Sextortion: Building Coalitions Against Corruption

Submitted by: World Bank Group
Sextortion: Building Coalitions against Corruption

APEC ANTICORRUPTION & TRANSPARENCY WORKING GROUP (ACTWG)

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Evolution of Governance Work

The ‘Prohibition’ Era

- JDP “Cancer of Corruption” Speech (10/96)
- WDR on Institutions (82)
- WDR on the State in a Changing World (97)
- Helping Countries Combat Corruption: The Role of the World Bank (97)
- Formal launch of TI (5/93)

- Sanctions Committee established (98)
- 1st set of firms debarred from WB (99)
- O.P. Mainstreaming AC in CASs (99)
- Governance & AC Diagnostics Surveys launched (98)
- Business Environment & Enterprise Performance Survey (BEEPS) developed (99)

- Reforming Public Institutions & Strengthening Governance: A World Bank Strategy (9/00)
- WDR on Building Institutions for Markets (02)
- INT 1st Annual Report (FY04); total sanctions applied reach 236 (FY99-04)
- Public Sector Governance Implementation Update (02)
- Introduction of IDA Performance Based Allocation (PBA) system (03)
- First Doing Business Report (04)
- Governance Matters V: Governance indicators for 1996–2005

- Broadening & Mainstreaming
- PW “A Time For Action” speech (4/06)
- Global Monitoring Report (06)
- Many faces of corruption (07)
- Diagnostic/Data/ Monitoring Tools
- PFM & Procurement
- Administrative & Civil Service Reform
- Civil Society Voice, Transparency, & CDD
- Legal & Judicial Reform
- P4R lending tool

- GAC Strategy Endorsed (3/07)
- AGI Portal launched (10/09)
- ICHA launched (12/10)
- ACA Portal launched (12/11)

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.

**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.

**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.
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”.
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 exchange (3) psychological, rather than physical coercion. (IAWJ)
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

<table>
<thead>
<tr>
<th>Person Entrusted with Power</th>
<th>Quid Pro Quo</th>
<th>Sextortion Victim</th>
</tr>
</thead>
<tbody>
<tr>
<td>Judge</td>
<td>Grant Asylum</td>
<td>Refugee</td>
</tr>
<tr>
<td>Teacher</td>
<td>Good Grade</td>
<td>Student</td>
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<tr>
<td>Police Officer</td>
<td>Decline To Charge</td>
<td>Driver</td>
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<td>Supervisor</td>
<td>Promotion</td>
<td>Employee</td>
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<tr>
<td>Government Official</td>
<td>Work Permit</td>
<td>Immigrant</td>
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<td></td>
<td>Oral Sex</td>
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</tbody>
</table>

- Judge: Grant Asylum, Secret Affair; Refugee
- Teacher: Good Grade, Sexual Favor; Student
- Police Officer: Decline To Charge, Expose Breasts; Driver
- Supervisor: Promotion, Sexual Relationship; Employee
- Government Official: Work Permit, Oral Sex; Immigrant
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: 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 Defensoría 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 of:
- 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


Advantages for plaintiffs:
- Four year “discovery of injury” statute of limitations
- Can file against those who ‘enabled’ sextortion, beyond alleged perpetrator
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 FPP 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 disproportionally 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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