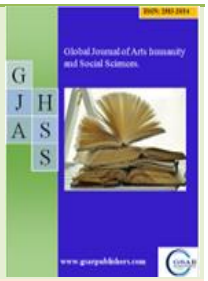
Global Journal of Arts Humanity and Social Sciences
ISSN: 2583-2034

GSAR PUBLISHERS
GLOBAL SCIENTIFIC AND ACADEMIC RESEARCH

OPEN ACCESS

Global Journal of Arts Humanity and Social Sciences
ISSN: 2583-2034
Abbreviated key title: Glob.J.Arts.Humanit.Soc.Sci
Frequency: Monthly
Published By GSAR Publishers
Journal Homepage Link: https://gsarpublishers.com/journal-gjahss-home/



Volume - 6 | Issue - 11 | November 2026 | Total pages 1248-1259 | DOI: 10.5281/zenodo.24169658

SEXTORTION IN TANZANIA: AN EXAMINATION OF LEGAL PROTECTION, INSTITUTIONAL RESPONSE AND ACCESS TO JUSTICE

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Article History
Received: 02- 11- 2026
Accepted: 08- 11- 2026
Published: 12- 11- 2026

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Abstract

Sextortion is a form of exploitation in which a person abuses entrusted power or authority to demand sexual favours in exchange for employment, academic benefits, public services or the exercise of an official responsibility. It violates human dignity, equality, privacy and sexual autonomy. This study examines the legal framework governing sextortion in Tanzania, with particular attention to legal protection, institutional accountability and access to justice. It adopts a doctrinal legal research approach based on the analysis of legislation, judicial decisions, international and regional instruments, and scholarly literature. The study examines the relationship between sexual-offence legislation and corruption law, particularly section 25 of the Prevention and Combating of Corruption Act. It further analyses institutional responsibilities, the exhaustion of administrative remedies under section 37 of the Public Service Act, and the relationship between administrative remedies and criminal proceedings under section 4(3) of the Criminal Procedure Act. The study argues that although existing laws provide avenues for addressing conduct associated with sextortion, their fragmented application, procedural requirements and limited victim-protection mechanisms may undermine effective accountability and access to justice. It recommends clearer statutory interpretation, improved institutional coordination and stronger safeguards against retaliation.

Keywords: Sextortion, abuse of authority, sexual exploitation, corruption, legal protection, institutional accountability, access to justice.

1. INTRODUCTION

Sextortion is a form of sexual exploitation involving the abuse of entrusted power, authority or influence to obtain sexual favours in exchange for a benefit or to avoid an adverse decision. It may occur in employment, education, public administration and the delivery of public services. Unlike sexual harassment generally, sextortion is characterised by the misuse of authority to demand a sexual benefit from a person whose employment, education, access to services or other interests may depend on the decision of the perpetrator. It therefore raises questions of sexual autonomy, equality, human dignity, corruption and accountability.[1]

Tanzania has several legal instruments capable of addressing conduct associated with sextortion, including the Constitution of the United Republic of Tanzania, 1977, the Penal Code, the Prevention and Combating of Corruption Act, the Cybercrimes Act, the Employment and Labour Relations Act, the Public Service Act and the Universities Act. Of particular importance is section 25 of the Prevention and Combating of Corruption Act, which criminalises demands or impositions of sexual or other favours by a person in a position of power or authority as a condition for employment, promotion, a right, privilege or preferential

[1] *Transparency International, Breaking the Silence Around Sextortion: The Links Between Power, Sex and Corruption (Berlin: Transparency International, 2020), pp. 5–9; United Nations Office on Drugs and Crime, The Time Is Now: Addressing the Gender Dimensions of Corruption (Vienna: UNODC, 2019).*

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treatment.[2] Nevertheless, the legal response remains distributed across different statutory regimes and institutions, creating questions concerning the applicable offence, institutional jurisdiction and the remedies available to victims.

This study examines the adequacy of legal protection against sextortion in Tanzania, the responsibilities of institutions involved in responding to such conduct and the procedural challenges affecting access to justice. Particular attention is given to the relationship between criminal accountability and employment or administrative remedies. It argues that the existence of relevant statutory provisions is not sufficient unless their scope is properly interpreted, their enforcement responsibilities are clearly allocated and victims can access appropriate remedies without being subjected to unnecessary procedural obstacles.

2. RESEARCH METHODOLOGY

This study adopts a doctrinal legal research methodology. It examines primary legal materials, including the Constitution of the United Republic of Tanzania, statutes, subsidiary legislation and judicial decisions. It also analyses relevant international and regional human rights instruments and secondary materials, including scholarly books, journal articles and institutional publications.

The study employs statutory interpretation and legal analysis to examine the meaning, scope and application of provisions governing sextortion. Particular attention is given to the relationship between the Prevention and Combating of Corruption Act, the Penal Code, the Public Service Act, the Criminal Procedure Act and other relevant legislation. Judicial decisions are considered to establish the interpretation of statutory provisions, the jurisdiction of relevant institutions and the legal consequences of failure to comply with procedural requirements. The study does not rely on interviews, questionnaires or field research.

3. CONCEPTUAL AND LEGAL UNDERSTANDING OF SEXTORTION

Sextortion is commonly understood as a form of corruption in which a person entrusted with power demands a sexual benefit in exchange for exercising, withholding or influencing that power. It combines sexual exploitation with the abuse of entrusted authority. The demand may be express or implied and may involve a threat, promise, manipulation or the withholding of an opportunity, service or benefit.[3]

The defining feature of sextortion is the exchange of sexual benefit for the exercise of power. For example, a public officer may demand sexual favours before processing an application, an employer may condition recruitment or promotion on sexual compliance, or an academic officer may demand sexual favours in exchange for marks or other academic benefits. In each situation, the perpetrator uses an institutional or personal position of authority to exploit the victim's dependence on a decision or opportunity.

Sextortion should be distinguished from sexual harassment and conventional bribery. Sexual harassment may involve unwelcome sexual conduct without necessarily involving a demand linked to the exercise of entrusted power. Conventional bribery generally concerns the solicitation or receipt of an undue advantage, commonly understood in monetary or material terms. Sextortion, however, involves a sexual benefit demanded through the misuse of authority. The distinction is legally significant because the applicable offence, evidential requirements and institutional jurisdiction depend on the particular conduct and the statutory elements established by the evidence.[4]

The absence of a single comprehensive statute bearing the title Sextortion Act does not mean that the conduct is legally unregulated in Tanzania. Section 25 of the Prevention and Combating of Corruption Act expressly addresses demands for sexual or other favours by persons in positions of power or authority. Other provisions may also apply depending on whether the conduct involves sexual harassment, assault, threats, discrimination, corruption or electronic communications. The central legal issue is therefore the adequacy, interpretation and coordinated application of existing provisions.

4. LEGAL FRAMEWORK GOVERNING SEXTORTION IN TANZANIA

4.1. Constitutional Protection

The Constitution of the United Republic of Tanzania, 1977, provides the fundamental legal basis for protecting individuals against conduct associated with sextortion. Article 12 recognises human dignity and equality, while Article 13 guarantees equality before the law and protection against discrimination. Article 16 protects the privacy of the person, family and private life, while Article 21 recognises the right to participate in public affairs.[5]

These constitutional guarantees are relevant where a person uses public, institutional or employment authority to demand sexual favours. Such conduct undermines human dignity and equality by placing the victim in a position where access to an opportunity or service is made conditional upon sexual compliance. It may also interfere with privacy and personal autonomy, particularly where the perpetrator uses threats, private information or intimate images to exert pressure.

The constitutional provisions establish important principles for interpreting and applying legislation. However, they do not, by

[2] *Prevention and Combating of Corruption Act, Cap. 329, Revised Edition 2023, s. 25.*
[3] *Transparency International, Breaking the Silence Around Sextortion, pp. 5–9.*
[4] *International Labour Organization, Ending Violence and Harassment in the World of Work (Geneva: ILO, 2019); Prevention and Combating of Corruption Act, Cap. 329, R.E. 2023, s. 25.*
[5] *The Constitution of the United Republic of Tanzania, 1977, arts. 12, 13, 16 and 21.*

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themselves, replace the need to identify the specific statutory offence or remedy applicable to a particular incident. Criminal responsibility must be established under the relevant legislation, while constitutional principles guide the interpretation of rights and the lawful exercise of institutional powers.

4.2. Prevention and Combating of Corruption Act: Section 25

The Prevention and Combating of Corruption Act, Cap. 329, is central to the legal response to sextortion in Tanzania. Section 25, headed "Sexual or any other favours", provides that a person who is in a position of power or authority and who, in exercising that authority, demands or imposes sexual favours or any other favour on a person as a condition for giving employment, promotion, a right, a privilege or preferential treatment commits an offence. The provision prescribes a fine not exceeding five million shillings, imprisonment for a term not exceeding three years, or both.[6]

Section 25 is particularly significant since it expressly criminalises conduct that corresponds to the central elements of sextortion. First, the perpetrator must be in a position of power or authority. Secondly, the demand or imposition must occur in the exercise of that authority. Thirdly, the demand must concern sexual favours or another favour. Finally, the demand must be imposed as a condition for employment, promotion, a right, a privilege or preferential treatment. These elements distinguish the offence from sexual conduct that is merely inappropriate or unwelcome but does not involve the conditional misuse of authority.

The wording of section 25 is not expressly restricted to public officials. It refers generally to a person in a position of power or authority. Its potential application may therefore extend beyond conventional public-office relationships, depending on the nature of the authority exercised and the benefit demanded. This is important in employment and educational settings, where supervisors, administrators or persons exercising institutional decision-making powers may use their positions to demand sexual favours.

The penalty under section 25 was increased by the Prevention and Combating of Corruption (Amendment) Act No. 11 of 2024. The amendment replaced the former maximum fine of TZS 5 million and maximum imprisonment of three years with a fine of not less than TZS 2 million and not exceeding TZS 10 million, imprisonment for a term of not less than five years and not exceeding ten years, or both. The amendment came into force on 11 October 2024.

The Prevention and Combating of Corruption Bureau has an important role where the facts disclose an offence within the Act. Section 7 of the Act provides for the Bureau's functions, including the prevention, investigation and prosecution of corruption offences in accordance with the statutory and prosecutorial framework.[7] Accordingly, where a person in authority demands sexual favours in exchange for the exercise of an official or institutional power, the complaint may fall within the Bureau's mandate, subject to the facts and the applicable law.

4.3. Penal Code and Sexual Offences Legislation

The Penal Code, Cap. 16, contains offences relating to sexual violence and other forms of unlawful sexual conduct. Depending on the facts, provisions relating to rape, indecent assault and sexual harassment may be relevant to conduct associated with sextortion. Section 138D, introduced through the Sexual Offences Special Provisions Act, 1998, addresses sexual harassment.[8]

Section 138D is relevant where the conduct falls within its statutory definition of sexual harassment. In particular, subsection (3) addresses unwelcome sexual advances by words or actions made by a person in authority at a workplace or another place. The provision may therefore apply to certain demands or conduct associated with sextortion, provided that the prosecution establishes its statutory elements.

However, section 138D should not be treated as covering every instance of sextortion. The distinctive feature of sextortion is the demand for a sexual benefit through the abuse of entrusted authority. Where the conduct involves a conditional demand connected to employment, promotion, a right or preferential treatment, section 25 of the Prevention and Combating of Corruption Act is more directly relevant. The two provisions may apply to the same conduct where the elements of each offence are independently established.

A further concern arises from section 138D(5), which restricts the institution or continuation of prosecution where the complaint is made by the alleged victim more than sixty days after the occurrence of the event.[9] Such a limitation may create difficulties for victims who delay reporting because of fear, dependency, intimidation, stigma or the possibility of retaliation. Although statutory reporting periods may serve legitimate procedural purposes, their application to sexual harassment allegations requires consideration of the circumstances in which victims are able to report. A short reporting period may weaken access to criminal justice where the victim is economically, academically or institutionally dependent on the alleged perpetrator.

Accordingly, the Penal Code provides an important basis for criminal accountability, but its provisions must be interpreted alongside section 25 of the Prevention and Combating of Corruption Act. This approach avoids treating all sextortion allegations as ordinary sexual harassment while ensuring that the relevant statutory elements are properly considered.

4.4. Cybercrimes Act and Digital Sextortion

[6] *The Prevention and Combating of Corruption Act, Cap. 329, R.E. 2023, s. 25.*

[7] *The Prevention and Combating of Corruption Act, Cap. 329, R.E. 2023, s. 7.*

[8] *The Penal Code, Cap. 16, Revised Edition 2023, s. 138D; Sexual Offences Special Provisions Act, 1998.*

[9] *The Penal Code, Cap. 16, R.E. 2022, s. 138D(5).*

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The Cybercrimes Act, Cap. 443, is relevant where sextortion is committed or facilitated through electronic communications or computer systems. Section 23 criminalises cyberbullying where its statutory elements are established. Section 13 addresses offences relating to child sexual abuse or exploitation material, subject to the applicable amendments.[10]

Digital sextortion may involve threats to publish intimate photographs, videos or other private information unless the victim provides sexual favours, money or another benefit. It may also involve threats sent through social media platforms, messaging applications or electronic mail. Depending on the facts, such conduct may fall within the Cybercrimes Act or other applicable criminal provisions. However, not every threatening message automatically constitutes cyberbullying; the prosecution must establish the elements prescribed by the relevant provision.

The evidentiary dimension is particularly important in digital sextortion cases. Electronic messages, photographs, recordings, account information and other digital records may provide evidence of the demand, the identity of the perpetrator and the connection between the demand and the exercise of authority. Sections 31–35 of the Cybercrimes Act provide investigative powers relating to computer systems and data. Section 64A of the Evidence Act and section 18 of the Electronic Transactions Act are also relevant to the admissibility of electronic evidence.[11]

The legal challenge is to ensure that digital evidence is lawfully obtained, preserved, authenticated and presented in accordance with evidentiary requirements. A failure to preserve electronic material may weaken a prosecution, particularly where the alleged demand was communicated privately and there are few independent witnesses.

4.5. Employment and Labour Relations Act

The Employment and Labour Relations Act, Cap. 366, provides protection against discrimination in employment. Section 7 requires employers to promote equal opportunity and eliminate discrimination in the workplace. Section 7(5) recognises harassment of an employee as a form of discrimination and prohibits such conduct.[12]

This provision is relevant where sextortion occurs in an employment relationship. An employer or supervisor who uses authority over recruitment, promotion, remuneration, continued employment or working conditions to demand sexual favours may engage in conduct that raises issues under both the Employment and Labour Relations Act and the Prevention and Combating of Corruption Act.

The two statutes serve related but distinct purposes. The Employment and Labour Relations Act addresses discrimination and employment-related rights, while section 25 of the Prevention and Combating of Corruption Act establishes criminal liability for specified demands made through abuse of power or authority. Consequently, an employment remedy does not automatically determine criminal responsibility, and criminal proceedings do not necessarily resolve every employment consequence arising from the same conduct.

The Employment and Labour Relations (Code of Good Practice) Rules, 2007, further recognise harassment in the workplace as a form of discrimination.[13] These provisions strengthen the legal basis for addressing sexual harassment and discriminatory treatment, although their application depends on the existence of an employment relationship and the statutory requirements governing the particular remedy.

4.6. Universities Act: Administration and Welfare of Students

The Universities Act, Cap. 346, is relevant to sextortion occurring in institutions of higher learning. Section 50 provides for the administration and welfare of students. It requires an institution to provide for an office held by a person of integrity and appropriate experience or capability in student administration or counselling. In a degree-conferring university, the office is designated as the Dean of Students or an equivalent office.[14]

Section 50 further requires institutions to formulate policies on student administration and welfare and to make regulations or by-laws governing student affairs. The relevant policies and regulations must be published or otherwise brought to the attention of students. The section also provides for students' disciplinary authorities and a Students Disciplinary Appeals Committee, including requirements concerning the independence of the appeals process from persons involved in the original investigation or decision.[15]

These provisions are important where sextortion occurs in an academic setting. A lecturer, supervisor, administrator or other person exercising authority may demand sexual favours in exchange for marks, admission, academic progression, accommodation or another institutional benefit. The student administration and welfare framework under section 50 provides an institutional basis for addressing student-related complaints and disciplinary matters.

However, section 50 is not a specific statutory offence of sextortion or a comprehensive sexual harassment complaints framework. It does not expressly prescribe uniform procedures for confidential reporting of sextortion, protection against retaliation, independent investigation of sexual exploitation allegations or

[10] *The Cybercrimes Act, Cap. 443, R.E. 2023, ss. 13 and 23; Child Protection Laws (Miscellaneous Amendments) Act, 2024.*
[11] *The Cybercrimes Act, Cap. 443, R.E. 2023, ss. 31–35; Evidence Act, Cap. 6, Revised Edition 2022, s. 64A; Electronic Transactions Act, Cap. 442, R.E. 2023, s. 18.*
[12] *The Employment and Labour Relations Act, Cap. 366, R.E. 2023, s. 7(1) and (5).*
[13] *The Employment and Labour Relations (Code of Good Practice) Rules, 2007, GN No. 42, r. 29.*
[14] *The Universities Act, Cap. 346, R.E. 2023, s. 50(1) and (2).*
[15] *The Universities Act, Cap. 346, R.E. 2023, s. 50(3)–(8).*

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mandatory referral of suspected criminal conduct to law-enforcement authorities. Its provisions on student administration and discipline should therefore not be treated as a substitute for criminal accountability under section 25 of the Prevention and Combating of Corruption Act or other applicable laws.

The distinction between student welfare and criminal responsibility is essential. A university may take disciplinary action against a staff member or student under its governing laws and institutional regulations, but such action does not replace the criminal process where the conduct constitutes an offence. Similarly, the internal disciplinary framework should not be used to prevent a victim from reporting suspected criminal conduct to the competent authorities.

4.7. Public Service Act: Exhaustion of Administrative Remedies

Section 37 of the Public Service Act, Cap. 298, provides that a public servant must, before seeking remedies provided under labour laws, exhaust the remedies available under the Public Service Act.[16] The provision is relevant to public servants who seek employment-related remedies arising from conduct such as discrimination, unfair treatment, disciplinary action, demotion or termination.

The legal effect of section 37 is procedural. It establishes a requirement concerning the sequence in which public servants may pursue remedies under the Public Service Act and labour legislation. A public servant who institutes a labour dispute without first exhausting the remedies required by the Act may face a jurisdictional objection. The provision must therefore be considered where a victim of sextortion seeks employment-related relief against a public institution or public-service employer.

The Court of Appeal's decisions in Tanzania Posts Corporation v Salehe Komba and Another and Kilimanjaro Airport Development Company v Erick Itemba are relevant to the application of statutory exhaustion requirements in public-service employment disputes.[17] The decisions demonstrate the importance of complying with statutory procedures governing public-service employment remedies before pursuing relief under labour legislation.

Similarly, in Tanzania Ports Authority v George A. Lutego, the High Court considered the exhaustion requirement in the context of an employment dispute involving a public servant. The decision illustrates the jurisdictional consequences that may follow where a public servant proceeds to the Commission for Mediation and Arbitration without first complying with the applicable statutory procedure.[18]

Although these cases concern employment disputes rather than sextortion as a distinct criminal offence, they are relevant where the victim seeks employment-related remedies arising from sextortion. For example, a public servant who is denied promotion, demoted or dismissed after refusing a sexual demand may have an employment dispute in addition to a potential criminal complaint. The employment dispute may be subject to section 37, while the alleged criminal conduct must be assessed separately under the applicable criminal law.

Section 37 should not, however, be interpreted as imposing a universal obligation on every victim of sextortion to exhaust administrative remedies before reporting a criminal offence. Its wording concerns the exhaustion of remedies under the Public Service Act before seeking remedies under labour laws. It does not expressly establish a general precondition for reporting criminal conduct to the Police Force or the Prevention and Combating of Corruption Bureau. The distinction between employment remedies and criminal accountability must therefore be maintained.

4.8. Criminal Procedure Act: Exhaustion of Civil and Administrative Remedies

Section 4(3) of the Criminal Procedure Act, Cap. 20, was introduced by the Written Laws (Miscellaneous Amendments) Act No. 1 of 2022. It establishes an exhaustion requirement in matters of a civil, administrative or criminal nature, requiring exhaustion of remedies in the civil or administrative domains before invocation of criminal process under the Act, where the provision applies.[19]

Section 4(3) is distinct from section 37 of the Public Service Act. Section 37 concerns public servants who seek remedies under labour laws and requires prior exhaustion of remedies available under the Public Service Act. Section 4(3), on the other hand, concerns the relationship between civil or administrative remedies and the invocation of criminal process. The provisions have different wording, purposes and fields of operation and should not be treated as interchangeable.

The application of section 4(3) may raise difficult questions where sextortion allegations arise from employment or administrative relationships. For example, a person may allege that a public officer demanded sexual favours in exchange for processing an application or that a supervisor conditioned promotion on sexual compliance. The same facts may give rise to an employment or administrative dispute and a potential criminal offence under section 25 of the Prevention and Combating of Corruption Act.

The central question is whether the matter falls within the civil or administrative domain requiring exhaustion under section 4(3), or whether the alleged conduct constitutes an independently prosecutable criminal offence. The existence of an employment or administrative relationship should not, without further analysis, determine the legal character of the alleged conduct. The statutory provision must be interpreted in light of the nature of the matter,

[16] *The Public Service Act, Cap. 298, R.E. 2023, s. 37.*

[17] *Tanzania Posts Corporation v Salehe Komba and Another, Civil Appeal No. 128 of 2020, Court of Appeal of Tanzania; Kilimanjaro Airport Development Company v Erick Itemba, Civil Appeal No. 405 of 2021, Court of Appeal of Tanzania.*

[18] *Tanzania Ports Authority v George A. Lutego, Labour Revision No. 7748 of 2024, High Court of Tanzania, Labour Division, judgment delivered on 22 August 2024.*

[19] *The Criminal Procedure Act, Cap. 20, R.E. 2023, s. 4(3); Written Laws (Miscellaneous Amendments) Act No. 1 of 2022, s. 23.*

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the remedies legally available and the scope of the criminal process being invoked.

In Director of Public Prosecutions v Jitesh Jayantilal Ladwa and Another, the High Court considered section 4(3) and the relationship between civil or administrative remedies and criminal proceedings.[20] The decision is relevant to the interpretation of the exhaustion requirement and the stage at which criminal process may be considered to have been invoked. It should not, however, be read as establishing that every criminal allegation arising from an employment or administrative relationship must first be resolved through an administrative process.

In sextortion cases, this distinction is particularly important. A demand for sexual favours through abuse of authority may constitute a criminal offence independently of an associated employment grievance. Where the facts disclose an offence under section 25 of the Prevention and Combating of Corruption Act or another criminal provision, the legal character of the alleged conduct must be examined rather than automatically treating the matter as an ordinary labour or administrative dispute. The application of section 4(3) must be determined according to its wording and the relevant judicial interpretation.

4.9. Judicial Decisions on Sextortion and Abuse of Authority

Tanzanian judicial decisions demonstrate that sexual exploitation through abuse of authority is not confined to academic institutions. The courts have addressed cases involving lecturers, police officers, medical practitioners and traditional healers.

In *Samuel Emmanuel Fulgence v Republic*, Criminal Appeal No. 4 of 2018, [2019] TZCA 380, the appellant was an assistant lecturer at the Tanzania Institute of Accountancy. He was accused of demanding sexual favours from a student in exchange for assisting her with her field report and awarding good marks. The student reported the matter to the Prevention and Combating of Corruption Bureau, which arranged an operation leading to the appellant's arrest at a lodge.[21]

Godfrey Andilile Mwakitalima v Republic

A significant decision is *Godfrey Andilile Mwakitalima v Republic*, Criminal Appeal No. 683 of 2021, [2024] TZCA 1072. The appellant was a lecturer at Paradise Business College in Sumbawanga. He demanded sexual favours from a student, Beatrice Pantaleo Katona, as a condition for awarding her pass marks in an Entrepreneurship Skills examination. The student reported the matter to PCCB, which arranged an operation leading to the lecturer's arrest.[22]

The prosecution relied on the student's testimony, electronic messages exchanged between the appellant and the student, forensic examination of mobile phones and evidence from the officers involved in the operation. The trial court convicted the appellant and imposed a twenty-year prison sentence under the applicable economic-offence framework. The High Court upheld the conviction, and the Court of Appeal dismissed the subsequent appeal.

The Court of Appeal decision is particularly important because it confirms the application of section 25 to demands for sexual favours in exchange for academic benefits. It also demonstrates the evidential importance of electronic communications, forensic examination and proper authentication of digital records.

The decision establishes that the demand for sexual favours in exchange for examination marks may constitute an offence under section 25. It therefore provides strong judicial support for treating sex-for-grades conduct as corruption involving abuse of authority, rather than merely an internal disciplinary matter.

The sentence should be understood in the context of the Economic and Organised Crime Control Act and the applicable classification of the offence. It should not be confused with the maximum penalty stated in section 25 when considered in isolation.[23]

Onesphory Materu v Republic

In *Onesphory Materu v Republic*, Criminal Appeal No. 334 of 2009, [2011] TZCA 165, the appellant was a police officer who raped a fourteen-year-old girl held in police custody. He had promised to release her from custody and provided her with a written release note, but did not fulfil the promise after the sexual act.[24]

The Court of Appeal dismissed the appeal and upheld the conviction. It considered the victim's evidence and the written release note, which had been admitted in evidence, in assessing the prosecution case.

Although the conviction was for rape under the Penal Code rather than the specific offence under section 25 of the Prevention and Combating of Corruption Act, the case illustrates the use of custodial authority to obtain sexual access through a promise of release. It demonstrates that sexual exploitation by a person exercising official power may attract serious criminal liability.

[20] *Director of Public Prosecutions v Jitesh Jayantilal Ladwa and Another, Criminal Appeal No. 111 of 2022, [2022] TZHC 11577, judgment delivered on 11 August 2022.*

[21] *Samuel Emmanuel Fulgence v Republic, Criminal Appeal No. 4 of 2018, [2019] TZCA 380, judgment delivered on 8 November 2019.*

[22] *Godfrey Andilile Mwakitalima v Republic, Criminal Appeal No. 683 of 2021, [2024] TZCA 1072, judgment delivered on 7 November 2024.*

[23] *The Economic and Organised Crime Control Act, Cap. 200, R.E. 2023, s. 60(2), read with the First Schedule and the applicable amendments.*

[24] *Onesphory Materu v Republic, Criminal Appeal No. 334 of 2009, [2011] TZCA 165, judgment delivered on 28 March 2011.*

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Seif Mohamed El-Abadan v RepublicIn *Seif Mohamed El-Abadan v Republic*, Criminal Appeal No. 320 of 2009, Court of Appeal of Tanzania at Tanga, the appellant, a medical doctor, was convicted of raping a female patient during a medical examination. The Court of Appeal upheld the conviction and condemned the abuse of professional trust by a medical practitioner against a patient who had entrusted herself to his care.[25]

The decision is relevant to the broader understanding of sexual exploitation through abuse of professional authority. It should be distinguished from a section 25 sexual-favour case because the proceedings concerned rape and abuse of professional trust rather than a conditional exchange for employment, promotion or preferential treatment.

Ally Hussein Katua v Republic

In *Ally Hussein Katua v Republic*, Criminal Appeal No. 99 of 2010, Court of Appeal of Tanzania, the appellant, a traditional healer, was convicted of raping a seventeen-year-old girl while exploiting his position as a healer. The Court of Appeal considered the statutory protection of persons below eighteen years and upheld the conviction.[26]

The decision demonstrates that entrusted authority may arise outside formal public employment. A person exercising professional, traditional or institutional influence may abuse that position to sexually exploit a person under their care. It is therefore relevant to understanding the wider legal protection against sexual exploitation, although the offence determined by the Court was rape rather than the specific corruption offence of demanding sexual favours.

Significance of the Cases

The cases demonstrate three important legal principles. First, abuse of authority may occur in both public and private institutional relationships. Secondly, the nature of the offence depends on the conduct proved and the applicable statutory provision; a demand for sexual favours may fall under section 25, while rape through abuse of authority may fall under the Penal Code. Thirdly, the courts have recognised the evidential importance of victim testimony, documentary evidence and electronic communications in establishing sexual exploitation.

The decisions also reveal that sextortion should not be treated solely as an internal disciplinary matter. Where the statutory elements of a criminal offence are established, the matter requires investigation and prosecution under the applicable criminal law.

4.10.International and Regional Legal Framework

International and regional human rights instruments provide additional standards relevant to the protection of persons against conduct associated with sextortion. The Convention on the Elimination of All Forms of Discrimination against Women requires States Parties to pursue measures aimed at eliminating discrimination against women and ensuring effective legal protection. Articles 2 and 11 are particularly relevant to discrimination and equality in employment.[27]

The Convention on the Rights of the Child requires protection of children against violence, abuse and sexual exploitation. Articles 19 and 34 are relevant where sextortion involves a child or a person below the age of eighteen.[28] The African Charter on Human and Peoples' Rights recognises equality, dignity and protection against discrimination through Articles 2, 3 and 5.[29]

The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, commonly known as the Maputo Protocol, requires protection of women's rights and addresses violence and discrimination against women. Its provisions are relevant to sextortion, particularly where women are exposed to sexual exploitation through unequal power relationships in employment, education or public administration.[30]

The International Labour Organization's Violence and Harassment Convention, 2019 (No. 190), provides an important international standard on violence and harassment in the world of work, including gender-based violence and harassment. It may inform the interpretation and development of workplace protection policies. However, its relevance as an international standard should be distinguished from its status as a binding treaty obligation on Tanzania; it should not be presented as binding unless ratification and entry into force for Tanzania are established.[31]

5. INSTITUTIONAL RESPONSE TO SEXTORTION

5.1. Tanzania Police Force

The Tanzania Police Force has responsibility for receiving complaints and investigating suspected criminal offences. Its role is relevant where sextortion involves sexual offences, threats, intimidation, cyber-related conduct or other offences under the Penal Code and applicable legislation.

The Police Force must investigate complaints according to the applicable law and preserve relevant evidence. In digital sextortion cases, this may include electronic messages, photographs, videos, recordings and other records capable of establishing the alleged demand and the identity of the perpetrator. The investigation

[25] *Seif Mohamed El-Abadan v Republic, Criminal Appeal No. 320 of 2009, Court of Appeal of Tanzania at Tanga. .*
[26] *Ally Hussein Katua v Republic, Criminal Appeal No. 99 of 2010, Court of Appeal of Tanzania at Tanga.*
[27] *Convention on the Elimination of All Forms of Discrimination against Women, 1979, arts. 2 and 11.*
[28] *The Convention on the Rights of the Child, 1989, arts. 19 and 34.*
[29] *African Charter on Human and Peoples' Rights, 1981, arts. 2, 3 and 5.*
[30] *Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 2003, arts. 2–4.*
[31] *International Labour Organization, Violence and Harassment Convention, 2019 (No. 190), arts. 1, 4 and 9.*

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should also take account of the victim's privacy and the risk of intimidation or retaliation.

5.2. Prevention and Combating of Corruption Bureau

The Prevention and Combating of Corruption Bureau has a central role where the alleged conduct falls within the offences established by the Prevention and Combating of Corruption Act. Section 25 is particularly relevant because it criminalises demands for sexual or other favours made by persons in positions of power or authority as a condition for employment, promotion, a right, a privilege or preferential treatment.

The Bureau's role must be distinguished from the general investigative responsibilities of the Police Force. The legal classification of the conduct determines the applicable institutional mandate. Where the facts disclose an offence under the Prevention and Combating of Corruption Act, the Bureau's statutory functions become directly relevant.

5.3. Public Service Commission and Public-Service Authorities

Public-service authorities and the Public Service Commission have responsibilities in matters falling within the Public Service Act and the applicable public-service framework. These responsibilities may include disciplinary and employment-related complaints involving public servants.

Where sextortion is alleged within public service, administrative mechanisms may address employment consequences, including misconduct, discrimination or retaliatory decisions. However, administrative proceedings do not replace criminal investigation or prosecution where the alleged conduct constitutes an offence. The two processes address different legal questions and may operate separately, subject to applicable statutory requirements.

5.4. Commission for Mediation and Arbitration

The Commission for Mediation and Arbitration is responsible for handling labour disputes within its statutory jurisdiction under the Employment and Labour Relations Act and the Labour Institutions Act. Its jurisdiction must be considered alongside section 37 of the Public Service Act where the complainant is a public servant.

A victim may seek labour remedies in relation to unfair termination, discrimination or other employment consequences arising from sextortion. However, where section 37 applies, the public servant must first comply with the exhaustion requirement under the Public Service Act. This does not mean that the CMA has jurisdiction to determine criminal responsibility for sextortion. Criminal liability remains a matter for the competent criminal justice institutions and courts.

5.5. Universities and Institutional Authorities

Universities have responsibilities concerning student administration and welfare under section 50 of the Universities Act. Their internal regulations and disciplinary frameworks may provide procedures for addressing misconduct and complaints affecting students.

Where sextortion occurs in an academic setting, the relevant university authorities may consider disciplinary action against a person alleged to have abused institutional authority. However, the internal process should not be treated as a substitute for criminal proceedings where the conduct falls within section 25 of the Prevention and Combating of Corruption Act or another criminal provision. Institutional disciplinary procedures and criminal proceedings have distinct legal purposes and standards.

5.6. National Prosecutions Service and Courts

The National Prosecutions Service and the Director of Public Prosecutions perform prosecutorial functions within the constitutional and statutory framework. The courts determine criminal liability and grant remedies within their jurisdiction.

The application of section 4(3) of the Criminal Procedure Act requires courts to consider whether the matter falls within a civil or administrative domain requiring prior exhaustion. Courts must also determine whether they have jurisdiction to decide objections concerning the competence of proceedings at the relevant stage. The general principle that jurisdiction is conferred by law and cannot be created by consent is reflected in Fanuel Mantiri Ng'unda v Herman M. Ng'unda and Shyam Thanki and Others v New Palace Hotel.[32]

6. CHALLENGES AFFECTING LEGAL PROTECTION AND ACCESS TO JUSTICE

6.1. Fragmentation of the Legal Framework

The legal response to sextortion is distributed across several statutes. The Penal Code addresses sexual offences and sexual harassment; the Prevention and Combating of Corruption Act criminalises specified demands for sexual or other favours through abuse of authority; the Cybercrimes Act addresses specified forms of electronic offending; and employment and public-service laws regulate workplace and administrative remedies.

This distribution is not necessarily inappropriate because sextortion may occur in different settings and involve different forms of conduct. However, it may create uncertainty concerning the applicable offence and the institution responsible for receiving and investigating a complaint. The existence of section 25 is a significant legal protection, but its effectiveness depends on correct interpretation and enforcement alongside other relevant provisions.

6.2. Limitations in the Scope and Application of Section 25

Section 25 of the Prevention and Combating of Corruption Act expressly criminalises demands for sexual or other favours made through abuse of power or authority. Nevertheless, its application depends on proving that the demand was made as a condition for employment, promotion, a right, a privilege or preferential treatment.

The provision does not expressly identify every possible context in which sextortion may occur. Although its references to a right,

[32] *Fanuel Mantiri Ng'unda v Herman M. Ng'unda, Civil Appeal No. 8 of 1995, Court of Appeal of Tanzania; Shyam Thanki and Others v New Palace Hotel [1972] HCD No. 97.*

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privilege and preferential treatment may be interpreted broadly, disputes may arise where the demanded sexual benefit is linked to an academic decision, access to accommodation, continued enrolment or another institutional advantage. The absence of detailed definitions may therefore create interpretative difficulties.

Further, section 25 does not itself provide a comprehensive system of victim protection. Criminalisation is essential, but it does not automatically ensure confidentiality, protection from retaliation, access to support services or timely institutional handling of complaints. The statutory framework must therefore be considered as a whole, including the operation of other laws and institutional procedures.

6.3. The Sixty-Day Complaint Limitation under Section 138D

Section 138D(5) of the Penal Code raises a specific concern by restricting prosecution where the complaint is made more than sixty days after the alleged event.[33] In sextortion cases, victims may delay reporting because of fear of losing employment, academic opportunities or access to public services. They may also fear intimidation, reputational damage or further exploitation by the person exercising authority.

The limitation may therefore create a barrier to criminal accountability where the victim is unable or unwilling to report within the prescribed period. This concern is particularly relevant in situations involving unequal power relationships, where the victim may remain dependent on the alleged perpetrator or institution for a considerable period.

6.4. Exhaustion of Administrative Remedies under Section 37 of the Public Service Act

Section 37 of the Public Service Act may create procedural difficulties for public servants seeking labour remedies arising from sextortion. A public servant may be required to pursue remedies under the Public Service Act before seeking relief under labour legislation. The requirement may be justified as a statutory mechanism for resolving public-service employment disputes through the prescribed administrative framework.

However, difficulties may arise where the alleged perpetrator holds a position of authority within the institution responsible for receiving or determining the complaint. The victim may be required to pursue an internal or statutory process within an institutional structure influenced by the alleged perpetrator. Such circumstances may raise concerns about impartiality, delay and the practical accessibility of remedies.

The requirement should nevertheless be understood according to its statutory scope. It concerns the exhaustion of public-service remedies before seeking remedies under labour laws. It does not, by itself, prevent a victim from reporting a suspected criminal offence to the competent law-enforcement institution.

6.5. Exhaustion under Section 4(3) of the Criminal Procedure Act

Section 4(3) of the Criminal Procedure Act presents a separate legal challenge because it concerns exhaustion of civil or administrative remedies before invocation of criminal process in matters within its scope. Its application may create uncertainty where the same facts give rise to an employment or administrative dispute and a potential criminal offence.

The difficulty is particularly important in sextortion cases because the alleged conduct may involve both an administrative decision and a demand for sexual favours through abuse of authority. If the criminal allegation is treated merely as an employment or administrative dispute, access to criminal accountability may be delayed. Conversely, the provision cannot be disregarded where its statutory requirements are properly engaged.

The appropriate approach is to distinguish the legal nature of the remedies sought and the conduct alleged. Section 37 of the Public Service Act regulates the sequence for pursuing public-service and labour remedies, whereas section 4(3) of the Criminal Procedure Act regulates the relationship between civil or administrative remedies and criminal process. Their combined operation may create procedural complexity, but each provision must be interpreted independently according to its wording and purpose.

6.6. Uncertainty Concerning Institutional Jurisdiction

Sextortion may raise issues of sexual harassment, corruption, employment discrimination, abuse of public office and cyber-related offending. Different institutions may therefore have authority over separate aspects of the same incident.

The Public Service Commission may deal with an employment-related complaint; the CMA may determine a labour dispute subject to applicable statutory requirements; the Police Force may investigate criminal conduct; and the Prevention and Combating of Corruption Bureau may investigate offences within its statutory mandate. Universities may also exercise disciplinary responsibilities under the Universities Act and their institutional regulations.

The difficulty arises where the victim is referred from one institution to another without clear guidance on the competent authority or the procedure to be followed. Such uncertainty may result in delay, duplication of proceedings and reduced access to effective remedies. It is therefore necessary to distinguish institutional responsibility for employment or disciplinary matters from responsibility for criminal investigation and prosecution.

6.7. Discontinuance of Criminal Proceedings

The power to enter nolle prosequi under section 92 of the Criminal Procedure Act may affect the continuity of criminal proceedings. Although the power is vested in the Director of Public Prosecutions, its exercise may raise concerns where a victim believes that proceedings have been discontinued without adequate justification.

The statutory distinction between section 92, which provides the substantive power to enter nolle prosequi, and section 93, which provides for delegation, is important in determining whether the

[33] *The Penal Code, Cap. 16, R.E. 2022, s. 138D(5).*

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power was exercised by a person legally authorised to do so. A discontinuance does not amount to an acquittal, and subsequent proceedings may be instituted subject to the statutory conditions. Nevertheless, the possibility of discontinuance and later reinstitution may create uncertainty for victims and affect confidence in the criminal justice process.

6.8. Nolle Prosequi and the Discretion of the Director of Public Prosecutions

The Director of Public Prosecutions has constitutional authority over the institution, conduct and discontinuance of criminal proceedings. Article 59B of the Constitution provides for the office and functions of the Director of Public Prosecutions, including the power to institute and conduct criminal proceedings.[34] The Criminal Procedure Act regulates the exercise of prosecutorial powers, including the entry of nolle prosequi.

Under the Criminal Procedure Act, Cap. 20, Revised Edition 2023, section 92 provides the power of the Director of Public Prosecutions to enter nolle prosequi. The provision allows the Director of Public Prosecutions, before verdict or judgment, to inform the court that criminal proceedings should not continue. Upon entry of nolle prosequi, the accused is discharged in respect of the charge, but the discharge does not operate as a bar to subsequent proceedings on the same facts, subject to the statutory requirements.[35]

Section 93 provides for delegation of prosecutorial powers by the Director of Public Prosecutions. It permits the Director, by written order, to authorise specified Law Officers, State Attorneys or Parliamentary Draftsmen to exercise powers vested in the Director under the relevant provisions of the Act. The Director may revoke such an order in writing.[36] The distinction is important: section 92 is the substantive provision governing nolle prosequi, while section 93 concerns delegation of the relevant powers. A challenge involving a State Attorney or other authorised officer may therefore require examination of whether a valid written delegation existed and covered the power exercised.

In sextortion cases, prosecutorial discontinuance may affect the victim's access to criminal justice. However, the legal analysis must distinguish a lawful exercise of prosecutorial discretion from a decision alleged to have been made in bad faith, for an improper purpose or without lawful authority. Where a State Attorney enters nolle prosequi, the existence and scope of written delegation under section 93 may be relevant. Where the decision is made by the Director of Public Prosecutions, the question concerns the lawful exercise of the substantive power under section 92.

6.9. Evidentiary Difficulties

Sextortion frequently occurs in private, without independent witnesses. The evidence may consist of electronic messages, recordings, photographs, documents demonstrating the perpetrator's authority or evidence of an adverse decision following the victim's refusal to comply with a demand.

The prosecution must establish the elements of the relevant offence beyond reasonable doubt. In digital cases, the authenticity, integrity and admissibility of electronic evidence are particularly important. Although the Evidence Act and Electronic Transactions Act provide a framework for electronic evidence, practical difficulties may arise where messages have been deleted, accounts are inaccessible or electronic material has not been preserved in accordance with the applicable law.

6.10. Retaliation and Inadequate Victim Protection

Victims may face threats, intimidation, discrimination, demotion, denial of promotion, termination or adverse academic decisions after refusing a sexual demand or reporting the conduct. Such retaliation may discourage reporting and undermine the effectiveness of existing criminal and administrative remedies.

Section 25 of the Prevention and Combating of Corruption Act criminalises the relevant demand but does not itself provide a comprehensive set of protective procedures for complainants. Section 50 of the Universities Act establishes a framework for student welfare and discipline but does not expressly prescribe a uniform sextortion-specific protection mechanism. The legal framework therefore requires effective coordination with other applicable protections and institutional procedures.

7. MEASURES FOR STRENGTHENING LEGAL PROTECTION AND ACCOUNTABILITY

First, the interpretation and application of section 25 of the Prevention and Combating of Corruption Act should be strengthened through clear legal and institutional guidance. Such guidance should explain the meaning and application of a position of power or authority, sexual favours, rights, privileges and preferential treatment. It should also clarify the relationship between section 25 and sexual harassment provisions under the Penal Code.

Secondly, the legal framework should provide clearer procedures for receiving and referring sextortion complaints. The respective responsibilities of the Police Force, Prevention and Combating of Corruption Bureau, public-service authorities, universities, labour institutions and prosecution authorities should be clearly identified. A victim should be able to report the alleged conduct without first being required to determine its precise legal classification.

Thirdly, the application of section 37 of the Public Service Act should be clarified through authoritative guidance on the remedies that must be exhausted, the competent administrative authorities and the applicable time limits. The procedure should also address circumstances in which the alleged perpetrator is involved in or has influence over the internal complaint process.

Fourthly, section 4(3) of the Criminal Procedure Act requires consistent interpretation. The application of the provision should distinguish matters that genuinely require prior exhaustion of civil

[34] *The Constitution of the United Republic of Tanzania, 1977, art. 59B(2)–(3).*
[35] *The Criminal Procedure Act, Cap. 20, R.E. 2023, s. 92.*
[36] *The Criminal Procedure Act, Cap. 20, R.E. 2023, s. 93.*

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or administrative remedies from allegations of independently prosecutable criminal conduct. The existence of an employment or administrative relationship should not automatically determine the legal character of the alleged offence.

Fifthly, universities should ensure that policies and regulations adopted under section 50 of the Universities Act provide clear procedures for handling complaints involving sexual exploitation and abuse of institutional authority. Such procedures should address confidentiality, impartial investigation, protection against retaliation and referral of suspected criminal conduct to competent authorities.

Sixthly, the statutory framework should strengthen protection against retaliation. Victims and witnesses should be protected from intimidation, threats, discrimination and adverse employment or academic decisions arising from reporting sextortion. Appropriate confidential reporting channels and protective measures should be available in accordance with the applicable law.

Seventhly, the relationship between section 138D(5) of the Penal Code and the circumstances in which victims report sexual harassment should be reviewed. The statutory reporting period should be assessed against the practical barriers that may prevent victims from reporting promptly, particularly where the alleged perpetrator exercises authority over their employment, education or access to services.

Finally, prosecutorial and investigative institutions should develop appropriate guidance on the investigation and prosecution of sextortion. Such guidance should address the elements of section 25, the distinction between corruption and sexual harassment, the preservation of digital evidence, the protection of complainants and the lawful exercise of prosecutorial discretion.

8. CONCLUSION

Sextortion is a serious form of exploitation involving the misuse of entrusted authority to obtain sexual favours or benefits. It undermines human dignity, equality, privacy and access to justice. Tanzania has several legal provisions capable of addressing conduct associated with sextortion, particularly section 25 of the Prevention and Combating of Corruption Act, together with relevant provisions of the Penal Code, Cybercrimes Act, Employment and Labour Relations Act, Public Service Act and Universities Act.

Section 25 is particularly significant because it expressly criminalises demands for sexual or other favours made by a person in a position of power or authority as a condition for employment, promotion, a right, a privilege or preferential treatment. Nevertheless, questions remain concerning the interpretation of its key terms, the scope of its application and the adequacy of victim-protection mechanisms. Other provisions, including section 138D of the Penal Code, provide additional protection but raise concerns about the statutory reporting period and the relationship between sexual harassment and sextortion.

The study has further demonstrated that access to justice may be affected by procedural and jurisdictional requirements. Section 37 of the Public Service Act regulates the exhaustion of public-service remedies before seeking labour remedies, whereas section 4(3) of the Criminal Procedure Act concerns exhaustion of civil or administrative remedies before invocation of criminal process in matters within its scope. These provisions must be interpreted separately and should not be treated as a general bar to reporting criminal conduct. The study also highlights the importance of correctly distinguishing the power to enter nolle prosequi under section 92 of the Criminal Procedure Act from the delegation of that power under section 93.

The study concludes that effective legal protection requires more than the existence of criminal offences. It requires clear statutory interpretation, effective institutional coordination, accessible complaint procedures, protection against retaliation and timely determination of complaints. Administrative and labour institutions should address employment-related consequences, while criminal justice institutions should investigate and prosecute conduct that satisfies the elements of criminal offences. These measures are essential to ensuring that the legal framework provides meaningful protection and effective access to justice for victims of sextortion in Tanzania.

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