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Sextortion: Building Coalitions Against Corruption

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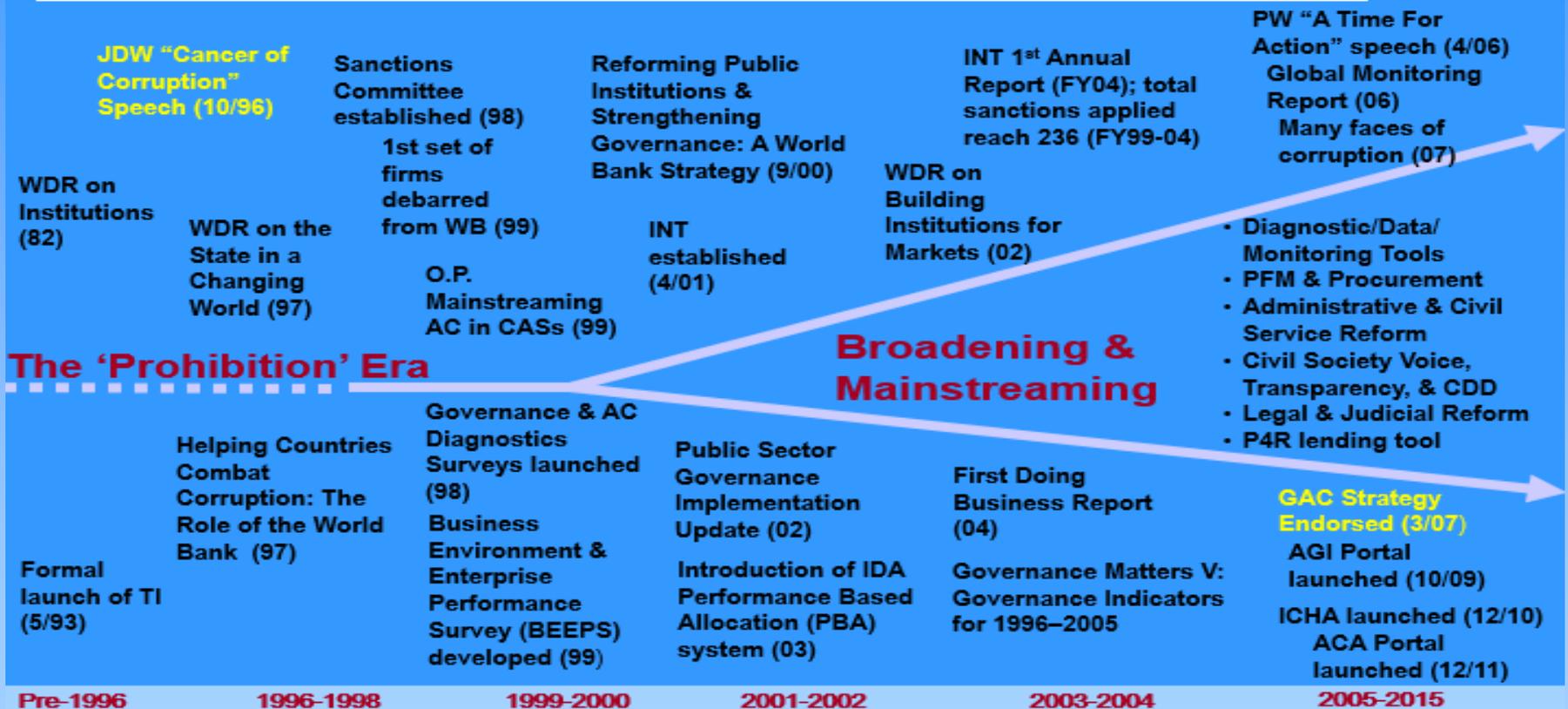
*Sextortion:
Building Coalitions against Corruption*

APEC ANTICORRUPTION & TRANSPARENCY WORKING GROUP (ACTWG)

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Evolution of Governance Work



Defining Some Key Concepts

Governance is defined as:

- ✧ the process by which those in authority are selected, monitored and replaced;
- ✧ the capacity of the government to effectively manage its resources (including economic resources) and implement sound policies; and
- ✧ the respect of citizens and the state for the institutions that govern economic and social interactions among them

Corruption is the abuse of public office for private gain. It generally involves both private-public actors.

ANTI-CORRUPTION GUIDELINES BANK-FINANCED PROJECTS



WB Sanctionable Practices

FRAUD

Any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation.

COLLUSION

Arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party.

CORRUPTION

Offering, giving, receiving or soliciting, directly or indirectly, of **anything of value** to influence improperly the actions of another party.

OBSTRUCTION

(i) Deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a Bank investigation (ii) acts intended to materially impede the exercise of the Bank's contractual rights of audit or access to information.

COERCION

Impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party.

2012 WORLD DEVELOPMENT REPORT ON GENDER EQUALITY & DEVELOPMENT

OUTLINED A GENDER STRATEGY,
HIGHLIGHTING ROLE OF JUDICIAL
INSTITUTIONS IN ACHIEVING GENDER
EQUALITY.

THE REPORT STATED THAT: “EFFORTS TO
STRENGTHEN THE **ENFORCEMENT
CAPABILITIES OF COUNTRIES’ LEGAL,
JUDICIAL AND ADMINISTRATIVE
AGENCIES** ARE CRITICAL TO ACHIEVING
GENDER EQUALITY IN BASIC RIGHTS”.

A world map in shades of blue is centered in the background. The continent of Australia is highlighted in a light yellow color. The text 'Sextortion' is overlaid on the map in a large, bold, red font.

Sextortion

The scale and scope of the problem:

Five cases: one common "crime"?

A teenage girl at a refugee camp in Sierra Leone applies to the camp administrator for the food, soap, and medicine she's entitled to....He falsely tells her that "your name is not on the list" but, instead of demanding money – the classic corruption scenario — he demands sex.

A female trader seeking to cross the border is arrested by a government official. After releasing her, he refuses to give back her confiscated goods unless she provides sexual services.

An immigration judge offers to speak with a woman about her asylum case, saying he'd "like to help" but that he would have to deny her refugee claim — unless, of course, she agrees to a "special relationship."

A woman working in the finance industry is called into a room with her boss to discuss her performance. He tells her he could "make things a lot easier for her" at the company, and makes sexual advances.

A young girl in school is struggling to pass a test. Her teacher seeks her out, telling her he can "adjust her grades" — in exchange for sleeping with him.

What is Sextortion?

Sextortion is defined differently by different groups:

--Both are forms of sexual exploitation involving extortion without physical pressure.

- **“Cyber-Sextortion”**

Brookings Institution, U.S. DOJ (e.g. Blackmail)

-Proposed **“Interstate Sextortion Prevention Act”** (pending in Congress)

-**Sextortion = Sex + Corruption**

International Association of Women Judges (IAWJ), United Nations, World Bank

- **Act** that involves **abuse of public power as *quid pro quo* for a sexual act**
- Sextortion has a **sexual** component and a **corruption** component.
- **Sexual component:** a request, **implicit or explicit**, to engage in unwanted sexual activity.
- **Corruption component:** (1) Abuse of public authority. (2) a *quid pro quo*

The perpetrators:

- Aid workers
- Politicians
- Peacekeeping forces
- Law enforcement
- Government officials
- Border control
- Corrections officers
- Managers
- Teachers, Professors
- Those with access to commodities
- Religious figures

The exchange:

- A positive legal judgement
 - In 2010, a **Canadian** immigration judge was found guilty of trying to coerce a woman into having sex with him in exchange for granting her asylum. The judge was arrested after the woman's boyfriend videotaped his request in a Toronto coffee shop.
- A business permit or resource
 - A 2010 World Bank study in **Moldova** found that female entrepreneurs are subject to requests for bribes in exchange for business permits. Women who cannot pay financially are often forced to pay sexually.
- A tangible job benefit, or employment offer
 - In the **United States**, allegations against Hollywood producer Harvey Weinstein have shed light on pervasive sextortion within the entertainment industry. Weinstein allegedly told women he would “ruin them” and their reputation if they refused to comply

ABUSE OF "ENTRUSTED POWER" TAKES MANY FORMS

Person Entrusted with Power	Quid Pro Quo	Sextortion Victim	
	<p style="text-align: center;">Judge</p>	<p style="text-align: center;">→ Grant Asylum</p> <p style="text-align: center;">← Secret Affair</p>	<p style="text-align: center;">Refugee</p>
	<p style="text-align: center;">Teacher</p>	<p style="text-align: center;">→ Good Grade</p> <p style="text-align: center;">← Sexual Favor</p>	<p style="text-align: center;">Student</p>
	<p style="text-align: center;">Police Officer</p>	<p style="text-align: center;">→ Decline To Charge</p> <p style="text-align: center;">← Expose Breasts</p>	<p style="text-align: center;">Driver</p>
	<p style="text-align: center;">Supervisor</p>	<p style="text-align: center;">→ Promotion</p> <p style="text-align: center;">← Sexual Relationship</p>	<p style="text-align: center;">Employee</p>
	<p style="text-align: center;">Government Official</p>	<p style="text-align: center;">→ Work Permit</p> <p style="text-align: center;">← Oral Sex</p>	<p style="text-align: center;">Immigrant</p>

Data Lacking, Difficult to Track

- **Sextortion data is not tracked by global corruption measures**, and there has yet to be any substantial attempt to track the problem globally among various authorities.
- **Sextortion cases are prosecuted under a range of different legal theories.....COALITIONS/PARTNERS**
 - *Extortion, gender based violence, corruption laws, breach of duties of a public official, statutory rape, employment discrimination, ethics codes of conduct*

Coalition w/Human Rights Secretariat

- **Peru:**

- In 2013, in Lima, a young couple was returning from a nightclub when 2 police cars stopped them. Two policemen told the driver that he had been stopped for speeding and one of them took him to a police station.
- The other policeman took the driver's girlfriend in another patrol car and asked her for a sexual favor in exchange for her boyfriend's freedom. The young woman refused to comply with the officers' request. However, after touching her, he did they take her to the police station. The couple was released some hours later, after the young man's father paid a bribe for their release.
- Some days later, the woman tried to file a complaint. However, the report had to be filed in the same police station where the couple had been arrested, and the officers on duty refused to process it.
- Finally, the claim was brought to the **Ombudsman or Defensoria del Pueblo** and with the help of an attorney, the officers involved were formally accused and prosecuted under the charges of unlawful detention, mistreatment, theft and breach of the duty by a public official.

RICO--Using an organized crime statute: WEINSTEIN

CASES Civil "RICO"

That the defendant have:

- **Conducted or participated** in, **directly or indirectly** the affairs of **an enterprise** affecting **interstate or foreign commerce** through **a pattern** of **racketeering activity**

And that the plaintiff be:

- injured in "**business or property**" by reason of (a violation of 18 U.S. § 1962: "RICO")

An "**enterprise**": A pattern....

- Two acts within a 10 year period

"Racketeering activity":

- "any act or threat involving murder, kidnapping, gambling, arson, robbery, **bribery, extortion**, dealing in obscene matter, or dealing in a controlled substance or listed chemical, which is chargeable under State law and punishable by imprisonment for more than one year."
- "any act" indictable under (a list of many federal criminal laws)
 - Includes wire fraud, mail fraud, witness tampering, obstruction of justice, extortion.

"Business or property":

- Some U.S. case law has viewed sexual harassment as a vehicle to extort from individuals a **property interest** in their **civil rights, and contractual rights of employment**

18 U.S.C. §§ 1961–1968

- Four year "discovery of injury" statute of limitations
- Can file against those who 'enabled' sextortion, beyond alleged perpetrator

Advantages for plaintiffs:

Technology & Evidence

- In R. v. Ellis, a **Canadian** judge was convicted of “breach of trust” after suggesting he’d rule in favor of asylum seeker in exchange for sex.
- In **Ghana**, 2015 scandal involved 12 lower court & 7 high court judges demanding bribes, including sex, for favorable judgments. Similar case in **Egypt**.
- **ALL THREE CASES INCLUDED INCRIMINATING AUDIO/VIDEOS!**

Codes of Conduct

- Several advantages over legislation: faster to adopt/change; less immune to politics; can exceed legal standards.
- **Florida Fair Food Program (2015-16)**: drastic decline in sexual harassment complaints
 - Zero tolerance policy
 - Designed in collaboration with growers/buyers
 - Over 90% of tomato industry in FFP now complies w/ code of conduct that aggressively combats sexual harassment on farms.

Coalitions with “Change Partners”

- SEXTORTION TOOLKIT: With financing from the Government of the Netherlands, a number of women judges associations prepared a Toolkit to examine laws and practice: Tanzania, the Philippines, Bosnia and Herzegovina.
- Thomson Reuters Foundation, IAWJ, Hewlett-Packard Company and a number of law firms working pro bono put a Comparative Study of Laws to Prosecute Corruption involving Sexual Exploitation in: Argentina, Australia, Brazil, Canada, Kenya, Mexico, Taiwan, Uganda and the United Kingdom (also looked at Int'. Law statutes).
- Work with those helping the POOR: Like Corruption, Sextortion disproportionately impacts the Poor.
 - Sextortion has affects economically vulnerable harder; often illiterate; less knowledgeable or able to assert their legal rights.
 - Poor women often subject to sextortion need to provide for their families

How to Address Sextortion?

Short Term:

- **Interpret existing law** and **codes of conduct** to encompass sextortion.
- Identify and remove the barriers to encourage **sextortion reporting**.
- Identify and remove the barriers to successful **sextortion prosecution**.
- Every country is different. **Track data on sextortion**, and advocate for the inclusion of sexual bribery within global corruption indices.

Long Term:

- Advocate for **gender parity** in positions of public authority.
- Place women in **positions of public authority** that interact predominantly with vulnerable women
- Implement and enforce **codes of professional responsibility** to encompass sextortion crimes.
- Address underlying dynamics that **increase the risk** of sextortion.
- **Craft new legislation** to address the problem.
- **Challenge the perception of sextortion survivors (stigmas)**

Thank You!

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