



Measures to Combat Protection Fee Syndicates and Business Extortion

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Waging a concerted battle against Protection Fee Syndicates & the Extortion of Communities and Businesses

1. INTRODUCTION

Public procurement is used to grow the economy, alleviate poverty and reduce inequalities

Public procurement in South Africa (SA) is used by the Government as a vehicle for transformation and as a way of combating inequalities. It is also used to promote industrial development. The South African Government has undertaken massive infrastructure development in order to grow the economy and create employment through initiatives such as the Expanded Public Works programme. Billions of Rands are injected into the economy annually by the public sector as well as the private sector. However, these public policy objectives must be achieved in accordance with Section 217 of the Constitution. Despite Government policies to address inequalities, criminal elements have crept in and it has been hijacked by criminal elements that seek to gain from public procurement.

The Preferential Procurement Regulations were promulgated in 2017

The former president, Jacob Zuma, in his State of the Nation Address in 2017 stated that new regulations to implement radical socio economic transformation will make it compulsory for big contractors to subcontract 30% of business to black-owned enterprises¹. These new regulations were to be finalised and gazetted on 20 January. However, there were complications regarding implementation of the new regulations as they were rendered invalid by the judiciary. The Supreme Court of Appeal held that the Preferential Procurement Regulations (2017 Procurement Regulations), promulgated by the Minister of Finance, were inconsistent with the Preferential Procurement Policy Framework Act² (Procurement Act) and were thus invalid. The National Treasury reported that it has received complaints about the abuse in certain provinces and municipalities of the requirement that 30% of public

¹ SONA. 2017

² Act No 5 of 2000

procurement contracts be subcontracted to designated groups, as provided for in the Preferential Procurement Regulations, 2017³.

Extortion in all forms is not unique to SA but is a challenge globally. This practise of extortion has grown and expanded to major urban cities in SA. It mainly affects the construction industry as well as small businesses. This phenomenon has happened in other countries such as China, Italy, Venezuela and El Salvadore amongst others. Protection fee syndicates and extortion has devastating effects on infrastructure and industrial development as well as social costs on communities that are exposed to violence exerted by this practise.

The paper will analyse the incidence of protection fee syndicates and extortion of businesses in SA, the economic and social costs of these on businesses and communities that are exposed to the practise as well as measures that have been taken to eradicate this practise.

2. BACKGROUND

An organized crime group determines an affordable or reasonable fee by negotiating with each of its payers, to ensure that each payer can pay the fee on a regular basis and on time.

A **protection racket** is a type of racket and a scheme of organized crime perpetrated by a potentially hazardous organized crime group that generally guarantees protection outside the sanction of the law to another entity or individual from violence, robbery, ransacking, arson, vandalism, and other such threats, in exchange for payments at regular intervals⁴. Each payment is called "protection money" or a "protection fee". Protection fee or extortion syndicates were common in Russia, Italy and China as early as in the 90s and early 2000s. Countries in Latin America such as Gautemala were also known for these syndicates.

The Northern Triangle⁵ countries of Guatemala, El Salvador and Honduras embarked to some of the most sophisticated extortion schemes in Latin America. The Northern Triangle extortion problem is a result of the region's gangs that have roots in deportations from the United States of America (US) in 1990s and 2000s. The mass incarceration policies of these countries led to the rise of gangs such as M13 that adopted extortion on a large scale as a reliable source of income when their leaders were imprisoned. The overcrowded prisons were largely unsupervised, and the nature of these prisons has allowed them to become criminal headquarters where extortion networks have thrived.

Extortion syndicates also grew exponentially in Venezuela and infused almost all levels of society, propagating greater fear as it becomes more violent. The repercussions of not paying extortions are severe that grenades were thrown at business premises, assassinations and forced displacement as people tried to avoid danger. The societal and economic costs of the extortion schemes are also profound. The citizens have lost faith in security forces willingness and

³ NT. 2018. Media Statement: Alleged abuse of the 30% subcontracting requirements provided for in the Preferential Procurement Regulations, 2017

⁴ Wikipedia

⁵ The Northern Triangle includes countries like Guatemala, Honduras, and El Salvador in the Latin America

capacity to protect them, while the economic growth is stood still by monthly extortion costs.

In Africa, SA, Nigeria and Senegal has seen a rise in extortion networks

Africa has also seen a rise in the extortion networks. Countries such as Nigeria, South Africa and Senegal⁶ has experienced violence associated with extortion. Foreign criminal actors, particularly from West Africa, South America, China, Pakistan, Israel, and southern and eastern European nations, have a strong presence in South Africa⁷. This practise if not arrested immediately, will have devastating effects on the economy, investor confidence, service delivery and the lives of ordinary citizens.

3. INCIDENCE OF PROTECTION FEE SYNDICATES IN SA

SA has the 7th highest criminality score

According to the 2023 Global Organised Crime Index, South Africa has the seventh highest criminality score in the world and the third in Africa, partly due to the presence of protection fee seeking syndicates. These syndicates have been active since 2014, mainly in KwaZulu-Natal, but have since spread to other provinces and sectors⁸. Protection fee syndicates mostly operate in major cities like Cape Town, Johannesburg, and Durban, and have links to foreign criminal actors from various regions. This practise is also spreading to other remote areas and if it is not halted, will have devastating effects on the economy and infrastructure development.

Most businesses targeted are in the construction sector

In SA, extortion takes places mainly in the construction industry as well as in the small business sector in the formal and informal sector. In Cape Town, this practise extends to communities and is beginning to affect employed individuals living in townships around Cape Town such as emergency medical service (EMS) workers. Community based businesses such as salons and spaza shops are largely affected by this practise.

By 2019, Construction projects worth R25.5 billion were disrupted

The construction mafia has engaged in violent disruptions of construction sites and extortion of protection fees from businesses. Extortion syndicates typically demand a 'protection fee' from local business owners in the form of a portion of the cost of an infrastructure project, or specific individuals are recruited to work on the site⁹. In cities such as Tshwane, the protection fee is colloquially known as a '30%' – a reference to the proportional subcontracting requirement in the Treasury's 2017 Preferential Procurement Regulations¹⁰. These directives aim to transform the economy by empowering historically disadvantaged individuals and small, medium and micro enterprises. They require that winners of state tenders over R30 million subcontract at least 30% of the contract's value to small local developers to undertake construction work.

⁶ Daily Investor. 2023. **Mafia-style criminal networks taking over South Africa**

⁷ Ibid

⁸ Mulaudzi, G and Lancaster, L (2021).

⁹ Institute for Security Studies. 2023. South Africa's construction mafia trains its sights on local government

¹⁰ Ibid

In 2020, violence and site disruptions affected projects valued between R27.5bn and R42bn nationally

3.1 Economic costs of protection fee syndicates

By March 2019, it was estimated that construction projects worth a minimum of R25.5 billion had been violently disrupted and halted¹¹. The violent construction-site disruption phenomenon accelerates the sector's demise as some of the largest employers are already in business rescue, with smaller firms crumbling alongside them, all the while shedding thousands of jobs that belong to South Africans, many of whom are underprivileged. The construction sector employs mainly a large proportion of unskilled labour. In 2021, police investigations into extortion rings in Cape Town found that syndicates were targeting even formal businesses such as cafes, restaurants and bars, as well as "informal businesses, the transport industry and construction sites"¹².

Although, the effects of this cannot be quantified due to other incidence not reported, its devastating effects on the construction industry and SMME sector are clearly noticeable.

3.2 Delays infrastructure projects and service delivery

Infrastructure development assists the Government in delivering services to communities. Construction of schools, clinics and roads are amongst some important Government services for communities to benefit. The delays in these projects due to protection syndicates delay the much needed service delivery to communities.

3.3 Employment and brain drain

The South African Forum of Civil Engineering Contractors (SAFCEC) has stated that the business extortions happening in the construction industry has led to brain drain as engineers and other highly skilled technical personnel had left the country. This also has an impact on employment as infrastructure development leads to employment. If this is not arrested, it will cost the industry and the country significantly.

3.4 Decline of the small business activity

Vendors pay about R500 a month to syndicates

Extortion and protection fee syndicates targets formal businesses such as cafes, restaurants and bars, as well as "informal businesses, the transport industry and construction industry and spaza shops. In townships, they target roadside meat sellers, barbershops, salons, shebeens and spaza shops. Vendors are reportedly paying R500 a month to armed gangs or risk being robbed or injured. Sometimes they must pay off more than one gang¹³. In 2021, police found that syndicates targeted "flat owners and backyard landlords" in townships for a percentage of their rental incomes, and also kidnapped and extorted residents and workers coming from work¹⁴.

Business activity in the city as well as in locations are equally affected. This practice will lead to a decline in the small businesses which absorb a greater

¹¹ South African Forum of Civil Engineering Contractors (SAFCEC)

¹² South African Government (2021).

¹³ Phaliso, S (2023).

¹⁴ South African Government (2021).

portion of unskilled labour as the cost of intimidation in certain cases threaten human lives and is too violent.

4. THE SOCIAL COSTS OF FEE SYNDICATES

The existence of protection fee syndicates has social costs due to the violent nature associated with such practises. The community feels unprotected by the police and has no faith in the state capacity to deal with such crimes. Syndicates have also targeted political ward councillors overseeing local government projects and have threatened and killed those who did not comply with their demands.

4.1 The effects on service delivery

Service delivery through construction of clinics, hospitals, schools and roads assist the community by benefiting from such services. The construction mafias are sometimes not competent in delivering on infrastructure projects and robs the community of the much needed service delivery.

4.2 Decline in local economic activity and poverty alleviating strategies

The extortion syndicates will lead to the demise of local economic activity as cost of conducting businesses in affected areas become too high. This will lead to a rise in unemployment and poverty to the adverse outcomes brought by the syndicates.

Extortion syndicates operating in Cape Town, particularly in the Khayelitsha area, have been targeting small businesses, street vendors, and even households in recent months. It's alleged that these syndicates are now casting their net even wider and targeting off-duty medics. EMS staffers are being forced to pay protection fees when they are off-duty in their local communities.

5. STEPS TAKEN BY LAW ENFORCEMENT AGENCIES TO COMBAT SYNDICATES

5.1 Steps taken by the South African Police Services

SAPS and other agencies carried out 19 operations against kidnapping and human trafficking syndicates

- The South African Police Service (SAPS) has collaborated with other government departments, such as the Department of Justice and the National Prosecuting Authority (NPA), to strengthen the legal framework and the criminal justice system to deal with the syndicates.
- Reportedly, extortion is “very high on the priority list” of police in the Western Cape, where some of the cases under investigation are before court. However, due to the sensitive nature of the investigations the SAPS says it cannot release more information about these cases.¹⁵

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- Between September 2018 and August 2021, the SAPS and other agencies carried out 19 operations against kidnapping and human trafficking syndicates, which are often related to protection fee syndicates.¹⁶
- In these operations, 176 suspects were arrested for kidnapping and 36 for human trafficking, while seven hostages were found dead.¹⁷
- One of the most prominent cases concerned a syndicate involved in human trafficking and brothels whose members threatened to post recordings of their clients on social media. They extorted more than R3 million over a three-year period between 2012 and 2015. The three kingpins received lengthy prison sentences of up to 20 years when the case concluded in the Western Cape High Court in 2019.¹⁸
- The SAPS in the Western Cape has established a multidisciplinary extortion priority committee comprising internal and external to address the various manifestations of extortion, including extortion affecting the formal and informal construction and business sectors.
- Toll-free extortion hotlines 0800 314444¹⁹ or (021) 466 0011,²⁰ and Crime Stop 08600 10111, are in place for members of the public to report extortion-related crimes.²¹
- In 2021 the Police Minister Cele engaged the provincial government, the City of Cape Town, the National Commissioner and the Provincial SAPS management, in response to the growing phenomenon of extortion in the Western Cape.²²
- An Extortion Priority Committee of the Provincial Joint Operational and Intelligence Structure was established to deal with the crime trend which includes role players from SAPS and the Directorate for Priority Crime Investigation (DPCI); the provincial office of the Premier; provincial departments and other law enforcement agencies.²³
- The Minister of Police indicated in 2021 that 105 extortion cases have been opened since January 2020, of which 67 cases were still under investigation.²⁴
- Of the 106 people arrested and charged in connection with extortion cases, “seven individuals” were released on bail, while 94 were remanded in custody.²⁵
- Twenty of the cases were opened in Khayelitsha, while the Nyanga policing cluster recorded 13 of the cases”.²⁶
- In response to a Parliamentary Question on 20 September 2023, the Minister of Police confirmed that a multidisciplinary extortion priority committee, comprising internal and external stakeholders have been established to stop extortion gangs targeting informal businesses and township homes across the Western Cape.²⁷

105 extortion cases have been opened

20 cases opened in Khayelitsha

13 cases opened in Nyanga

2022)
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f Police (2023).

18 Phaliso, S (2023).

21 Phaliso, S (2023).

22 South African Government (2021).

23 South African Government (2021).

24 South African Government (2021).

25 South African Government (2021).

26 South African Government (2021).

27 Minister of Police (2023).

- In addition, the focus of the Extortion Priority Committee through its Integrated Extortion Task Team, includes prevention initiatives (e.g. awareness campaigns, encouraging reporting on the toll free extortion hotline) and focused investigations with a dedicated National Prosecuting Authority (NPA) capacity.

5.2 Steps taken by the City of Cape Town to address

- Protection fee gangs have negatively impacted service delivery. Armed criminals demanding protection fees have led to the suspension of essential services like waste collection in Gugulethu where refuse collection teams are reportedly followed and threatened by armed men in vehicles, Nyanga and Philippi East.
- The City launched an anti-extortion campaign to encourage more people to report these incidents to assist police and law enforcement to better identify protection racketeers.
- An Extortion Task Team was established to investigate cases linked to gangs.
- The City deployed more security and law enforcement officers to critical hotspots.
- The City offered a R1 million reward for information that would lead to the prosecution of the gunmen who killed Wendy Kloppers on 16 February 2023, a City of Cape Town Official, at a housing site in Delft. Her family believes that a "construction mafia" mistook her for the woman who had received the City contract as both women drove similar cars.
- In February 2023, three contractors were shot at the Delft Symphony Way housing project, worth R500-million. The City subsequently offered a R5 000 reward for information relating to the shooting, while the SAPS was investigating three counts of attempted murder and extortion as a motive for the attack.
- The City has strengthened security measures at its construction sites to prevent attacks and threats from extortionists.
- It has also engaged with various stakeholders, such as the Western Cape Property Development Forum, the South African Property Owners Association, and the Master Builders Association, to help find solutions to the problem.

3 contractors with a project worth R500-million were shot

6. RECOMMENDATIONS FOR SAPS AND OTHER GOVERNMENT AGENCIES

The following recommendations are made to tackle the protection fee syndicates and the construction mafia:

- Enhance the intelligence gathering and analysis capabilities of the SAPS to identify and monitor the syndicates and their networks.²⁸
- Establish specialised units and task teams within the SAPS and the NPA to focus on the syndicates and ensure effective and speedy investigations and prosecutions.²⁹

²⁸ Mulaudzi, G and Lancaster, L (2021).

²⁹ Mulaudzi, G and Lancaster, L (2021).

- Improve the coordination and cooperation among the SAPS, the NPA, the Department of Public Works and Infrastructure, the Department of Cooperative Governance and Traditional Affairs, and other relevant stakeholders to share information and resources and prevent duplication and fragmentation.³⁰
- Review and revise the Preferential Procurement Regulations and other policies to ensure they are aligned with the Constitution and the principles of good governance and transparency.³¹
- Raise awareness and educate the public and the private sector about the syndicates and their *modus operandi* and encourage them to report any incidents or suspicions of extortion to the SAPS or other authorities.³²
- Support and protect victims and witnesses of the syndicates and provide them with legal and psychological assistance and counselling.³³

References

Koko, K (2022). Kidnapping syndicates thrive in South Africa. 25 February 2022. Mail and Guardian. Available at <https://mg.co.za/news/2022-02-25-kidnapping-syndicates-thrive-in-south-africa/> Accessed 4 November 2023.

Mashego, L (2023). Construction Mafias Explained: How They Operate, How Dangerous They Are and Other Questions Answered Read more. 17 February 2023. Briefly. Available at <https://briefly.co.za/editorial/explainer/153407-explainer-what-construction-mafias-how-affect-service-delivery/>. Accessed 4 November 2023.

Minister of Police (2023). RNW 2622. Internal Question Paper 27-2023. 1 September 2023.

Mulaudzi, G and Lancaster, L (2021). South Africa's construction mafia sets its sights on local government extortion. 25 October 2021. Daily Maverick. Available at <https://www.dailymaverick.co.za/article/2021-10-25-south-africas-construction-mafia-sets-its-sights-on-local-government-extortion/>. Accessed 4 November 2023.

Phaliso, S (2023). Extortion rings prey on poor communities. 4 October 2023. GroundUp. Available at <https://www.groundup.org.za/article/extortion-gangs-are-impacting-the-daily-lives-of-people-in-vulnerable-community-in-cape-town/>. Accessed 4 November 2023.

Solomons, L (2023). Growing concerns over 'construction mafia', extortion at City of Cape Town sites. 8 March 2023. News24. Available at <https://www.news24.com/news24/southafrica/news/growing-concerns-over-construction-mafia-extortion-at-city-of-cape-town-sites-20230308>. Accessed 5 November 2023.

³⁰ Mulaudzi, G and Lancaster, L (2021).

³¹ Mulaudzi, G and Lancaster, L (2021).

³² Mulaudzi, G and Lancaster, L (2021).

³³ Mulaudzi, G and Lancaster, L (2021).

South African Government (2021). Police clamp down on Cape Town extortion rackets. 8 April 2021. <https://www.sanews.gov.za/south-africa/police-clamp-down-cape-town-extortion-rackets>. SA News

South African Police Service (2019). Media Statement from Directorate of Priority Crimes Investigation (HAWKS) South African Police Service. 8 March 2019. Available at <https://www.saps.gov.za/newsroom/msspeechdetail.php?nid=19616>. Accessed 5 November 2023.