via criminal law is to prevent harm to others (Farmer, 2016, p. 2). Crimes are also typically viewed as a public

wrong; it is in the interest of the community to not only condemn the act, but to also hold the perpetrators accountable (Farmer, 2016, p. 13). Since sextortion can cause physical, psychological, emotional, and sexual harm to women, the criminalization of sextortion can be justified by the harm principle. Legal moralism, contrastingly, is centered around the idea of wrongdoing. Supporters of this theory argue that the state could not justify the punishment of a person unless their conduct was morally wrong (Farmer, 2016, p. 15). The application of this theory is challenging since interpretations of what is morally wrong are subjective in nature. This concept is particularly difficult to apply to sextortion since some regions have normalized forms of VAW. As a result, not everyone agrees that the practice is “morally wrong”.



Legislation

Given the unique classification of sextortion and its intersection with both corruption and sexual exploitation, it is increasingly difficult to design laws and legislation that directly target

and address sextortion. Consequently, sextortion may be prosecuted under laws that address abuse of power and corruption or under laws that focus on gender-based violence (GBV) and sexual harassment (Eldén et al., 2020, p. 46). However, given the complex components of sextortion, it is difficult to classify it under the umbrella of other laws.

One of the main issues is the “consent” component of sextortion; this factor prevents some jurisdictions from prosecuting the crime as a sexual offense (Hendry et al., 2015, p. 21). Additionally, sexual harassment laws can be limited in employment settings and exclude criminal penalties, instead focusing solely on administrative or civil penalties (Hendry et al., 2015, p. 23). As a result, sexual harassment laws have the potential to protect employees, but not public-service users (Feigenblatt, 2020, p. 25). The “consensual” component also limits the applicability of rape charges since many rape laws rely on the lack of consent (Hlongwane, 2017, p. 17). Due to these legislative limitations, some have attempted to prosecute sextortion under GBV laws. However, these types of laws may only recognize physical forms of coercion, and overlook psychological coercion (Feigenblatt, 2020, p. 3).

Contrastingly, anti-corruption laws often emphasize embezzlement and bribery, as opposed to sexual misconduct (Hendry et al., 2015, p. 21). In roughly one third of countries studied, anti-corruption laws focused strictly on property gains and financial bribes, meaning sexual requests could not be prosecuted under the legislation (Feigenblatt, 2020, p. 25). However, some jurisdictions, such as the United Kingdom, Canada, Taiwan, Australia, and Kenya, have successfully prosecuted sextortion under anti-corruption statutes (Feigenblatt, 2020, p. 28).

Few countries have taken legislative initiative in addressing the crime. For example, in Bosnia and Herzegovina, the abuse of official authority to obtain sexual services is punishable by

three months to five years imprisonment, in accordance with Article 205 of the Criminal Code of the Federation of Bosnia and Herzegovina¹ (Hlongwane, 2017, p. 18). India's Jammu and Kashmir territory was one of the first places to codify sextortion in a specific law. The territory modified the "POSH" Act, which outlaws the sexual harassment of women at work, to also explicitly criminalize bribery involving "sexual favours"² (Feigenblatt, 2020, p. 25).

Additionally, Article 228 of the Criminal Code of the Republic of China³ criminalizes "a person who takes advantage of his authority over another" in order to have sexual intercourse, specifically referencing official, employment, educational and guardianship relationships (Eldén et al, 2020, p. 47). The majority of jurisdictions still lack laws that explicitly criminalize sextortion, complicating the process of identifying and prosecuting sextortion. This legislative shortcoming is likely due to the lack of awareness regarding sextortion. Consequently, it is not viewed as a pressing issue and promoting legislation that explicitly criminalizes it is not prioritized.

Due to gaps regarding the gender and corruption nexus in sexual harassment, corruption, and GBV laws, an official who requests \$10 in exchange for a service is more likely to be prosecuted than if that same official asked for a sexual act, even though the latter request holds

¹ Original 2003, Amended 2017: Article 205 - Sexual Intercourse by Abuse of Position (1) Whosoever induces into sexual intercourse, or sex acts tantamount to sexual intercourse, a person who is in a dependent position in relation to him, due to that person's financial, family, social, health or other circumstances, shall be punished by imprisonment for a term of between three months and three years. (2) Any instructor, educator, guardian, adoptive parent, step-parent or any other person who, by abuse of his status, has sexual intercourse with a juvenile, shall be punished by imprisonment for a term of between six months and five years.

² Original 2013, Amended 2019: Any act or conduct by a person in authority and belonging to one sex which denies or would deny equal opportunity in pursuit of career development or otherwise making the environment at the work place hostile or intimidating to a person belonging to the other sex, only on the ground of such individual providing or refusing sexual favours.

³ Original 1997, Amended 2021: Article 228 - A person who takes advantage of his authority over another who is subject to his supervision, assistance, caring because of family, guardian, tutor, educational, training, benefactor, official, or occupational relationship or a relationship of similar nature to have sexual intercourse with such other shall be sentenced to imprisonment for not less than six months but not more than five years. A person with relationship specified in the preceding paragraph who commits obscene act against such shall be sentenced to imprisonment for not more than three years. An attempt to commit an offense specified in paragraph 1 is punishable.

more psychological and physical consequences for the victim (Feigenblatt, 2020, p. 9). This example confirms that current legal frameworks for sextortion are insufficient and leave gaps for impunity (Feigenblatt, 2020, p. 25). In order to counter the impunity that surrounds sextortion, both domestic and international frameworks must be analyzed.

Reporting Sextortion

There are multiple reasons as to why victims of sextortion are hesitant to report the crime. Oftentimes, victims are unaware they have the right to report sextortion, or they lack the appropriate support mechanisms to do so (Hlongwane, 2017, p. 9). Since most jurisdictions lack laws that explicitly criminalize sextortion, many victims are unsure of how to go about reporting it, or if it is even classified as misconduct (Mumporeze, Han-Jin, and Nduhura, 2019, p. 132). Oftentimes, there are no safe or gender-sensitive reporting mechanisms in place that provide support for the victims, such as psychological and physical health services and legal support (Feigenblatt, 2020, p. 2-3). Victims who do report the crime can also potentially face the risk of prosecution or jail time since some legal frameworks categorize sexual acts as willingly paid bribes (Feigenblatt, 2020, p. 2). Others fear reporting the crime will taint their image in society and feel too embarrassed to discuss their experience (Hlongwane, 2017, p. 9).

Victims of sextortion may also be hesitant to report the crime since instances of sextortion can be found within police forces (Feigenblatt, 2020, p. 13). As a result, the opportunities for justice become limited and the rule of law is undermined (Feigenblatt, 2020, p. 13). For example, in Panama, a 2017 survey of sex workers found that the majority of the women claimed to have been extorted by security forces (Feigenblatt, 2020, p. 13). Consequently, the distrust of the entities and individuals handling reports results in the perception that the crime will not be addressed, deterring victims from reporting sextortion (Feigenblatt, 2020, p. 29).

When individuals do want to report the crime, they often lack proof to support their claims, complicating the process (Feigenblatt, 2020, p. 29). They may also lack the time and money to go through the process of reporting the crime, especially since some offices are not easily accessible (Feigenblatt, 2020, p. 29). Others prefer to report their cases in offices which specialize in gender violence, as opposed to those dealing with corruption (Feigenblatt, 2020, p. 30). This preference is likely due to the fact that when reporting the crime in offices which lack gender-based training, women are more likely to be questioned to the point of harassment (Yusuph, 2016, p. 61). Additionally, reporting mechanisms may not be available in politically unstable countries, or in war zones and areas plagued by natural disasters, making reporting the crime close to impossible (Feigenblatt, 2020, p. 30). It is necessary to acknowledge the factors which contribute to the silence around sextortion since silence over issues of corruption allows for the normalization of corruption, and results in such behavior becoming permissible within institutions (Hlongwane, 2017, p. 9).

Prosecution and the Judicial System

Due to the secretive nature of the crime, it is difficult to obtain any form of evidence proving sextortion has occurred (Hlongwane, 2017, p. 9). Since sextortion often occurs during informal meetings, it can be challenging to obtain a video or audio recording, especially since they are private interactions. (Hlongwane, 2017, p. 10). When images, videos, and audio recordings are unavailable, the only other potential source of evidence is if the perpetrator is caught in the act (Yusuph, 2016, p. 61). However, most victims cannot gather this type of evidence, and witnesses to the crime are often hesitant to come forward due to a lack of whistleblower protections (Feigenblatt, 2020, p. 31). Additionally, some cases are either

dismissed or ignored because authorities are unsure of how to process them and cannot find laws that explicitly enable the initiation of a disciplinary proceeding (Feigenblatt, 2020, p. 28).

There are also reports of sextortion occurring within judiciary systems, making it difficult for victims to access justice (Feigenblatt, 2020, p. 13). As a result, lawyers are hesitant to represent victims, fearing that doing so would have an adverse effect on their careers (Feigenblatt, 2020, p. 13). Corruption within court systems further complicates prosecuting sextortion since the perpetrators may pay bribes so the case against them is ignored and delayed (Yusuph, 2016, p. 61). Even if a case does make it to court and a victim is asked to testify during a proceeding, they must face the psychological impact of doing so. In fact, the majority of female victims of sexual corruption felt the experience to be both distressing and humiliating (Yusuph, 2016, p. 61). Evidently, the private nature of the crime, uncertainty in terms of how to prosecute it, and corruption within judicial systems severely complicate the process of prosecuting sextortion.

Another limiting factor is the organizational structure of court systems. In some jurisdictions, women are forced to navigate a highly intimidating court structure in which their cases are heard in general courtrooms, alongside many other types of cases (Yusuph, 2016, p. 61). Not only must they overcome the unfamiliarity and complexity of court proceedings, but also language barriers (Yusuph, 2016, p. 61). This prospect is more challenging for those unaware of court proceedings, either due to a lack of education or gender roles and norms that prevent them from speaking for themselves (Yusuph, 2016, p. 62). As a result, some court structures are highly inaccessible for victims of sextortion and may deter them from taking legal action against the perpetrators.

METHODOLOGY

Research Question and Hypotheses

This research project seeks to answer the following question: *What are the deficiencies in Guatemalan criminal justice institutions when detecting and prosecuting sextortion crimes?*

The dependent variable is the deficiencies within Guatemalan criminal justice institutions when detecting and prosecuting sextortion crimes. The independent variables include reporting mechanisms, legislation, law enforcement, prosecution, and the court structure. The hypotheses are as follows:

H1: A deficiency of Guatemalan criminal justice institutions when detecting and prosecuting sextortion crimes is the practice of overlooking or disregarding the claims of victims.

H2: A deficiency of Guatemalan criminal justice institutions when detecting and prosecuting sextortion crimes is the failure to provide adequate legal representation.

H3: A deficiency of Guatemalan criminal justice institutions when detecting and prosecuting sextortion crimes is the lack of laws that directly criminalize sextortion.

Theoretical Framework

Given that sextortion is not directly criminalized in Guatemala, it can be argued that criminal justice institutions have deficiencies when detecting and prosecuting the crime because they lack the institutionalized notion of “task responsibility”. Since it is not clearly outlined as one of their obligations, it is not prioritized (Cheesman and Fernando, 2019, p. 2019).

Additionally, Schleifer and Bloomfield argue that the presence of both inhospitable institutional environments and poorly executed legitimization strategies ultimately cause delegitimation and institutional failure (2015, p. 1). In regards to Guatemalan criminal justice institutions, and specifically the specialized VAW courts, many experience understaffing,

underfunding, and a shortage of logistical support (Beck and Stephen, 2021, p. 743). In fact, the Molina administration, from 2012-2015, was openly hostile towards women's nongovernmental organizations (NGOs) and governmental agencies. Not only did Molina withhold portions of the judicial system's budget, but he also took part in a corruption ring that siphoned millions in public funds (Beck and Stephen, 2021, p. 754). Due to the limited funding, the specialized courts could not access crucial resources, resulting in an inhospitable institutional environment. Consequently, public defenders, forensic experts, and public prosecutors who worked on VAW cases quit since their payments were regularly delayed. As a result, the institutions were limited in the hiring and retention of qualified employees, weakening the quality of the investigations and the institution as a whole (Beck and Stephen, 2021, p. 754). The application of this framework explains the dismissal of victims' claims and the failure to provide legal adequate representation.

Methods of data collection

For this study, the data analysis is based on interviews with members of civil society groups/organizations and experts on the topic of sextortion (e.g., civil servants, representatives of nongovernmental organizations addressing sextortion or corruption and gender, legal representatives and attorneys, and journalists). The data for this project was collected using semi-constructed interviews via zoom. Three participants were interviewed throughout March (2022). All participants were working in Guatemala at the time of the interviews.

The interviewees were recruited by making direct contact via email. Some were recommended by professors or other professionals working within the field. Others were contacted after their organizations came up in google searches and publications. Some participants were recommended by other participants. The interviews did not exceed 60 minutes

and the participants were emailed internet-based consent forms prior to the interview. If they had any questions or concerns, they had the option to email the PI prior to the interview. At the start of the interview, there was a conversation via zoom in which the consent form was reviewed and the participant was given the chance to ask additional questions. Participants were also asked to provide oral consent before the start of the interview. A student translator communicated with non-English speaking participants during recruitment by translating the recruitment email when necessary and responding in Spanish when appropriate. The translator also translated the informed consent form and translated during the interviews when necessary. The interview instrument was a set of original questions:

Please state your name and your relation to the crime of sextortion (member of NGO, researcher, activist, etc.).

How does the criminal justice system treat women differently as opposed to men?

How are cases of sextortion typically handled within the criminal justice system?

In what ways do criminal justice institutions in Guatemala fail to detect sextortion?

In what ways do criminal justice institutions in Guatemala fail to prosecute sextortion?

Are there barriers when reporting the crime of sextortion?

The zoom for the interview had a waiting room in the case that an outsider attempted to join the zoom. Additionally, the interviews were conducted in an isolated place to establish a sense of privacy. In order to ensure the confidentiality of participant data, all of the data collected was stored in a password protected folder on the researcher's laptop and only the researcher had access to it. The interviews were recorded via zoom, and the recordings were also saved on the researcher's laptop. The recordings will be deleted three years after the study, in accordance with IRB guidelines.

If the participants consented to the recording of the interview, they could request a copy of the recording afterwards. If the participant chose to edit the recording, they had the option to send back the edited version, which was then transcribed. If the participant chose to erase the recording, then their interview was not used. If the interviewee was not comfortable with the interview being recorded, then detailed notes were taken on the interview instead.

Methods of data analysis

The data was recorded, transcribed, and the key words were identified. The data was analyzed using a thematic content analysis in an effort to establish common patterns across the data set, using the software MAXQDA. The data was then connected back to the research question by identifying common themes within the interview responses.

Limitations

One of the limitations of this research project is the relatively small sample size. Since the participants are located in a different country, it is difficult to contact them and to retain communication. Additionally, individuals are experiencing many stressors in the midst of the COVID-19 pandemic, making finding the time to participate in an interview increasingly difficult. Scheduling an array of interviews was also challenging given the time constraints of this research. As a result, fewer interviews were conducted than what was originally intended. Another limitation regarding the interviews was the use of a translator. Since a third-party translator was used, there is a chance that some of the ideas or concepts may have been lost in translation. The participants were also limited to researchers and experts on sextortion in Guatemala, meaning that the perspective of victims of sextortion was excluded. The zoom interview methodology can also be limiting since the participants, researcher, and translator must all agree on a set time, which can be challenging. This prospect is especially difficult when

participants have limited access to the internet. Additionally, although a Spanish translator was available for the interviews, language limitations may have restricted the range of participants given that some Indigenous people may not speak either English or Spanish. Therefore, only English or Spanish speaking participants could be contacted.

There are also disadvantages regarding the thematic analysis. Although the flexibility provided by this approach facilitates the analysis of qualitative data, it can also result in inconsistency when developing themes. As a result, the themes may not be organized in a concise way and may either be too broad or too specific.

BACKGROUND ANALYSIS

Context

Out of the nations in Latin America and the Caribbean, Guatemala has an especially high rate of sextortion, making it a notable region (Pring, Vrushi, & Peiffer, 2019, p. 21). In fact, 23 percent of citizens experience sextortion or know someone who has (Pring, Vrushi, & Peiffer, 2019, p. 21).

The analysis of Guatemalan criminal justice institutions lays a foundation for further investigation in this subject area, especially given the country's history regarding VAW. During the civil war in Guatemala (*La Violencia*), from 1960-1996, many women were targeted by both militants and insurgent actors (Bay, 2021, p. 374). According to the United Nation's Historical Clarification Commission, or truth commission, acts of genocide were also committed during *La Violencia*, from 1981 to 1983. During this civil war, individuals were trained to commit different types of VAW, including rape, mutilation, torture, and femicide (Bay, 2021, p. 374). Consequently, women made up 50,000 of the victims from *La Violencia* (Bay, 2021, p. 374). From 1981-1983, the specific targeting of Indigenous Peoples resulted in the assaults and murder

of hundreds of Mayan women (Grandin, 2017, p. 1). Evidently, VAW was largely normalized during this time period and was utilized as a weapon of war. In fact, some sociologists believe that some forms of VAW in Guatemala occur at high rates due to the social instability reminiscent of *La Violencia* (Bay, 2021, p. 374).

In addition to Guatemala's history of VAW, it is also necessary to acknowledge the overall state of criminal justice institutions in Guatemala. In 2006, the International Commission against Impunity in Guatemala (CICIG) was established in an effort to counter surreptitious criminal structures and illicit groups (Krylova, 2017, p. 95). Since its formation, CICIG has prosecuted several corrupt politicians, judges, and law enforcement officers. It has also incited reform within Guatemalan legal and judicial institutions (Krylova, 2017, p. 95). One of the most beneficial initiatives of the CICIG has been the implementation of the Witness Protection Program (Krylova, 2017, p. 98). The CICIG initiatives showcase the structural issues within Guatemalan criminal justice institutions. Evidently, criminal justice institutions face deficiencies when addressing an array of crimes, not only the crime of sextortion. However, Guatemala's history of VAW cannot be overlooked when addressing gender-based crimes. Therefore, it is necessary to acknowledge both the state of Guatemala's criminal justice institutions and its history of targeting women on a large scale.

Despite some progress being made, Guatemala is still one of the lower ranking countries in Latin America on the gender equality index, meaning Guatemala experiences gender inequality in various sectors such as education, reproductive rights, employment, and representation (Beck, 2021, p. 22). In addition to gender inequality, corruption is also a state-wide issue. Within Guatemala, at least 90 percent of citizens have reported having little to no trust in governments, policy, and courts (Pring, Vrushi, & Peiffer, 2019, p. 11). Furthermore, 71

percent of citizens believe the office of the president to be either mostly or entirely corrupt (Pring, Vrushi, & Peiffer, 2019, p. 14). These factors cultivate an environment that allows for sextortion and complicates the process of addressing the crime.

Legislation

It was found that both Guatemalan men and women viewed VAW as acceptable under certain circumstances at a higher rate than other populations in the region (Beck and Stephen, 2021, p. 747). Therefore, not everyone may view crimes like sextortion as morally wrong, especially since some forms of VAW have been normalized within society. This factor presents a challenge to the criminalization of sextortion, alongside the other legal challenges that arise from the lack of awareness regarding sextortion.

In regards to domestic laws, Guatemala passed the Law Against Femicide and Other Forms of Violence Against Women or *Ley contra Femicidio y Otras Formas de Violencia contra la Mujer* in 2008:

“The purpose of this law is to guarantee the life, freedom, integrity, dignity, protection and equality of all women before the law...The purpose is to promote and implement provisions aimed at the eradication of physical, psychological, sexual, and economic violence, or any type of coercion against women, guaranteeing them a life free of violence, as stipulated in the Political Constitution of the Republic and international instruments on women's human rights ratified by Guatemala”⁴

In accordance with the law, psychological and emotional violence involve actions that have the potential to cause psychological or emotional damage to a woman or her children. This classification includes threats or violence against her children or relatives, with the end goal

⁴ Decree 22-2008. Congress of the Republic of Guatemala. Articles 14 and 15

being intimidation, control, or diminishing the victim's self-esteem. Sexual violence includes acts of psychological or physical violence that are committed with the intention to violate a woman's sexual integrity and freedom. This type of violence encompasses sexual humiliation and forced prostitution (Law against Femicide and other forms of Violence against Women. Decree 22-2008. Congress of the Republic of Guatemala. Articles 14 and 15). Given the psychological and emotional damage, alongside the sexual violence, that can accompany sextortion, the crime falls under the classification of VAW. Furthermore, the law classified VAW as a crime built upon "unequal power relations between women and men, in social, economic, judicial, political, cultural and familial realms" (Beck, 2021, p. 20). The law also established a range of sentences for each crime, with sentencing for psychological violence ranging from 5-8 years, and the sentence for sexual violence ranging from 5-12 years (Law against Femicide and other forms of Violence against Women. Decree 22-2008. Congress of the Republic of Guatemala. Articles 14 and 15). However, the law does not explicitly mention sextortion, complicating the applicability of the law to the crime.

Other laws that acknowledge the rights of women include the Law for the Dignity and Comprehensive Promotion of Women, which emphasizes the need to remove the social factors that hinder the advancement of women, such as lack of educational opportunities and equality within the workforce (The Guatemala Human Rights Commission/USA, 2009, p. 7). Notably, Guatemala is also a signatory to several international conventions that address violence and discrimination against women. Alongside all other Latin American countries, it is a signatory to the United Nations Convention on the Elimination of all Forms of Discrimination Against Women and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (Drysdale Walsh and Menjívar, 2016, p. 34). Guatemala has also

ratified the International Covenant on Civil and Political Rights (ICCPR) and the American Convention on Human Rights (Bay, 2021, p. 377). Article 2 of the ICCPR acknowledges the “rights recognized in the present Covenant, without distinction of any kind”, including that of sex. Therefore, women cannot be discriminated against solely because of their gender, in accordance with the ICCPR. Article 3 further reinforces this by stating “the States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.” Evidently, women cannot enjoy civil and political rights if they are faced with the obstacle of sextortion when attempting to access public institutions and services. Additionally, Article 5 of the American Convention on Human Rights specifies “Every person has the right to have his physical, mental, and moral integrity respected”. Sextortion arguably violates the overall integrity of women, therefore defying Article 5. Furthermore, Guatemala is also a State party to the International Convention of Economic, Social, and Cultural Rights (ICESCR) (Bay, 2021, p. 377). Article 3 of the ICESCR highlights “the equal right of men and women to the enjoyment of all economic, social and cultural rights”, further emphasizing the standard of gender equality.

These various international laws are especially notable since Article 46 of Guatemala’s Constitution⁵ states that international treaties and conventions have dominance over domestic laws (Bay, 2021, p. 377). However, despite the fact that sextortion defies these laws, the vague language and failure to directly mention sextortion limits their applicability in the court of law. As a result of the gaps between domestic legislation, international treaties, and the practices of state officials, officials on the ground are able to undermine the impact of formal mandates (Beck and Stephen, 2021, p. 747). In response to the discrepancies within the laws, SEPREM (the

⁵ Original 1985, Amended 1993: Article 46 - The general principle that within matters of human rights, the treaties and agreements approved and ratified by Guatemala, have preeminence over the internal law[,] is established.

Presidential Secretariat for Women), was created to strengthen the laws meant to address women's issues (Drysedale Walsh and Menjivar, 2016, p. 35).

Law Enforcement

Given the limited resources and tainted perception of law enforcement within Guatemala, many victims of sextortion are discouraged from reporting the crime. Corruption is clearly a structural issue, as Guatemala is among the top 50 countries regarding high levels of corruption (Espinal and Zhao, 2015, p. 1140). In 2008, two-thirds of individuals surveyed in Guatemala believed their local police to be corrupted by crime (Cruz, 2015, p. 264). Furthermore, in Guatemala, corruption victimization by police officers was found to have reached more than 11% (Cruz, 2015, p. 264). The presence of corruption has also been accompanied by the culture of impunity, allowing for members of law enforcement to act without the fear of consequence.

Due to the “corrupt and repressive” perception of the police (Cruz, 2015, p. 274), many women feel hesitant to report crimes, such as sextortion, which are rooted in corruption. Additionally, many women feel as though they are revictimized when they report crimes or share information with law enforcement (Obinna, 2021, p. 823). In an effort to avoid revictimization, and complications with other aspects of the criminal justice system, they choose not to report crimes involving VAW altogether.

Limited resources also hinder the effectiveness of law enforcement in Guatemala, especially in rural areas. For example, in some cases, the family of the victim must secure resources, such as a car and food for the police, before the police agree to arrest or pursue the suspect (Beck, 2021, p. 21-22). Not only does this place a toll on the victim and their family, but it also limits the efficacy of police.

Prosecution

In addition to the law enforcement, it is also necessary to analyze the prosecution process. Prosecuting sextortion is often difficult due to a lack of witnesses and other evidence (Hendry et al, 2015, p. 29). However, it is not just sextortion that is difficult to prosecute; prosecuting other cases of VAW also continues to be a challenge. Between 2008 and 2017, there were nearly 478,000 cases of VAW registered within the Guatemalan judicial system. Out of these cases, 472,000 were referred to the Public Prosecutor's Office for investigation. Although, only 3.5% of the cases were successfully prosecuted (Pring, Vrushi, & Peiffer, 2019, p. 23).

This low percentage is partially due to the refusal of some government officials to investigate certain cases on the basis of the appearance or attire of the victim (Obinna, 2021, p. 821). There have also been reports of women being turned away by public prosecutors when attempting to report abuse due to a lack of visible injuries or bruises (Beck and Stephen, 2021, p. 757). Additionally, public prosecutors are oftentimes overburdened and need additional pressure to actively pursue investigations. However, this issue is further complicated by the normalization of delays in hearings (Beck, 2021, p. 21). The prosecution process can also be hindered by a lack of resources within some public prosecutor's offices. For example, some locations lack interpreters for all of the department's languages and have limited vehicles and employees, making it difficult to investigate crimes that are geographically dispersed (Beck, 2021, p. 27).

Court Structure

In addition to criminalizing various types of VAW, the passing of the Law Against Femicide and Other Forms of Violence Against Women also mandated the creation of courts with a specific focus on VAW (Beck, 2021, p. 20). In fact, in 2010, Guatemala instituted the Criminal Court for Crimes of Femicide and Other Forms of Violence Against Women, making it the first country to introduce a court specialized in gender-based violence (Beck, 2021, p. 386).

These courts are distinguished, as the judges and police officers receive training specific to gender-based crimes (Beck, 2021, p. 386) at the *Escuela de Estudios Judiciales* (Reynolds, 2012, para. 19). In 2015 alone, these specialized courts were able to hear 3,366 cases (Beck, 2021, p. 386). Notably, within the first ten months, the Criminal Court for Crimes of Femicide and Other Forms of Violence Against Women issued 307 arrest warrants, imposed 846 protective measures for women, and sentenced 125 people for VAW (Beck, 2021, p. 387).

Some argue that the key to the success rate is the emphasis on a gendered perspective, which acknowledges unequal power relations between women and men, misogyny, and discrimination (Reynolds, 2012, para. 17). It is also helpful that the majority of judges in these specialized courts are women, and therefore offer a unique perspective and understanding (Reynolds, 2012, para. 19). Additionally, these courts offer specialized resources in an effort to counter the obstacles women may face when reporting crimes and appearing in court. For example, some of these specialized courts offer day care centers, social workers, and clinics where women can go before hearings to obtain relaxation and counseling therapies; counselors can also accompany victims while they testify (Reynolds, 2012, para. 20). In addition to the 24-hour court in Guatemala City for Violence Against Women and Sexual Exploitation, the law also contributed to the creation of a 24-hour hotline for women in need of support and legal advice (Bay, 2021, p. 386).

In spite of these successes, half of the country's law enforcement and judicial system still lack specific gender-based training (Beck, 2021, p. 386). Additionally, the Criminal Court for Crimes of Femicide and Other Forms of Violence Against Women is located only within Guatemala City. Therefore, women living in rural areas, or even in different cities, cannot easily access the resources and support offered by this court (Beck, 2021, p. 387). Access to resources

is pivotal since the process for filing sextortion complaints is oftentimes unclear for victims, further complicating the procedures of the court system (Hendry et al., 2015, p. 28). This prospect is especially challenging for poor, Indigenous women who are not only forced to overcome social and cultural obstacles, but also geographical and linguistic ones (Beck and Stephen, 2021, p. 756). In fact, some courts have gone as far as ignoring sexual violence cases involving Indigenous and poor or working-class women due to the perception that they lack honor (Beck and Stephen, 2021, p. 746). COVID 19 has also negatively impacted courts within Guatemala and has caused some courts to close. As a result, some hearings have been pushed back as far as 2024 (Beck, 2021, p. 394). Additionally, since the pandemic, the 24-hour hotline has been treated as an emergency call system. However, this resource has limited accessibility since it is only available in Spanish and a few other languages, despite the fact that 24 different languages are spoken throughout Guatemala (Bay, 2021, p. 394). These limiting factors come together to create a “legal system that is a labyrinth of bureaucracy and discrimination” (Drysdale Walsh and Menjívar, 2016, p. 32).

Legal Tolls

Crimes against women are often accompanied by legal tolls that further complicate the process of seeking justice. One such toll is the legal toll of overcoming fear (Drysdale Walsh and Menjívar, 2016, p. 37). This specific toll is marked by a lack of protection for victims and the tendency of police to dismiss VAW, resulting in women being reluctant to report crimes like sextortion (Drysdale Walsh and Menjívar, 2016, p. 40). Due to the relatively small size of Guatemala, it is difficult to conceal the location of victims (Drysdale Walsh and Menjívar, 2016, p. 41). Most people are limited to residing near the location of their employment and cannot risk their livelihood by temporarily relocating, even if it costs their safety (Drysdale Walsh and

Menjívar, 2016, p. 41). If they were to temporarily relocate, witnesses and victims are still especially vulnerable when they are summoned to court since their location can be publicized while they are there (Drysdale Walsh and Menjívar, 2016, p. 41). Notably, the legal toll of overcoming fear is a limiting factor within criminal justice systems in Guatemala that cannot be easily overcome.

The legal toll of time and effort is also a prominent issue. Within Guatemala, the majority of cases are placed *en la caja*, a phrase that represents the typical outcome of cases within the legal system; they are filed and ignored (Drysdale Walsh and Menjívar, 2016, p. 44). In order for the cases to be pursued, victims and their families must constantly pressure the courts to ensure their case is being addressed. However, this task is increasingly difficult for families with limited financial resources, as they cannot rely on an attorney to follow-up on the case and must instead take initiative themselves (Drysdale Walsh and Menjívar, 2016, p. 44). As a result, individuals must take the time to either call or drive to the courthouse. Many courthouses are located in city centers, making the task especially taxing for members of rural Indigenous communities who must travel great lengths to ensure the case is being addressed (Drysdale Walsh and Menjívar, 2016, p. 45). The state agencies that can potentially assist with the court process are also located in Guatemala City, meaning it is often necessary for individuals to stay within the area in order to have access to resources (Drysdale Walsh and Menjívar, 2016, p. 45). However, this procedure is not attainable for low-income individuals who cannot afford time away from work. Additionally, reaching out to state agencies does not automatically ensure victims receive aid (Drysdale Walsh and Menjívar, 2016, p. 46). Therefore, some individuals choose to reduce the legal toll of time and effort by omitting contacting state agencies all together. Although these

specific legal tolls were originally published in relation to the crime of femicide, they can also be applied to sextortion given the overlap in VAW within both crimes.

Despite Guatemala's efforts to better address VAW, there are still structural and legal deficiencies within Guatemalan criminal justice institutions when it comes to detecting and prosecuting the crime of sextortion. In order to counter these gaps, more emphasis needs to be placed on the legal tolls that burden victims, sextortion laws, court procedures, and the efficacy of law enforcement agencies.

FINDINGS

Legislation

During the interviews, one point was repeatedly emphasized: there is no law within Guatemala that explicitly criminalizes sextortion. As a result, prosecutors are forced to use lesser or related charges to justify the investigation and to prosecute the case. Consequently, sextortion is typically prosecuted under the law against femicide and other forms of VAW, or under the law against exploitation. However, this law is more often applied to crimes that occur in the workplace. It may also be prosecuted under sexual aggression or sexual harassment laws. Although sextortion can potentially be categorized under other laws, such as corruption laws, the court systems often have no intent or desire to apply such laws to sextortion. The same sentiment holds true for the application of international laws. However, it was also noted that there are still gaps within international laws regarding sextortion. Despite these legal challenges, congress has not prioritized enacting legislation that explicitly targets sextortion.

Several participants also emphasized legislative limitations specific to addressing sextortion within the context of the workplace. When instances of sextortion occur in the workplace, victims are urged to handle the matter within the workplace, rather than through the

criminal justice system. As a result, perpetrators may face civil penalties from the workplace, but will not face criminal penalties since the case is not heard through the court system.

Reporting Sextortion Crimes

The participants touched on a range of factors that may deter women from reporting the crime of sextortion. One of the most pressing deterrents is geographical limitations. For example, the office within Guatemala City, where victims would typically go to report sextortion crimes, was moved to a conflict zone, or red zone. This change in location dramatically increases the risk for women who want to report the crime and serves as a massive obstacle. Although there are still other offices in other areas, this change renders the Guatemala City office less accessible. Additionally, the services within Guatemala City are very concentrated, meaning there are not enough accessible offices to address sextortion cases. As a result, some argue for the formation of more specialized offices, such as ones that exclusively handle gender-based crimes, so they are more readily accessible. It is also especially difficult for Indigenous women who live in rural areas to access these offices.

Women may also be hesitant to report sextortion due to the stigma that accompanies it. Women who report such crimes are sometimes labeled as problematic for making such reports, which jeopardizes their reputation and deters them from coming forth. Even if women are willing to face the possibility of being stigmatized, others fear the potential of revictimization. It requires a lot of effort and courage for women to report sextortion crimes to judiciary systems, so when their cases are disregarded and unacknowledged, it furthers their revictimization. Additionally, many women fear the potential retaliation they may receive for reporting sextortion and have little confidence that they will be protected since there are no mechanisms for protection in place.

If a woman is able to overcome these obstacles and decides to report sextortion, the process for reporting the crime and filing a complaint can take 8-12 hours since there are many steps involved. One participant emphasized, “sometimes you can go in at 3:00pm and you're getting out at 3:00am just to file a report. Even when you're accompanied by a lawyer, it's still the same thing- it's still taking the same amount of time”. Not only is there limited personnel and a lack of resources, but the victim must also meet with a range of experts, including psychologists, forensic scientists, investigators, and attorneys. As a result, it is a taxing and time-consuming process which many women cannot afford or make the time for.

Lack of Resources

One of the most emphasized deficiencies within Guatemalan criminal justice institutions when detecting and prosecution sextortion was an overall lack of resources. Not only do criminal justice institutions lack resources, but victims of sextortion and civil society as a whole also lack the necessary resources to effectively address the crime.

Under ideal circumstances, victims of sextortion, and other related crimes, receive psychological and legal support when reporting these crimes. However, this model has not been integrated everywhere due to a lack of resources. For example, in certain cases, *reparación digna* is offered, which is a form of compensation for the victim that entails psychological support, financial assistance, and assistance with reintegrating into society. Despite the fact that these services should technically be available, there is a lack of resources, hindering the accessibility and availability of this type of assistance. Many institutions are also short staffed and lack the necessary personnel, such as translators. 42% of the population in Guatemala is Indigenous, and there are at least 23 different languages spoken within Indigenous communities. When institutions lack necessary personnel, Indigenous women cannot access the available resources.

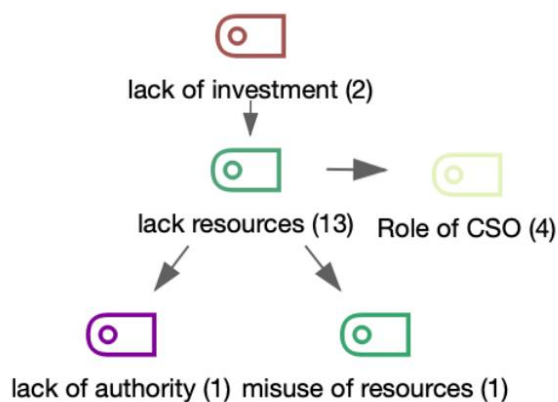
Notably, the public ministry has recently taken initiative in addressing this issue and is planning on implementing an office that has ample language resources, including a range of translators. The office will also have resources for handicapped individuals, including personnel with knowledge of sign language. Although this is still being discussed and has yet to be implemented, it is a step in the right direction given how language limitations hinder accessibility.

Not only do institutions lack resources, but the victims also lack resources given the high degree of poverty in Guatemala. This factor makes reporting sextortion increasingly difficult since women may have to pay for transportation in order to go and report the crime. They may also have to find a place for their children to go in the meantime, or find someone that can watch after them. Additionally, when cases are reported, it can take years for them to be resolved, further discouraging women from taking the time to report the crime. Therefore, women are forced to exert their personal resources, time, and effort to report a crime that may not even be addressed by the criminal justice institutions.

Now that there is an influx in conversation around women's rights, more organizations have emerged to bring awareness to this subject area and address the gender gaps. NGOs and CSOs have attempted to assist with the enforcement of laws in order to push for the acknowledgement of sextortion cases and reduce the revictimization of women. Civil society has taken on the largest role in advocating for women in Guatemala, with some organizations working to provide psychological and legal support. However, civil society is also extremely limited due to their lack of resources.

The participants provided several explanations as to why there is an overall lack of resources. One of the reasons is attributed to sanctions placed by the United States on the

Guatemalan District Attorney, Consuelo Porrás. As a result of the sanctions, the prosecutor's office experienced a decrease in investments. Consequently, funding to issue areas such as anti-corruption initiatives and initiatives targeting VAW, was reduced. Another reason for the lack of resources is that Porrás extended coverage to all 340 municipalities. As a result of the extended coverage, the agencies experienced a decrease in efficiency since the resources and personnel were spread too thin between all of the municipalities. Evidently, the lack of sufficient funding inhibits the functionality of these institutions.

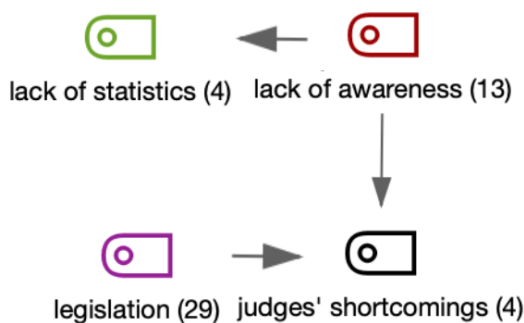


Lack of Awareness

All of the participants also repeatedly emphasized the overall lack of awareness regarding sextortion and other crimes against women, including in both domestic and international contexts. Several participants argued that there is an institutional lack of knowledge regarding both human rights and gender-based crimes. This lack of knowledge is reinforced by insufficient police training, which impacts the approach towards gender-based cases. Prosecutors also lack knowledge of gender-based crimes, like sextortion, limiting their ability to effectively prosecute the crime. Even victims of sextortion lack a knowledge of their rights. The severity of this issue was highlighted by one of the interviewees, an affiliate of an organization that offers courses to public officials in an effort to further their education on gender related issues. Over the past eight

years, the organization has offered three different courses in which they found the lack of understanding these public officials have regarding this subject area to be very worrisome.

One of the participants attributed the lack of awareness regarding gender-based crimes to the educational system, since there is no formal education for children around issues like sexual violence. As a result, individuals grow up being unaware of the rights they are entitled to and are unable to identify when those rights are violated. Due to the overall lack of knowledge, there is a shortage of data regarding sextortion crimes. In turn, the shortage of data furthers the lack of knowledge, creating a cycle of oblivion regarding the true extent of sextortion.



Policing

The current model of policing also plays a role in the way sextortion is addressed. Following the 1996 Peace Agreements in Guatemala, there was a push for police reform and more emphasis was placed on community policing and the prioritization of the protection of human rights. Although there was some progress after the 1996 agreements, it started to stall in 2012. This change was largely due to the election of former president Molina, who supported the militarization of institutions, including law enforcement. In addition to the militarization of the police, there is also a lack of training within police forces, meaning they are ill-equipped when acknowledging issues of human rights and gender-based crimes.

Dismissal of Sextortion Cases

During the interviews, all of the participants brought attention to the regular dismissal of sextortion cases. Oftentimes, when cases are reported, there is no follow up or investigation by authorities. Several of the participants attributed the disregard for sextortion cases to the lack of laws explicitly addressing sextortion. Since the crime cannot be attributed to a specific law, the prosecutors discard the cases rather than trying to apply another legal framework, such as the law against femicide and VAW or anti-corruption laws.

The dismissal of sextortion cases is also reinforced by many judges. One participant explained that judges “have a really rigid mentality where they are sometimes unwilling to even prosecute cases, simply because there's no written law”. Furthermore, some judges do not agree with gender-based laws and feel as though there is no need for them. Generally, judges in Guatemala lack the knowledge of how to handle gender-based crimes since they are not well versed in international laws and human rights laws.

Machista Culture

The participants also continuously referenced the impact of *machista* culture and the patriarchal nature of Guatemalan society. Not only is the legal system categorized as misogynistic, but the misogyny continues to be pervasive at every level of the government. By failing to prioritize women’s rights, the patriarchal society of Guatemala discourages women from reporting sextortion crimes. The ideology of male chauvinism oppresses women and makes them feel as though their claims will not be heard. Consequently, the patriarchal structure allows for men to retain positions of power and continue to make decisions on behalf of women.

As previously mentioned, sextortion within the workplace is particularly difficult to address, especially given that the majority of workplaces are male dominated, automatically placing women at a disadvantage. When sextortion is handled within the workplace, as opposed

to criminal justice institutions, the victim is likely to leave her job if she is having an issue with her superior that could not be resolved. Therefore, the work relationship ends prematurely, rather than running its natural course. As a result, the woman becomes unemployed, which negatively impacts her livelihood. The unemployment rate within Guatemala is very high, while access to opportunities is extremely low, making it all the more difficult for women to access the workforce. The pertinence of patriarchal structures not only place women at a disadvantage, but also limit their ability to access resources that have the potential to place them at an advantage.

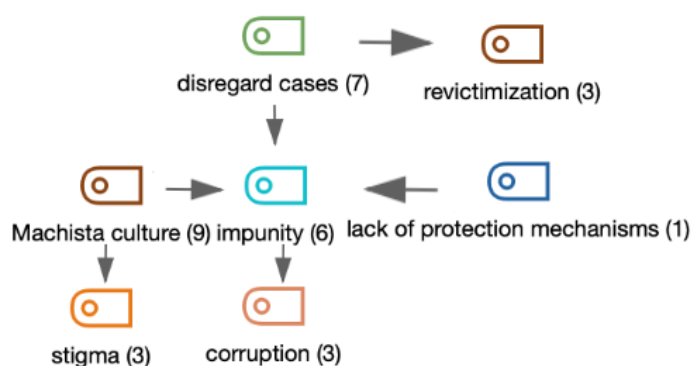
Impunity

The *machista* culture within Guatemala, alongside the dismissal of sextortion cases, has also facilitated a culture of impunity regarding crimes against women. One of the participants emphasized that in relation to crimes of sexual exploitation, the rate of impunity is about 94% in Guatemala. They also emphasized that this rate is especially alarming given that VAW has also increased by 34% within the past year. Notably, there are certain factors which contribute to impunity. For example, when public officials commit sextortion, they have immense impunity due to the extent of their political power. There is also impunity when crimes of sextortion occur within the workplace since criminal justice institutions are hesitant to address workplace issues. Evidently, the failure to acknowledge the crime and recognize the extent of sextortion contributes to the prevailing impunity.

Corruption

Corruption at high levels of the government has also limited the efficacy of state sponsored institutions. For example, institutions, such as *Los Centros de Atención Integral*, which is supposed to provide additional support for women, have been placed in the hands of *el Ministerio de Gobernación*, or the Ministry of the Interior. However, the militarization and

corruption within government institutions hinders the efficacy of *Los Centros de Atención Integral*. The same holds true for the state-run victim institute, which is also viewed as corrupt since it regularly misuses resources. This shortcoming is due to the fact that there is no authority in place within the institutions, meaning there is a lack of regulation. Additionally, corruption has been normalized within certain administrations. Notably, former president Molina is currently imprisoned for extremely high levels of corruption within the government, showcasing the pervasive nature of corruption.



Code System	Interview 3	Interview 2	Interview 1
protection mechanisms			
revictimization			
Guatemalan Society			
militarization			
policing			
geographical limitations			
lack of resources			
role of CSOs			
lack of authority			
corruption			
misuse of resources			
lack of awareness			
Judges			
disregard cases			
lack of investment			
lack of statistics			
Machista culture			
stigma			
impunity			
legislation			

CONCLUSION

Based on the findings of this study, there is an urgent need to explicitly criminalize sextortion in order to facilitate the reporting and prosecution of the crime. Additionally, it is imperative that more awareness is brought to the issue of sextortion so all relevant parties, ranging from victims to judges, are well-versed and familiar with the topic within the context of a patriarchal society. Additionally, reform is needed within criminal justice institutions in order to address the lack of funding, resources, and personnel. As emphasized during one of the interviews, more individuals must take part in the push for legal form, on both a domestic and international scale. In fact, more attention must be brought to the wider category of largely undermined gender-based crimes.

This study has brought attention to the specific barriers that may be encountered by victims when attempting to report sextortion, along with the factors that contribute to the shortcomings within criminal justice institutions in regards to gender-based crimes. Therefore, it highlights which specific areas within criminal justice institutions are most in need of reform. Although this study is focused on Guatemala, sextortion occurs on a global scale, meaning aspects of this study could be generalized to other jurisdictions. By showcasing the severe consequences of a lack of legislation explicitly criminalizing sextortion, this study highlights the urgency of legislative reform and centers the voices of experts and activists who are fiercely advocating for the criminalization of sextortion.

More research is still required on sextortion from both legislative and cultural perspectives in all countries. Additionally, the perspectives of sextortion victims should also be centered in future research. In order to facilitate the conversation around sextortion, it is

important to normalize the discussion of this crime at governmental, judicial, and community levels on a universal scale.

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