

SEXUAL CORRUPTION IN BOSNIA AND HERZEGOVINA – PREVALENCE AND LEGAL NORMS

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Sexual corruption is a socially unacceptable behavior that is extremely widespread in society, while at the same time not recognized as such, nor is it directly treated by the positive legislation. The reason for such an attitude can be found in the “normalization” of these behaviors, and consequently their toleration and non-reporting to the responsible authorities. This is a global phenomenon that has a pronounced impact on women and other vulnerable groups, and as such is also present in Bosnia and Herzegovina (BiH). The first question that arises is how widespread this phenomenon is and the ways in which it can be determined. The second question concerns the legal regulation of sexual corruption in the positive legislation, more precisely looking at provisions that already exist in the laws in BiH. In addition, the objective of this analysis is to examine the possibility of integrating the concept of sexual corruption into relevant laws and policies, while establishing a clear distinction compared to other forms of sexual violence. In this way, the awareness of the harmfulness of the mentioned behavior would be raised and the attitude adopted that no one is obliged to suffer sexual corruption and “exercise their rights” or “avoid harmful consequences” in that way.

KEYWORDS: sexual corruption, sextortion, sexual harassment, corruption, Bosnia and Herzegovina.

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Introduction

Sexual corruption is a phenomenon that has been present in society from before (in all its segments¹), but not considered, nor were its harmful consequences highlighted as such (Feigenblatt, 2020). A gender-specific form of corruption was mentioned, which includes a component of sexual harassment, and as such represents a violation of human rights and “is a serious public health problem due to the impact on the physical, emotional and mental well-being of a person who has experienced sexual corruption” (Coleman et al., 2024, p. e1209).

This means that the person entrusted with the authority abuses this power in order to obtain a benefit for oneself or another, having that the “benefit” is manifested in the form of sexual abuse of the victim. However, unlike money, as the object of corrupt behavior, the extorted sexual intercourse or other sexual activity are rarely recognized as the “expected currency in corrupt transactions” (Eldén et al., 2020; Bjarnegård et al., 2024) and the likelihood that this behavior will be reported as such is low (Bigio and Hoffmann, 2016; OSCE 2021).

In fact, in those cases, it is treated as sexual harassment, not as a form of corruption. Because of this, the awareness of the existence of sexual extortion, as a form of corruption, is extremely low, and an additional problem is the lack of documentation on the practice of proving and institutional mechanisms for determining sexual extortion. This is precisely why the United Nations, at the end of 2023, adopted the first Resolution (CAC/COSP/2023/L.14/Rev.1) calling on states to recognize and raise awareness of the fact that demanding sexual relations or acts of a sexual nature can be considered a special form of corruption. UN also called on states to take further measures and fill gaps in legislation to effectively prevent and prosecute sexual corruption (United Nations, 2023).

The available research on sexual corruption is very limited, and the scientific understanding of this phenomenon is conceptually and empirically underdeveloped (Sundström and Wängnerud, 2021). One of the first investigations into sexual corruption was carried out by the International Association of Women Judges in 2012, the results of which were presented in the publication entitled: “Stopping the Abuse of Power through Sexual Exploitation: Naming, Shaming, and Ending Sextortion” (International Association of Women Judges [IAW], 2012). We can also mention the report of the International Bar Association entitled: “Sextortion: A crime of corrupti-

¹ Sexual corruption is manifested in public sector, working environment, education, sport, diplomacy etc. (See more: Leach, 2013; Towns, 2015; Feigenblatt, 2020; Sundström and Wängnerud, 2021; OSCE 2021).

on and sexual exploitation” (Carnegie, 2019) from 2019, and the publication entitled: “Breaking the silence around sextortion: The links between power sex and corruption” can also be cited (Feigenblatt, 2020), as published by Transparency International in 2020. Research on the specifically mentioned problem was not represented to a greater extent in BiH either. We can distinguish two researches, one entitled “Prevalence of sexual extortion (sextortion) in society” (Šikman and Ivić, 2023), carried out in 2023, and the other entitled “Sextortion - covert corruption: case study of Bosnia and Herzegovina” (Divjak, 2021) implemented in 2021, as well as the Handbook entitled “Combating sexual extortion from a position of power” from 2011 (Zahiragić et al., 2011), as one of the first publications of this kind in our country. On a somewhat larger scale, research into sexual harassment and sexual violence in Bosnia and Herzegovina has been represented (Agencija za ravnopravnost polova Bosne i Hercegovine, 2013; OSCE, 2019; OSCE, 2022; Rakanović - Radonjić, 2023;), as well as corruption in general (Transparency International, Bosnia and Herzegovina, 2021), which can certainly be useful when considering the observed research problem.

According to the above, it follows that more detailed data on the presence of sexual corruption in the public and private sector is necessary, in order to demystify this phenomenon which, according to all available data, is deeply rooted in domestic society. This would also be the basis for initiating activities in order to recognize sexual corruption in the appropriate laws and policies. In this sense, the subject of this paper is to determine the prevalence of the phenomenon of sexual corruption in BiH, as a combination of sexual harassment and abuse of entrusted authority (corruption), in order to gain benefits for oneself or others. To that end, the results of available research on this issue, which have been carried out in BiH so far, will be used. Subject of the paper also includes an analysis of norms in positive legislation that can be linked to the term “sexual corruption”, and an examination of the possibility for integrating this term into relevant laws and policies, with a clear distinction in relation to other forms of sexual harassment and violence, on the one hand, and corruption, on the other.

The term “sextortion” or “sexual corruption”

Several different terms are used to describe this phenomenon, including “corruption involving sexual exploitation”, “sex coercion”, “sex extortion”, “sexual bribery”, “sexual forms of corruption”, “sex-related bribery”, “sextortion” and finally “sextortion” and “sexual corruption” (Sundström and Wängnerud, 2021, p. 4)

Etymologically, the word “sextortion” comes from the English language, as made up of words “sex” and “extortion” - which in translation would mean extortion or blackmail based on sexual content (IAW, 2012, p. 34). Accordingly, sextortion is a

combination of sexual harassment and abuse of entrusted authority (corruption) that includes two components: the component of sexual benefit and the component of corruption (IAW, 2012). On the one hand, we have those entrusted with some kind of executive authority with the capacity of certain decision-making power, and on the other hand, we have vulnerable categories that are usually in a subordinate position (Šikman and Ivić, 2023, p. 5). In those cases, when entrusted power is misused to achieve personal benefit for oneself or another, and where that benefit takes the form of sexual favors, we can consider it to be sexual extortion (Carnegie, 2019; Hendry, 2021). On the other hand, some narrower understandings of “sextortion” are limited to behaviors related to photo abuse, defining it as the act of forcing others to send explicit photos of themselves and subsequently blackmailing victims by publicly publishing said photos, in order to influence a person to do something and/or for other reasons, such as revenge or humiliation (Wolak and Finkelhor, 2016; EnsteHong et al., 2020; Patchin and Hinduja, 2020). The development of modern technologies, and increased access to social media and smartphones, has changed the ways in which perpetrators commit these behaviors, which gives sexual extortion a rather different dimension compared to the earlier period (O’Malley and Holt, 2022).

The term “sexual corruption” is being used in recent research. In our context, this syntagm can be considered in terms of the conceptual meaning of the two words combined, namely the word “sexual” in the sense of an adjective, which describes the noun “corruption”. It describes the form of corruption in which a person abuses entrusted powers in exchange for sexual favors, in order to achieve some benefit for oneself or another (Bjarnegård et al., 2024). Therefore, all the negative effects of corruption in general can be manifested in this form as well (Rose-Ackerman, 2004; Kombako, 2007; Enste and Heldman, 2017), while the victims, as in other forms of corruption, agree to its execution in order to achieve certain “benefits” or “avoidance” of any harmful consequences. Therefore, when persons in positions of entrusted authority deviate from the principles of good management, such as impartiality, integrity and justice, it represents an abuse of entrusted power² (Rothstein and Teorell, 2008), and when an “offer” of obtaining a certain benefit is added to that, as another recognized characteristic of corruption (Bjarnegård et al., 2024), then it is clear that sexual corruption is a form of corruption and not typical sexual harassment. At this point, a distinction can be made between sexual extortion and sexual corruption.

² The abuse of entrusted power should be viewed in a broader sense, including the performance of external influence on authority stakeholders, in order to make decisions that would enable them to achieve certain goals, usually the realization of some privileges. In this context, the relationship between lobbying and corruption is significant, and these phenomena should not be equated, “but it is a fact that due to the nature of the activity and the goals it understands, lobbying can easily acquire all the necessary characteristics of a corrupt relationship.” (Stevanović, 2018, p. 124).

As the word itself says, “sextortion” includes a type of sexual extortion, while “sexual corruption” implies the “consent of the will” of the parties, namely the party abusing power and the other party agreeing or offering sexual services in exchange for some benefit. However, it should be noted that in these cases the asymmetry of power is even more pronounced and has clear gender attributes, regardless of the gender of the person requesting the service, because sexual corruption does not only involve the abuse of authority, but also the abuse of this authority for the sexual exploitation of the victim (Lindberg and Stensöta, 2018). In this sense, the physical integrity of the victim is violated, because the actual person is understood as a transactional currency. This violation of bodily integrity affects one's psychological and physical health, which basically distinguishes this phenomenon from corruption when the object of the action is the requested money or a gift (Bjarnegård et al., 2024).

Accordingly, sexual corruption is a form of corruption in which sexual benefits are demanded or offered rather than money, as a way of obtaining benefits (bribery). “Sexual use” can be considered as any explicit or implicit request to engage in sexual activity, which does not necessarily include sexual intercourse, or even physical contact, but can be any form of unwanted sexual activity, such as revealing private parts of the body or abuse of photographs (IAW, 2012, p. 9). This means that the term “sexual corruption” is broader than the term “sextortion” because it includes sexual corruption when it is extorted, not only when it is bribed (Bjarnegård et al., 2024, p. 9).

In the above sense, we are of the opinion that in the context of the described phenomenon, the term “sexual corruption” is more applicable than the term “sextortion”. In addition, the word “sextortion” is an English word, which does not have an adequate translation, being used and pronounced in its original form, which is not usual in professional language.

The prevalence of sexual corruption in Bosnia and Herzegovina

According to the findings of the research conducted by the Agency for Gender Equality in 2013, more than a half of women from the sample in BiH (47.2% in BiH, 47.2% in FBiH and 47.3% in RS) experienced at least some form of violence after turning 15 years old³. Sexual violence was experienced by 6% of women during their adult life, while 1.3% of women had this experience in the last year (Agencija za

³ The research was conducted on a sample of 3,300 households and adult women in Bosnia and Herzegovina, with appropriate representative sub-samples for the Republic of Srpska and the Federation of Bosnia and Herzegovina. Data were collected not only about women, but also about the characteristics of their households, which made it possible to analyze some important determinants of domestic violence or violence committed by a partner (The Agency for Gender Equality of Bosnia and Herzegovina, 2013, p. 18).

ravnopravnost polova Bosne i Hercegovine, 2013, p. 19). In the next survey, conducted by OSCE, from 2019, it can be seen that the proportion of sexual violence has increased dramatically. Thus, 28% of women respondents experienced some form of sexual harassment by the age of 15 (26% in the Federation of BiH and 31% in the Republic of Srpska), out of which 10% experienced such a form of violence in the last year (OSCE, 2019). In this sense, sexual harassment is marked as more frequent than other forms of non-partner violence (physical or sexual), but less frequent than violence perpetrated by intimate partners, which is the most widespread and harmful form of violence, as presented by this research.

When it comes to the observed issue of determining the prevalence of sexual corruption, as a specific form of sexual harassment and corruption, we can look at it based on available research, media reports, statistical data, etc. However, it is necessary to point out the limitations in this regard, because as we have stated, sexual corruption is not recognized as a separate phenomenon, but the prevalence of this phenomenon is determined by recognizing the elements of sexual corruption in other observed phenomena. In this sense, one of the results of the research carried out by Šikman and Ivić (2023) can be evaluated as positive⁴ as it shows that over 90% of respondents are familiar with the concept of sexual corruption, while 95% of them fully agree with the statement that such phenomenon can be considered as socially unacceptable behavior (Šikman and Ivić, 2023, pp. 13 and 14), as well as the personal experiences of respondents, of which the largest number, over 85% of respondents, can recognize situations related to sexual corruption⁵. Furthermore, sexual extortion in Bosnia and Herzegovina most often affects women, it manifests itself in all spheres of life (work, education, sports, etc.) and confirms the view that sexual extortion most often occurs in the workplace (which is supported by the opinion of as many as 76% of respondents), and it manifests itself by putting a person in a disadvantageous position and “putting pressure on a person” (e.g. threat of disciplinary action, extension of employment contract, etc.), i.e. by blackmailing with assignment to a workplace and/or promotion and advancement (Šikman and Ivić, 2023).

Very often, informal meetings are used to manifest sexual extortion, and sometimes it is done in a subtle way, by giving the appearance of various benefits and

⁴ This research was performed on the sample of 274 persons, mostly women with over 80% participants, while 42 participants were men (Šikman and Ivić, 2023).

⁵ From the participant’s statement: “I know men colleagues who are aware of their power and position, their opportunity to do something, close the deal, and to constantly use that. That is terrifying. These are people high up on the social ladder. This is usual, normal and acceptable form of behavior for them, and they often use it. Their perception is: I have the power and I abundantly use it, I don’t need to be beautiful, smart or handsome” (Šikman and Ivić, 2023, p. 29).

conveniences, access to resources, use of free time, etc.⁶ A large number of respondents, 46.5% of them, believe that the abuse of a position for the purpose of sexual extortion is the most common way in which this behavior is performed, while it is manifested mainly verbally and in a direct way through the relationship between the perpetrator and the victim (Šikman and Ivić, 2023). Furthermore, the largest number of respondents, two-thirds of them, believe that sexual extortion is rarely or never reported to law enforcement authorities, which is fully expected. The distribution of respondents' points to the conclusion that there is awareness of this phenomenon, but it is not sufficiently perceived as unacceptable behavior. In this sense, the distribution of the respondents in relation to the question about reasons for not reporting this behavior shows that one third of respondents did not report this behavior because they did not trust the prosecution authorities, 22.8% of them believed that they would deal with sexual extortion on their own, while 11% of respondents were afraid of consequential problems (Šikman and Ivić, 2023).

The stated research results fully match the available statistical indicators. Namely, the statistical data for criminal offenses against sexual freedom show that their share in the total crime rate is extremely low. In the case in Bosnia and Herzegovina, for example. in the period from 2015 to 2020, a total of 31 reports were submitted for the criminal offense of Sexual act by abuse of position (Article 168 CC RS, and analogous criminal offenses from Article 205 CC FBiH and Article 206 CC BD BiH), 23 orders were issued on conducting the investigation, while 11 indictments were brought, and 15 convictions were handed down, of which one was with a penalty order, seven were conditional, and seven were prison sentences (Divjak, 2021, pp. 33-35). In most of the analyzed cases, there is a recognizable power relationship between the victim and the accused, where the victim is in some kind of subordinate relationship with the accused, who is in a position of power or authority. In certain cases, victims were blackmailed by recording sexual intercourse and publishing it, or by signing an employment contract and continuing to work (Divjak, 2021, p. 41).

Therefore, the available research fully confirms the thesis that sexual corruption is present and widespread, but is not recognized as such, which is particularly reflected in the small number of initiated criminal proceedings and convictions in these cases.

⁶ The highest number of participants, 16,3% of them, had an experience related to sexual extortion for advancing at their work place, followed by 14,9% of participants with the personal experience of sexual extortion related to start at the work position, while 5% had such experiences while obtaining some labor rights, such as the rights to a paid annual leave. Certain number of participants, 8,5% of them, had an experience of sexual extortion in order to pass the exam at the faculty, or passing the driving test or specialist exam (Šikman and Ivić, 2023, p. 20).

Legal regulation of sexual corruption in positive legislation in BiH

Sexual corruption as a socially negative phenomenon and incriminated behavior is not formally and legally recognized in the laws of Bosnia and Herzegovina, as well as in comparative legislation and international documents⁷. The given legal solutions cover many elements of sextortion; however, it is important to note that it is not recognized as a gender-based form of corruption, which does not encourage public awareness that such actions can be considered as acts of corruption. This makes it impossible to enforce criminal provisions and reduces the importance of these crimes (Divjak, 2021, p. 17). By a broader interpretation of certain norms in criminal law, labor law or in legislation against discrimination, provisions can be found under which this behavior, or some of its elements, could be observed (See more: Zahiragić et al., 2011).

In this regard, in the criminal laws in BiH (Criminal Code of Bosnia and Herzegovina (2003) [CC BiH], Criminal Code of the Republic of Srpska (2017) [CC RS], Criminal Code of the Federation of Bosnia and Herzegovina (2003) [CC FBiH] and Criminal Code Brčko of the District of Bosnia and Herzegovina (2020) [CC BDBiH]), in the group of criminal offenses against sexual integrity, the group of criminal offenses against official duty, the group of criminal offenses against the freedom and rights of citizens, the group of criminal offenses against rights based on work, in certain criminal offenses elements of sexual corruption can be observed, while other elements are missing, which leads to the conclusion that this behavior has not been fully recognized. For example, the criminal offense of sexual blackmail (Article 166 of the Criminal Code of the RS and analogous criminal offenses from Article 206 of the Criminal Code of the FBiH and Article 203 of the Criminal Code of the BD BiH), i.e. Sexual acts by abuse of position (Article 168 of the Criminal Code of the RS, and analogous criminal offenses from Article 205 CC FBiH and Article 202 CC BD BiH) or sexual harassment (Article 170 CC RS and Article 200a CC BD BiH) protect the sexual integrity of a person, which includes ones right to sexual self-determination (Stojanović, 2018), while

⁷ Along with the mentioned UN Resolution (CAC/COSP/2023/L.14/Rev.1) from 2023, interrelation between sexual harassment and corruption has been recognized in several additional international documents, adding the gender dimension to the corruption phenomenon. This was highlighted at the Special session of the General Assembly of the United Nations against corruption (United Nations, 2021a), during which the member states were called to promote gender equality and empowerment of women by integrating them in legislation, policies, research, projects and programs. During the same year, at the Ninth session of member states of the UN Convention against Corruption, dedication was confirmed to understand relations between gender and corruption, and member states were called to introduce gender issues in the mainstream and in accordance with domestic legislation (United Nations, 2021b). Importance of gender sensitive approaches have been recognized by other bodies as well, such as UN Commission for prevention of crime and criminal judiciary, Group of countries against corruption (GRECO) and G20 (Kirya, 2024).

the criminal acts of Abuse of position or authority (Art. 220 of the CC of BiH and analogous crimes of blood from Art. 315 of the CC of the RS, Art. 383 of the CC of FBiH and Art. 377 of the CC of BD BiH), Unscrupulous work in the service (Art. 224 of the CC of BiH and analogous crimes of blood from Art. 322 CC RS, Article 387 CC BiH) or Violation of human dignity by abuse of official position or authority (Article 329 CC RS) by unlawful use of an official position or the authority derived from it (Babić, 2008, p. 293) by official or responsible persons. Labor legislation in BiH (Law on Labor in the Institutions of Bosnia and Herzegovina (2004), Labor Law of the Republic of Srpska (2016), Law on Protection from Harassment at Work (2021), Labor Law of the Federation of BiH (2016)) criminalizes sexual harassment, as well as the Law on Gender Equality (2010) and the Law on Prohibition of Discrimination (2009).

If we accept the concept of sexual corruption that includes three cumulatively set conditions: first - abuse of authority, second - *Quid pro quo* - service for service that includes sexual benefit as an element of the transaction, and third - psychological coercion, which is based on asymmetry of power (IAW, 2012, p. 9; Feigenblatt, 2020, p. 8;), then we can determine that these three elements are absent in the aforementioned acts of sexual harassment, which means that these acts do not fall under the category of corruption of under the concept of sexual corruption (IAW, 2012). Sexual corruption is distinguished from other types of sexual violence and exploitation precisely because it involves an element of transaction (Coleman et al., 2024). "This element can portray a person who has experienced sexual corruption as actively involved in the sexual act, thereby legitimizing the sexual favors received and serving as a risk reduction strategy for the perpetrator" (Bjarnegård et al., 2024, p. 9). Therefore, in these cases, it is most important to keep the focus on abuse of entrusted authority as a way of obtaining benefits. On the other hand, sexual corruption is different from monetary corrupt transactions, because the latter does not violate the physical integrity of the person seeking the service in the same way as the former (Bjarnegård et al., 2024). Therefore, it is clear that the criminal, labor or anti-discrimination legislation in Bosnia and Herzegovina does not recognize the behavior covered by the term sexual corruption.

Conclusion

Based on the review of earlier research and available knowledge, we can state the following conclusions when it comes to sexual corruption:

- We are talking about the phenomenon that is present in society, recognized as socially unacceptable behavior, but insufficiently "visible" by the prosecution authorities. We can consider the above to be absurd, because even a superficial review of media captions is enough to convince ourselves of the widespread nature of this phenomenon. In support of this is the fact that these behaviors are

still tolerated, the consequences of their manifestations are ignored, which often represents the basis and/or introduction to more severe forms of sexual violence,

- Current (BiH) legislation, such as criminal, labor and anti-discrimination legislation, does not recognize sexual corruption as a specifically incriminated behavior. It is evident that certain elements of this behavior are included in the descriptions of other criminal acts, while others are not recognized as such.
- Accordingly, when it comes to taking action, a clear distinction between sexual violence and harassment in relation to sexual corruption has not yet been defined, as a form of behavior dominated by the element of abuse of entrusted authority or power,
- On the other hand, the difference in relation to other forms of corruption is not sufficiently highlighted, namely the fact that as a “transactional currency” sexual benefit is required, and manifested in the form of sexual intercourse or other types of sexual activity. In this way, these behaviors can be considered as “more severe” forms of corruption, because the object of the action is directed towards the physical and psychological integrity of the victim.
- In accordance with the aforementioned conclusions, certain recommendations can be defined (and directed at the academic and the professional public). In this regard, we consider the following necessary:
 - Clear and precise definition of the concept of sexual corruption, with special reference to establishing the distinction in relation to other sexual offences, on the one hand, and corrupt criminal acts, on the other. In this sense, it is necessary to determine the elements of sexual corruption in terms of defining the protective object, the object of the action, the perpetrator and the passive subject,
 - Determining the distribution of sexual corruption in society, through the implementation of empirical research. For this purpose, qualitative research (expert interviews, focus groups, etc.) can be useful, as well as quantitative through a survey on victimization and a self-report survey, with an emphasis on repeated victimization (see: Vasiljević-Prodanović, 2012; Ignjatović, 2023).
 - Developing awareness about the harmfulness of sexual corruption and its distribution in society, through public campaigns with the key message that this form of behavior is not socially acceptable. At the same time, in this way, it is necessary to encourage victims to report sexual corruption, in order to provide them with adequate protection.

Finally, and the most importantly, it is imperative to provide the institutional and legal structure necessary to counteract sexual corruption (see: IAW, 2015). This task is also the most difficult, which is why an argumentative and scientifically-founded approach is necessary.

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