

**Gordon Institute  
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**The practice of legislation-justified extortion and its effects  
on effective management of formal businesses**

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## **ABSTRACT**

Globally, the practice of extortion and its interaction with business is given adequate research attention. This is because extortion is criminal, hence protected so that there is scarcity of information that can be freely used to explore the phenomenon. Therefore, this qualitative study's aim was to explore the concept of extortion and its effects on the formal South African construction businesses. Thus, the study fills the research knowledge paucity on extortion by focusing on two major provinces: Gauteng and KwaZulu Natal. The study was motivated by the prevalent acts of extortion that the construction sector has been grappling with for many years. Semi-structured interviews were conducted with three different groups which were: contractors of different sizes, government officials and members of construction statutory and voluntary associations. A total of 17 participants formed part of this study.

The findings of this study led to a development of a model which explains how extortion takes place in the South African construction sector. The study frames extortion as legislation-justified extortion which is a form of systemic extortion that is defended through the use of the national legislation. The study argues that there are enablers that contribute to the formation and subsistence of legislation-justified extortion. Legislative-justified extortion does not affect all construction businesses the same: major businesses are targeted the most compared to small businesses while small business are mostly impacted. Legislation-justified extortion was found to have adverse effects on the profitability of targeted businesses. It also imposed detrimental operational and sustainability risks to formal construction businesses. This study has recommended enhancement of the new public procurement Act that is currently before the national legislature. It has also called for a robust stakeholder engagements on the new public procurement bill once enacted. The study has also recommended a number of measures to improve law enforcement.

### **KEYWORDS:**

Legislation-justified Extortion, Construction Sector, Preferential Procurement Regulations, Business Forum, Construction Mafia.

## DECLARATION

*I declare that this research project is my own work. It is submitted in partial fulfilment of the requirements for the degree of Master of Business Administration at the Gordon Institute of Business Science, University of Pretoria. It has not been submitted before for any degree or examination in any other University. I further declare that I have obtained the necessary authorisation and consent to carry out this research.*

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# CHAPTER 1: INTRODUCTION

## 1.1. Background

This study aimed to explore the practice of extortion in the environment of business with a particular focus on its enablers and effects on formal construction businesses. The practice of extortion is characterised by a conduct where an individual or entity intentionally uses unlawful means to obtain some form of advantage from another by using pressure that induces the latter to hand over the advantage (Snyman, 2021). In many parts of the world, extortion is a criminal conduct regulated by law. In South Africa, extortion is a criminal offence regulated by three authoritative sources of law: common law, case law and legislation. It is a crime that originates from common law, but was further developed by precedents of court decisions and was also given clarity in different legislations. Key to mention of these legislations is the Criminal Procedure Act (1997), where extortion has been listed as a serious criminal offence under schedule 5, along with other offences such as murder, treason, and rape. It has also been mentioned as a criminal offence under the Prevention and Combating of Corrupt Activities Act (2004). In terms of the Criminal Amendment Act (1997), an offence of extortion may attract a minimum sentence of 15 years imprisonment.

Despite extortion being a criminal offence in many parts of the world, extortion has over the years found its subsistence in the environment of business at the detriment of formal businesses and economic growth (Ornelas, 2018). In the business context, Neu (2019) attempts to define extortion as a practice of repetitive economic activity whereby criminals target certain assets and weaken them by convincing the owners to believe that their assets are exposed to risks. As victims, the owners would then be required to pay a fee in exchange for the protection of their assets (Neu, 2019).

Organised syndicates have found a way to create a thriving business out of extortion practices. Neu (2019) argues this point by alleging that this practice is now a well-organised and repetitive economic activity that employs different persons in society. It is further contended that this practice has become a multi-million business and perhaps a billion-dollar informal business mostly prevalent in developing countries and has significant negative effects on everyone with whom it interfaces (Neu, 2019). This sentiment is shared by Ranasinghe (2017), who argues

that anecdotal and empirical evidence suggests that the practice of extortion remains a concerning hindrance to doing business in the developing world.

According to Dammert (2021), extortion has now been normalised and has become part of the community as it is the main source of criminals to make money. In Mexico alone, it is alleged that extortion calls by criminals increased by 22% between 2013 and 2019, while the region experienced more than 3.7 million from just seven prisons (Dammert, 2021). In El Salvador, extortion-related pay-outs and associated costs were estimated to be \$4 billion, equal to about 16% of the country's Gross Domestic Product (GDP) (Neu, 2019). In a study that studied the correlation between extortion and property rights, it is reported that most of the countries in Europe experience some form of extortion practices, with Slovakia, Turkey, and Moldova topping the list at 26%, 18% and 17%, respectively (Ranasinghe, 2017). In Italy alone, in 2012, revenues from extortion practices were at some point reported to be between 2.8 and 7.7 billion Euros, with wholesale, retail, and construction businesses accounting for most of the revenues (Lisciandra, 2014).

In the study that conducted a literature review on corruption in the construction industry, extortion was ranked number five (Chan & Owusu, 2017). The study asserted that the construction industry remains one of the most corrupt sectors, with a high number of corruption incidences reported (Chan & Owusu, 2017). This assertion seems to be supported by what has been occurring in the South African construction sector since 2015. According to the Global Initiative against Transactional Organised Crime (GI-TOC, 2022), in and around 2015, the South African construction industry started experiencing hostile and violent disruptions on its construction sites. These disruptions, initially concentrated in KwaZulu-Natal (KZN) Province, have now spread to other parts of the country. GI-TOC (2022) alleges that these practices of violently disrupting construction sites were started by two groups from the townships of Umlazi and KwaMashu in Durban under a movement known as Radical Economic Transformation (RET) (GI-TOC, 2022).

These RET groups are referred to as construction mafias or construction business forums by the South African construction industry and the mainstream media (Erasmus, 2021; GI-TOC, 2022; Makhaye & Mkhize, 2018; Mfebe, 2020). It is reported that the groups' *modus operandi* would be to target infrastructure construction sites taking place, capture the sites by force and demand 30% of the contract value in the form of cash, which they refer to as a "protection fee"



or a portion of the scope of work (GI-TOC, 2022). These groups argue that their demands and conduct are justified by the provisions of the South African preferential procurement legislation.

Public procurement of goods and services in South Africa is mainly regulated through section 217 of the Constitution of the Republic of South Africa (1996). Section 217(1) specifically requires all organs of the State to follow a procurement system that is fair, equitable, transparent, competitive, and cost-effective (The Constitution of the Republic of South Africa, 1996). Notwithstanding these general stringent procurement requirements, section 217(2) permits organs of State to, among others, implement procurement policies that are aimed at redressing the injustices of the past by ensuring that Historically Disadvantaged Individuals (HDIs) can participate in the country's economic activities (The Constitution of the Republic of South Africa, 1996). However, to implement the policies referred to in section 217(2), section 217(3) further requires that national legislation be promulgated, which would prescribe a framework within which the policies in section 217(2) would be implemented (The Constitution of the Republic of South Africa, 1996). The national legislation referred to in section 217(3) is the Preferential Procurement Policy Framework Act (2000).

As a means of prescribing the framework that is meant to guide organs of State in implementing policies as contemplated in section 217(2) of the the Republic of South Africa (1996), section 5 of the Preferential Procurement Policy Framework Act (2000) has empowered the Minister of Finance to pass regulations that would give effect to its objective. These regulations are in the form of the Preferential Procurement Regulations (PPR), with the 2017 regulations (PPR 2017) being extensively used in the construction sector between April 2017 and January 2023. In giving effect to the main objective of the Preferential Procurement Policy Framework Act (2000), the PPR 2017 advanced HDIs in two ways. Firstly, they provided for pre-qualification criteria in regulation four, which permits organs of State to stipulate in the invitation to tender that a specific tender is only for Exempted Micro Enterprise (EME) or Qualifying Small Enterprise (QSE) as classified in the Broad-Based Black Economic Empowerment Act (PPR, 2017). Secondly, the regulation further empowered organs of State to stipulate compulsory sub-contracting of 30% of the contract amount to EMEs or QSEs specifically owned by HDIs (PPR, 2017). In terms of the regulations, HDIs refer to designated groups, which include black people in general; black people who are youth; black people who are women; black people with disabilities; black people living in rural, undeveloped or townships; and black people who are military veterans (PPR, 2017).

Notwithstanding the above legislative framework, the construction industry in South Africa continued to evidence the emergence of a foreign phenomenon that has been threatening the sector. It is claimed that by 2019, almost every developmental site was affected by the invasion of construction mafias in KZN (GI-TOC, 2022). GI-TOC (2022) claims that in 2019 alone, at least 183 infrastructure and construction projects estimated to be worth more than R63 billion were disrupted and captured by these organised groups. Mfebe (2020) claims this practice has rendered the construction sector a battlefield—A battlefield characterised by improper demands for implementation of disingenuous RET imperatives, disruptions, extortion, violence, rudeness, and lack of enforcement of law and order (Mfebe, 2020). These views are also supported by the GI-TOC (2022), which argued that this foreign practice is tantamount to systemic extortion.

The subsistence of this battlefield has resulted in key stakeholders in the sector raising concerns about the lack of much-needed swift actions by law enforcement agencies. This was because, despite having obtained interdicts from the courts, the practice continued with the court orders not yielding the expected results. According to the GI-TOC (2022), by the end of 2019, there were approximately 51 court interdicts issued against construction mafias, but these have not brought about the desired effects as they didn't prevent the construction mafias from continuing to disrupt construction sites. Mfebe (2020) characterised this lack of law enforcement as being tantamount to a nonchalant attitude by those mandated to enforce the law, which can only serve to advance the perception that the rule of law only applies to a selected few. Reflecting on the seriousness of the situation, Pocock (2018) claims that there is a serious danger that the construction sector will face financial decay due to these prevalent extortion demands while the government is not doing anything about them.

In emphasising the effect of the lack of law enforcement in halting disruptions on construction sites and the need for urgent and joint action by all role players, the Bargaining Council for the Civil Engineering Industry (BCCEI) has argued that the acts of intimidation, violence, and extortion on construction sites have now reached an uncontrollable level (Fraser, 2022). To support the assertions regarding the unwillingness by the law enforcement agencies to enforce the law, the disruptions continued even after the president of the country had strongly condemned the practice in the 2020 State of the Nation Address (SONA), where he announced that a response to deal with this growing problem of organised groups that extort money from construction business owners had been prioritised (The Presidency, 2020). These sentiments

were also later repeated by the Minister of Finance in the 2020 Budget Speech, where community members were encouraged to expose those involved in criminal activities so that they are referred to the criminal and justice systems (National Treasury, 2020).

Many stakeholders have argued that due to the lack of law enforcement in decisively dealing with these syndicates in the construction sector, contractors are left with no other option but to comply with the illegal demands. As reported by the “Construction Mafias” (2022), contractors have resorted to including the amounts demanded by the business forums as provisional sum line items in their bills of quantities to accommodate the demands rather than having to deal with the consequences of not cooperating. This practice is not only unethical, but is also risky towards their own businesses. On this basis, it is strongly argued that the construction industry is now under siege, where criminality is normalised (Pockok, 2021). An example in this regard was in 2021, when a water utility’s construction site in KZN was stopped until the entity had to enter into an agreement with construction mafias to avert further site disruptions (GI-TOC, 2022). It is further argued that unless a holistic intervention is made, construction businesses will be left with no choice, but to yield to criminal conduct of extortion, intimidation, and violence (“Construction Mafias”, 2022). A practice which legitimises criminality in the construction industry.

It is paramount to note that at the time of conducting this research, the PPR 2017, which seemingly justified this criminal conduct, was already set aside by the Supreme Court of Appeal (SCA) for being unconstitutional. In arriving at this decision, the SCA, in the case of *Afribusiness NPC v The Minister of Finance* (2020), held that PPR 2017 were unconstitutional and therefore invalid because they were inconsistent with section 217 of the Constitution and section 2 of the PPPFA. Among others, the court, in its *ratio decidendi*, highlighted that “*The Minister had failed to create a framework as contemplated in Section 2 of the PPPFA*” and that “*The Minister acted outside his powers under Section 5 of the Framework Act when promulgating the regulations as he did not comply with the Constitution and the PPPFA, which is the national legislation that was enacted to give effect to Section 217 of the Constitution*” (*Afribusiness NPC v The Minister of Finance*, 2020). Following the unsuccessful appeal by the Minister of Finance to the Constitutional Court, the National Treasury promulgated the new Preferential Procurement Regulations on 4 November 2022, which were to come into effect on 16 January 2023 (PPR 2022).

The new regulations severed all BBEE provisions, compulsory 30% sub-contracting, and the pre-qualification requirements previously provided for in the 2017 regulation. Despite the 30% having been removed from the new PPR, the practice of premised extortion continued and is still taking place using the PPR 2017 basis. PPR 2022 were promulgated as an interim measure to allow the government to function while the new procurement legislation is being considered by parliament. The bill that would ultimately result in the procurement legislation was only introduced in parliament for deliberation in June 2023. This new Act will eventually repeal the current PPPFA and address all the preferential procurement requirements in the public sector (Public Procurement Bill, 2023). Notwithstanding this development, the extortion groups continue to terrorise the sector based on legislation that is no longer in place.

The above account demonstrates that extortion is becoming a growing challenge in the South African construction sector, which must be understood in terms of its antecedents and how it impacts the environment of business in the sector so that means to address it may be developed. This is in line with the recommendation by GI-TOC (2022), where it was concluded that in dealing with this complex problem, the State must develop a more comprehensive strategy. A strategy argued to address an equitable approach in developing and delivering infrastructure projects (GI-TOC, 2022). However, developing a comprehensive strategy can only be possible if there is a clear understanding based on empirical evidence as to the drivers of this criminal practice and their greater impact on the overall management of construction businesses. An informed strategy can be developed only when these two aspects are understood in detail. This is the gap that this current study aims to fill.

Therefore, the objective of this study is to explore the form of extortion employed by construction mafias or business forums in the context of the South African construction industry. The first focus would be investigating factors that create a frame for this practice to thrive in the construction sector. The second focus would be investigating how this practice affects construction businesses.

## **1.2. Problem Statement**

Studies have agreed that as much as the concept is clear in law, it remains under-researched as a research subject in the business environment. Neu (2022) argues that the paucity on the subject of extortion is worsened by the criminality element involved, making it difficult to access participants. According to Neu (2019), despite the economic and social significance of extortion,

little remains unknown about the thriving enterprise of extortion because it is extremely difficult to access the finer details. It is this complexity associated with the practice of extortion which, according to Dammert (2021), gives rise to the need for a broader discussion and intensive research on the subject. In this regard, Ornelas (2018) argued that research has neglected the harmful effect of this organised crime on the legal economy

How this practice affects the business environment is an area that still requires a strong research agenda. Most studies that attempted to unpack this phenomenon were limited due to a lack of accessibility to information or participants. As a result, most of the previous research on extortion was analytical rather than empirical, using the limited available information deriving models for extortion processes. Although the studies are useful in making valuable observations and developing insightful theories, they still do not provide insights that would help in understanding the micro-processes of extortion and the specific economic consequences it has on formal businesses at the microscopic level.

Some of the available studies have attempted to attribute the subsistence of the practice of extortion to several factors. The majority of these seem to have a common agreement on the critical role of the State. Neu (2022) has argued that by failing to nurture and protect the marginalised territories, the State creates a thriving environment for extortion business. This view is supported by Dammert (2021), who argued that the lack of State protection and enforcement has contributed to the sustainability of the extortion business because extortion becomes a low-risk, perfect and simple crime to commit where victims prefer to comply with extortion demands rather than reporting the incidences to the police.

It is also asserted that the lack of law enforcement has resulted in high impunity among perpetrators. As such, the practice of extortion has now diversified and taken different forms, where public officials, prisoners, organised criminals, business partners, and street gangs have now resorted to using different extortion practices to fund their activities and lifestyles (Dammert, 2021). In many parts of the world, the most common form of extortion business is exercised by street gangs or mafias, which are purely motivated by criminality. In the Northern Triangle countries of El Salvador, Guatemala, and Honduras, it has been reported that the two most popular street gangs were responsible for most of the extortion activities, which accounted for more than \$650 million in annual revenue (Neu, 2022). This form of extortion has received some attention despite the limited research on the subject of extortion.

In the South African construction sector, extortion is not only recent, but the context is completely different because the criminal organisations seemingly use a piece of legislation and its objectives to justify their criminal conduct. It is in this context that some of these organised syndicates argue that it is extremely unfair for their organisations to be labelled as a group of criminals because they are legitimate entities merely giving effect to the legislation by demanding to be part of economic activities taking place in their respective areas (SA Affordable Housing, 2020).

The limited research in the area of extortion warrants for this concept to be explored further. The purpose of the research agenda in this regard should be to explore the different forms of extortion further. One way of doing this is conducting empirical research to evaluate and test some of the theories and findings presented by the studies that have already been conducted. In line with this need for a research agenda, it is appropriate for this current study to examine some of the critical findings of previous studies, specifically focusing on those factors highlighted as enablers of extortion practices. There is also a need for the study to broaden the limited body of knowledge by exploring how the practice interacts with the business environment with a specific focus on how it affects legitimate businesses. The emergence of a different form of extortion in the South African construction sector also calls for a need to study the two focus areas within the context of the sector. Therefore, this study investigates the enablers of extortion practice and how the practice impacts formal businesses in areas where these practices are rife in the South African construction sector.

### **1.3. Purpose of Research**

The presence of a different form and context of the extortion business warranted further exploration of this elusive concept of extortion. The context in which the extortion practices are taking place in South Africa made it possible to undertake and contribute further to the existing body of knowledge in understanding the concept of extortion. The organised groups have disguised themselves under what seems to be a genuine course of RET. They are further using a key economic transformation legislation to justify their illegal activities to advance their course. On this basis, this kind of extortion is framed as legislation-justified extortion in the context of this study. This legislation-justified extortion has somewhat legitimised the existence of the extorters and has given them some form of formal recognition as key stakeholders in the sector. This type of structural arrangement made it possible to gain access to wider participants who

face these practices to gain further micro details to the operations and impact of legislation-justified extortion business. This is because the motivation of some of these extortion practices is not based on criminality, but on a genuine need for participation by the previously marginalised groups in the mainstream activities of the economy. As a result of the element of criminality disguised as a debate, it was possible to source participants willing to participate in this research without fear because the debate was already in the open.

As Brown et al. (2022) argued, although extortion remains prevalent in most weak States, it remains rarely reported, making obtaining data for analytical measurement rather onerous. This is why little remains unknown about the micro details of extortion and its economic consequences on business targets. As part of the study's conclusion, Dammert (2021) highlighted the lack of data availability as one of its weaknesses, making it difficult to reach a firm conclusion and recommend a course of action to deal with extortion. The same conclusion was arrived at by Neu (2019), whose findings were tentative due to limitations in the availability of data. This current study aimed to exploit the favourable conditions in South Africa to conduct an empirical study on the exploration of legislation-justified forms of extortion in a developing democratic State.

#### **1.4. Scope of Research**

This research was limited to exploring legislation-justified extortion practices in the construction sector in KZN and Gauteng provinces of South Africa. As highlighted in previous sections, these practices are rife in KZN and have now spread to other parts of the country. As the country's economic hub with several infrastructure developments, Gauteng automatically became an interesting province to consider for the purposes of this study. Accordingly, any reference to the South African construction sector or the construction sector in this report refers to the sector through the lens of Gauteng and KZN provinces. This study was necessary because the context in which extortion practices are taking place in the South African construction sector provided valuable insights into the current body of knowledge and development of the theory of extortion practices in the business environment. This study was interested in extortion practices where the demand-side emanated from extorters, with the supply-side occupied by construction businesses as targets and victims of extortion. This explorative study was limited to the perception of those who interacted with the phenomenon of extortion in their line of work as different stakeholders and players in the sector.

## **CHAPTER 2: LITERATURE REVIEW**

### **2.1. Introduction**

This section presents a preliminary literature review that was conducted on the subject of extortion. The literature review aimed to build a theoretical argument as a means to justify this current study. Chief to this argument was to highlight what is theoretically known about the subject, the concepts and constructs underpinning it, and key relationships between concepts and constructs. The literature was also intended to establish the extent and depth of the current body of knowledge pertaining to extortion.

### **2.2. Limited Research and the Prevalence of Extortion**

Despite being a clear phenomenon that was defined centuries ago, the concept of extortion remains under-researched. A number of scholars have called for a development of a strong research agenda in this field of study. This is particularly because extortion remains a practice that authorities are struggling to combat in practise and continues to be a challenge towards economic growth of many countries (Balletta & Lavezzi, 2023; Lipari & Andrighetto, 2021; Moncanda, 2019; Ponce, 2021; Rusev. 2020). In highlighting this very same point, Ponce (2021) has asserted that while many researchers have made a clarinet call for more studies to be conducted in the field of extortion in order to produce relevant insights for evidence approach, availability of granular data required to support this research agenda remains a challenge. The need for expanded research in the field of extortion was also indicated by Estévez-Soto et al. (2021) where it was decried that research on the incident-level factors associated with extortion remains scanty.

The emergence of the different forms of extortion practices has now invoked the need for the understanding of this concept, its operations and how it interfaces with the environment of business. This becomes more so critical because extortion can be classified as a form of corruption. Corruption in its different forms is considered one of the principal hindrances to sustainable development in many economies as it has an effect of reducing efficiency and increasing inequality (Chan & Owusu, 2017). According to Estévez-Soto et al. (2021), extortion was ranked as the third most common crime against businesses in Mexico. This is because it has become so prevalent that it is now considered a typical business by organised criminal groups (Paoli, 2014)



According to Lipari and Andrighetto (2021), about 80% of businesses in the region of Sicily in Italy still pay extortion fees. Ranasinghe (2017) has also reported that most of the countries in Europe still experience some form of extortion practices. Estévez-Soto et al. (2021) have asserted that extortion is the third most prevalent crime against business enterprises in Mexico.

In terms of sectors that are mostly affected by extortion, it was found that retail and construction sectors were the most affected which were followed by the hotel and restaurant, and the wholesale sectors (Frazzica et al., 2016). This was in alignment with the findings by Estévez-Soto et al, (2021) which found that hotels, restaurants and bars experienced higher risk of extortion while manufacturing businesses experienced low risk of extortion. The reasons for these findings were attributed to accessibility to the businesses. It has been argued that those exposed to high risk of extortion were in the face of the public and easily accessible while those that experienced a lower risk were inaccessible as their main interaction were in the form of business to business (Estévez-Soto et al., 2021). These findings were aligned to those by Rusev (2018) where it was held that one of the factors that make companies vulnerable to extortion were that they operated in markets where consumers were fixed in the location and that the nature of interactions with the businesses was that of business to consumer.

Despite the damage that is caused by extortion, the practice has proven to be resilient (Székely et al., 2018). Its success has now attracted other players and has as such created a diverse pool of extortionists (Ponce, 2021). This success can be partially attributed to the fact that, as a crime and a business adopted by organised groups, extortion is a complex phenomenon that is difficult to address due to the criminality, secrecy, and threats associated with it. The difficulty in preventing extortion is further exacerbated by the fact that its operations enlist a variety of players who contribute to its success (Székely et al., 2018). On the contrary, while it is difficult to address, it is one of the easiest ways to generate revenue with little to no input effort (Ponce, 2021). Accordingly, the combination of the difficulty in combating it and the simplicity in operating the practice, have contributed to the thriving of the practice as a means of generating income by organised criminals.

A strong research agenda at all levels is therefore of paramount importance to untangle the difficulty associated with the practice of extortion with the aim of providing guidance to practitioners to deal with this criminal conduct. The literature that exist around the practice of extortion, some which is discussed in this Chapter, is limited in a number ways. The

unavailability of data has resulted in many studies relying on secondary data to investigate the phenomenon at a macro level. As argued by Estévez-Soto et al. (2021), literature on extortion has rarely been concerned with unpacking of the concept of extortion at incident level but has instead paid attention to macro-level factors associated with the prevalence of extortion. This view has been supported by Lipari and Andrighetto (2021) where it was held that literature on what cause people to rebel against protection rackets remains scant. This current study is attempting to fill some of these gaps in literature by conducting an exploration of the concept of extortion at incident level through an evidence based approach.

## **2.3. Operationalisation of the Practice of Extortion in the Environment of Business**

### **2.3.1. Definition of extortion in the environment of business**

Using economic terms, Rusev (2018) has defined extortion as a practice that involves a transfer of economic value without creating any reciprocal economic output. Bringing specificity to the definition in terms of the environment of business, Koseli et al. (2021) has adopted a definition that described extortion as a practice that involves taking rents from businesses through the enlisting of threats or force. According to Ponce (2021), extortion can be classified into systemic and opportunistic types of extortion. Opportunistic type of extortion is engaged casually by organised criminal networks or by criminals who pretend to belong to some known organisation (Ponce, 2021). Systemic extortion on the other hand is founded on two characteristics of hierarchy and territorial control. The organised groups that exercise this form of extortion have hierarchical structure and have established a high level of territorial control (Ponce, 2021). This distinction between the two types of extortion is aligned to the one provide by Rusev (2018) where it was advanced that extortion as an organised crime activity can involve both episodic extortion practices as well as established systemic extortion over a specific territory.

This study is concerned with systemic extortion that is said to be underpinned by the principles of hierarchy and territorial control. This type of extortion is usually practised by a group called a mafia. Wang et al. (2018) defines a mafia as a kind of criminal syndicate that derives its revenue primarily from carrying on a business of protection and extortion. They are therefore a group of people that specialises in the generation and sale of protection to businesses (Székely et al., 2018). The production and sale of protection is achieved through the exploitation of the absence or weakness of appropriate State institutions in order to illegally occupy the role of local

government, monopolise the use of force and then offer public service which mainly entail protection (Ponce, 2021).

### **2.3.2. The ideological framing of extortion**

The protection that is sold is at times from a threat imposed by the extortionist themselves and any other threat that the business may be exposed to (Moncanda, 2019). Accordingly, extortionists actively create a demand for the supply of protection using intimidation that creates threats (Rusev, 2018). Lipari and Andrighetto (2021) also argued that these protection rackets were a sustained and systemic demands for money through the use of threats of violence in exchange of ingenuous protection. They function as unofficial taxes imposed by criminals in an exchange of services. This argument is in line with the assertion that extortion protection in essence consists purely of recurring taxation of businesses within a specific territory imposed by violent means (Rusev, 2018). This taxation takes place in different forms such as direct payments in cash or imposed contracts for good and services (Rusev, 2018)

As indicated above, to facilitate the sale of their protection, systemic extortionists usually enlists threats and violence (Wang et al., 2018). Violence is used as a mean of imposing acceptance of the sale of this protection on targeted businesses. A case in point in this regard was when extortionists engaged in arson attack when one of their victim businesses in Mexico refused to pay a protection fee. This attack was reported to have resulted in 52 fatalities making it one of the deadliest criminal attacks in the history of the country Corcoran (2012) (as cited in Estévez-Soto et al., 2021, p.117)

Systemic extortionist have to resort to these violent tactics when victims refuse to pay in order to sustain their operations. This is because refusal by a victim to honour extortion demands would negatively affect the credibility of extortionists in that it would weaken the threat imposed and as such risks others following suit of not honouring the extortion demands (Ponce, 2021). This will ultimately result not only in the loss of income for the extortionists but also loss of territorial control and influence. The use of violence is therefore one of the ways of communicating their power, domination, and control over a certain territory Paoli (2008) (as cited in Rusev, 2018, p. 17). This is why it is important for these extortionist groups to enlist these violent methods and pressure tactics so that they can re-assert their violent reputation and deter acts of non-compliance to their demands (Ponce, 2021).

### **2.3.3. Extortion *modus operandi***

According to Neu (2022), the above principles are consolidated in the following steps as a means of practically operationalising the business of extortion by organised criminals: they start by identifying assets to be targeted for extortion purposes; the assets would then be valued using their proxies; the valued assets are then made weak by employing threats, intimidation and violence. Weakening of the assets would then make it possible for criminals to demand extortion amounts in disguise of providing protection against the imminent threat. This is aligned with the proposal by Rusev (2018) where it has been stated that the *modus operandi* of extortion groups is made up of three stages of intimidation, negotiation and demand.

According to Rusev (2018), in the initial stage of intimidation, the identified victim is approached and threatened as a means of convincing the victim to accede to the advanced extortion demands without reporting the incident to the relevant law enforcement authorities. Should the targeted victim not accede to the extortion demands advanced, the extortionists would usually retaliate by using violence directed mainly at the victim's property. At times the violence can also be in a form of physical violence directed at the victim or his or her family. Once the victim is threatened, the next stage of negotiation would then kick in. This stage is informed by a thorough evaluation of the economic capability of the targeted business and the limitations to honour the money demanded (Rusev, 2018). This careful evaluation of the victim's capability is done through what Neu (2022) has referred to as proxies representing the affordability status of the business. After the negotiation has been successfully concluded, the next stage that follows is for the extortionists to then table modalities of the realisation and delivery of their demands. These can be in a form of once off payments, an offer of protection with periodical payments of specified amount, imposed contracts for supply of goods and services, or a combination of any of the above (Rusev, 2018).

### **2.3.4. Victims' responses to extortion**

In response to the extortion demands, businesses usually have three options to choose from. These are mostly informed by the fear that it is inflicted by the extortion groups, effectiveness of the protection from law enforcement, the benefit to be derived by the victim in the negotiated arrangement, and financial affordability of the extorted amount (Koseli et al., 2021; Lipari & Andrighetto, 2021; Moncanda, 2019, Rusev, 2018). Targeted businesses' response to extortion demands can be in a form of acquiescence, complicity or resistance (Rusev, 2018). The

response of acquiescence entails that victims complies fully with the extortion demands without protest. This will in most cases be as a result of fear and ineffective protection offered by law enforcement agencies. It has been argued that a lot of victims of extortion succumb to extortion demands and comply fully due to fearing for their lives and inadequate protection by law enforcement agencies (Koseli et al., 2021).

With the response of complicity, the victims complies while at the same time some form of improper accrual of some form of benefit to the business is derived. This response is usually informed by affordability of the business and the economic risk that the business is exposed to. Typically the victim will consider the trade-off between the financial impacts due to the disruption of business activities and the extorted amount (Lipari & Andrighetto, 2021).

The last option available to the victim is to resist the extortion completely and stand a risk of being victimised and threatened. To exercise this option, the victim must be financially independent. According to Moncanda (2019), financial independence of businesses allows them to invest in alternative safety measures. This allows them to implement some form of private vigilantism by employing violence tactics against the extortionist in equal or even elevated measures while those victims lacking financial resources do not have much option but are instead confined to negotiating with extorters (Moncanda, 2019).

## **2.4. Enablers of Extortion in Business**

Considering the prevalence, impacts of extortion and the scantiness of literature around the subject, what enables this practice is expected to be of keen interest in this area of research. There has been a number of studies that have attempted to investigate these factors albeit there were faced with the limitation of availability of data. As advanced by Neu (2022), accessing participants in the study of extortion is a challenge because of the criminality and violence associated with the practice. The assertion by Estévez-Soto et al. (2021) that the study of the practice at incident level has been neglected does not come as a surprise. In attempting to deepen an understanding on the subject of extortion, Estévez-Soto et al. (2021) found that extortion was influenced by a number of macro and micro factors. There were also other studies which were conducted and highlighted the same factors. These factors from Estévez-Soto et al. (2021) and others are as discussed below.

### **2.4.1. Adequacy of the law and the rule of law**

Estévez-Soto et al. (2021) argued that extortion was an outcome of an alternative governance structure that was imposed by criminal groups when there was an absence of a strong legitimate governance. The absence of this strong legitimate governance, enabled these illegitimate criminal syndicates to tax formal businesses operating in the territories that the syndicate marked as theirs (Estévez-Soto et al., 2021). The strength of a legitimate governance structures, particularly in its fundamental role of enforcing the law to maintain law and order, was therefore a strong influencer and predictor of extortion risk (Estévez-Soto et al., 2021). This is because extortion demands rise and flourish where the government fails to enforce law and order, resulting in the criminal justice system being ineffective or non-existent (Zabyelina, 2022). This argument was supported by a number of scholars. Ornelas (2018) for an example, has asserted that one of the common factors that made formal businesses susceptible to extortion was where the public sector was relatively big and institutions charged with law enforcement were weakened. It argued that in a situation where there was weak enforcement of the rule of law by the government, extortion practises emerged which in turn resulted in businesses opting to invest more in protective measures at the expense of productive initiatives in order to safeguard their families, resources and property (Ornelas, 2018). This argument was further reaffirmed by Rusev (2018) where it has been argued that companies were made vulnerable to extortion if they operated in an environment where the public sector's presence was strong but public institutions were weak and ineffective.

This weakness in the legitimate governance structure has been attributed to a number of contributory factors. These factors are seemingly encapsulated by the argument by Rusev (2018) that extortion manifests as a result of the weak State characterised by confusing legal framework, weak law enforcement and justice system, ineffective property rights, and rampant corruption. Similar factors were also raised by Ponce (2021) where it argued that the insurgence of extortion practices was aided by corruption, high crime rate, lack of confidence in authorities, and where there was a presence of powerful armed non-state players.

The weakness of the State in general in dealing with criminal conduct has been highlighted by Estévez-Soto et al. (2021) where it asserted that instability in cracking down organised crime by relevant government authorities contributed to the broad manifestation of crime. This view was also supported by Ponce (2021) in the argument that performance failure of State generate a demand for others to fulfil its duties. According to Jaspers (2019), one of the reasons for the emergence of criminal syndicates in the economic sector is the theory of government replacement or protection. This theory purports that the failure of government to provide necessary protection to citizens sets the frame for organised crime, where criminals replace an absent government (Jaspers, 2019). The theory essentially explains the link between the emergence of organised criminals with ineffective government laws and an absent government and the rise in criminal syndicates. However, it has been emphasised that this theory may be insufficient as it may not account for certain conducts considered an organised crime because the involvement of certain corrupt activities may not necessarily be due to the absence of government (Jaspers, 2019).

The factor of corruption, which was mostly ascribed to law enforcement officers, was also mentioned by numerous studies. In this regard, it was highlighted that reporting any incident of extortion to the police would be a futile exercise because they were already bought by extortion groups (Suykens & Islam, 2022). It has been further asserted that where law enforcement was passive and criminal syndicates were in collusion with local authorities, it became easy to circumvent the law (García-Jiménez & Vargas-Rodríguez, 2021). This view is also emphasised in Blackburn et al. (2017), where it was alleged that extortion practices are likely to be successful when there is compliance by law enforcement officers willing to be bribed in exchange for a number of favours. In such an environment, criminals can maximise their extortion rents due to a lack of law enforcement (Magaloni et al., 2020). In examining external factors that make companies vulnerable to extortion practices, Rusev (2018) has advanced an

argument that corrupt police officials were playing an important role in the proliferation and subsistence of extortion practices.

A number of studies have also highlighted the element of lack of trust and confidence in the law enforcement authorities. One such study was Rusev (2018) where it was stated that one of the factors that contributed to the rise of extortion has been noted as low trust in public institution among local citizens, which has resulted in low reporting to the police and compliance with the extortion demands. This view was further supported by the assertion that ineffective and inadequate protection of the victims by government has resulted in the victims not having confidence in the capability of the State to deal with the crime of extortion (Koseli et al., 2021).

Over and above the lack of law enforcement that has been mentioned by many scholars, there is a factor of inefficiencies associated with the law that was also highlighted by literature. One such highlight is the argument that ineffectiveness of existing laws as a consequence of inadequate laws gives rise to an inability to curb and prosecute the demand-side of corruption (Bahoo et al., 2020). Existence of cumbersome and complex legislation was also indicated as an enabler that has created loopholes which were exploited by extortionists to intimidate businesses (Rusev, 2018).

#### **2.4.2. Control of territory**

As already mentioned territorial control is one of the characteristics that are at the core of how extortion groups operate. It therefore does not come as a surprise that it was mentioned in literature as one of the influences of extortion practices. According to Ponce (2021), territorial control is essential to the operations of extortionist because through it, they are able to assert themselves in the area, control local resources, infiltrate legal businesses and demarcate geographical boundaries. Territorial control most importantly enables the extortionist to gain illegal and criminal governance of the territory (Moncanda, 2019). This allows them to exercise some form of extra-legal governance providing alternate services such as protection which ordinarily is to be provided by the State (Balletta & Lavezzi, 2023).

It is through this extra-legal governance that makes it possible for criminal groups to undermine government's efforts in enforcing the law (Ornelas, 2018). This control of territory is therefore crucial to organised criminals for the purposes of evading law enforcement, protection from rivals, and drawing out as much profit from the territory as possible (Magaloni et al., 2020). It is



argued that having complete control and influence over a particular territory by criminal syndicates and visibility practices directed mainly at targeted assets make the assets weak, thus making people likely to give in extortion demands (Neu, 2022). Accordingly, territorial control sponsored extortion serves as a power-reaffirming device which is utilised to imitate State responsibilities and posturing the criminal groups as the rightful-de facto authority before the community (González, 2021). This view was reinforced by Stephenson (2019) where it was asserted that in the absence of strong State institutions, criminals engage in violent means to help them sustain power so that they are viewed as the credible authority.

In attempting to understand the operations of the extortion business by the street gangs, Neu (2022) enlisted Olson's theory of stationary bandit. This is because the study suggested that placing the people and assets into sovereign power relationships ultimately helps make assets and the people fragile and thus facilitates extortion (Neu, 2022). This is further affirmed by Stephenson (2019) that organised criminals may endeavour to establish a regime of supreme control in their area of operation which results in them being sovereign agent. It is through this sovereignty that absolute authority is acquired (Stephenson, 2019).

Olson's theory of stationery bandit assists in understanding how sovereign power is gained. It states that sovereign power becomes possible when roving bandits become stationary and focus on dominating a specific area (Neu, 2022). Once criminals have obtained control over the territory, they are able to set up their operations and establish themselves effectively to control the local economy of that territory. Ultimately, this sovereignty over a territory gives legitimacy to the criminal syndicate, making it easy for them to collect rents in a systematic manner without any hindrances (Zabyelina, 2022). Attainment of this sovereignty gives them illegal governance through which they are able to re-inforce themselves by inflicting further violence and fear resulting in an environment that makes life in the community uncertain and more violent (Stephenson, 2019).

#### **2.4.3. Collaboration with the community**

In highlighting the importance of the role of members of the community in addressing social ills within their community, Akerlof and Yellen (1994) (as cited in Lipari and Andrighetto, 2021, p.230) have argued that the main discouragement towards criminal conduct in the community is not necessarily an active presence of the police but the presence of knowledgeable members of the society who are prepared to fight such criminal conduct through reporting and working

together with law enforcement. These profound sentiment where re-affirmed by Székely et al. (2018) where it was emphasised that when society and authorities work together to combat crime, such initiatives become the most effective and powerful deterrent to the operations of criminality.

The above clearly highlight the powerful role that members of the community have in fighting criminality that takes place in their areas. A role that extortionists are aware of and have worked hard to erode for the successful operations of their criminal activity. In reflecting how this influential role of the community has been eroded, García-Jiménez & Vargas-Rodriguez (2021) argued that as far as the operations of extortionist are concerned, the community is mostly silenced through threats, murders and kidnapping.

In attempting to provide an account as to why community members are not playing a positive role in combating of criminal activity in their communities, Lipari and Andrighetto (2021) enlisted the theory of social norms. It is argued that social norms make up the society and when they conflict with legal norms, they render the law ineffective (Lipari & Andrighetto, 2021). The study explained that the difficulty experienced in addressing the collective action of extortion practices can be attributed to the existence of an entrenched social norm on which this behaviour is based (Lipari & Andrighetto, 2021). Honouring protection fees demands by extortion group has now become a prevalent social norm that is accepted. When coupling this unfortunate social norm with the fear caused by extortion mafias, effectiveness law enforcement is undermined (Lipari & Andrighetto, 2021). It is therefore argued that eradication of extortion practices will require a serious change in the social norm underpinning it (Lipari & Andrighetto, 2021).

Neu (2022) has argued that the operational model used by extortion groups requires inside information to be successful. This point has been highlighted by Magaloni et al. (2020), who emphasised that control of a particular territory can only be successful when collaborating with some community members who supply criminals with key information to enable their illegal operations. This sentiment was also emphasised by Zabyelina (2022), who argued that extortion practices by organised criminals are most likely to be prominent and successful in places where a significant component of the community takes part in illegal activities. In assessing the successful operation of the extortion practices in the community, Neu (2022) alleges that the identification of proxies is made possible and intensified because those tasked with it live in the community and are part of the daily happenings.

#### **2.4.4. Collusion with politicians**

In the study that was conducted by Ponce (2021), one of the conclusion was that the subsistence of extortion could be attributed to the corrupt relationship that the extortionist enjoyed with politicians. The study was able to establish that local governance was shared between political parties and extortion groups in exchange of electoral support (Ponce, 2021). These findings were also corroborated by the assertion that politicians benefit by receiving campaign contributions or donations to political parties which allows the extortionist to further buy access and influence with the aim of furthering their extortion interest (Rusev, 2018). The possibility of collusion between extortion groups and politicians was also insinuated by Neu (2022) through what is referred to as a parallel State where it is likely that there is cooperation between the democratically elected governments and criminal networks.

Bahoo et al., (2020) argue that organisations that lack ethics in a highly corrupt political environment utilise both political and social connections. The study insinuates that there ought to be a link between the political environment and corruption in business. This is aligned with Neu's (2022) implicit view that the criminal business of extortion cannot exist without the influence of formal government. This link makes it possible for organised crime to flourish because it undermines society's public institutions (Blackburn et al., 2017). Ornelas (2018) further emphasised this point, arguing that the corruption of local politicians and authorities responsible for local decisions makes it possible for criminal syndicates to operate and succeed with pure impunity. In this regard, it is argued that where the extortion business is thriving through the attainment of sovereign power, a parallel State encourages democratically elected governments to act as some form of stationery bandits. This raises the question of who in the governing structures benefits from the subsistence of extortion business in a particular territorial space (Neu, 2022).

In substantiating the claim of the likelihood of democratically elected governments benefiting from the sustained extortion practices, it is alleged that this is possible because even the best-functioning democracies in the world require funds to function where influential individuals within the communities channel funds to the politicians who, in turn, would ensure that beneficial governance systems are enacted (Neu, 2022). This argument makes sense because if law enforcement is meant to operate in the same area where these practices are thriving, why are they not stopped? The studies outlined have not necessarily studied the role of the democratically elected government in setting the frame for the extortion business. Neu (2022)

has called for more research on this aspect. This is one gap identified that this current study aims to fill from the perspective of those subjected to these extortion practices.

#### **2.4.5. Corrupt government representatives**

Widespread predatory corruptions by government representatives was mentioned as one of the possible contributing factors to the increased extortion practices (Estévez-Soto et al., 2021). This is because representatives of the State representatives have often been found to abuse their power and official positions for their own personal benefit (Rusev, 2018). It must however be indicated that as much as the effect of the spurious relationship between corrupt officials and extortion groups was acknowledged to exist and to be substantive and robust, its contribution to the prevalence of extortion remained a gap to be addressed by research (Estévez-Soto et al., 2021). Accordingly, literature has indicated that there is a plausibility of a direct relationship between extortion and corruption victimisation as a result of the close relationship between organised criminals and government officials. This is another area that this current study looked at.

#### **2.5. Effects Extortion on the Economy**

It is alleged that corruption accounts for about 5% of the global GDP (Chan & Owusu, 2017). It is therefore imperative that all different forms of corruption and their impact on economic development and growth at different micro levels are understood to provide insights which would aid relevant government authorities in curbing the potential economic sabotage that may arise from these corrupt activities. This impact further strengthen the need for a strong research agenda into the conduct and overall business of extortion as a different form of corruption with the aim of expanding the limited body of knowledge around the subject.

As already mentioned *supra*, many scholars have decried the impact that extortion has and continues to have on the economic growth of many countries. In emphasising this point, Balletta and Lavezzi (2023) indicated that extortion affects economic growth in that it causes barrier to entry by frustrating small businesses. Lipari and Andrighetto (2021) on the other hand has argued that extortion practices in the form of protection rackets harm the society through the imposition of cost on business creation and development. This point was also supported by Székely et al. (2018) which concluded that in the ultimate, extortion operations by mafias are harmful to the very same society that they operate in.

A number of studies have been conducted to analyse the economic impacts of extortion at a macro-national level of countries. One such a study was Frazzica et al. (2016) which found that extortionist had requested for 2.5% of the cost of construction from companies conducting construction work in their areas in addition to imposing compulsory sub-contracting of firm related to them to supply material to do work. All in all the study found that the amounts that went to the mafias ranged between 3% and 5% of total construction work (Frazzica et al., 2016). According to Lisciandra (2014), extortion payments accounted for 49% of the mafias' revenue which was equal to 0.18% to 0.49% of the entire countries GDP in 2012 in Italy. It has also been estimated that criminal organisations have caused a total loss of 16% of the GDP in one of the regions in Italy where mafia operations were rife.

At a more social level, Lipari and Andrighetto (2021) have argued that the impact of extortion as a social ill among communities is that its tolerance by the society has a potential of resulting in manifestation of a culture underpinned by lawlessness where certain illegal behaviours may be accepted as a norm. This cultural implication was also indicated by Ponce (2021) where it was mentioned that some of the extortionist were able to garner public support and develop strong relationship with extorted businesses.

### **2.5.1. Effects of Extortion on formal businesses**

The businesses of extortion exists because they are victims to sustain them. These victims are usually in the form business enterprises operating areas that the extortion groups have illegal governance over. It is therefore within this frame that an empirical understanding of how these practices interact and affect these formal business structures is to be developed. Estévez-Soto et al. (2021) has advanced an argument that the decision to select which business to extort money from is not an arbitrary exercise but rather an informed process that is guided by vulnerabilities of businesses. It is the understanding of these vulnerabilities that informs the criteria of which business to target that is would lead to the broader understanding on how formal businesses are affected by extortion practices. The existing literature has identified some of these vulnerabilities.

#### **2.5.1.1. Profitability**

It is stated that upon receipt of an extortion demand, a business would respond in one of the following three distinct ways: by getting closer to accounting, negotiating, or reducing risk exposure (Neu, 2019). These response are in line with those proposed by Lipari & Andrighetto

(2021). They are all informed by the affordability of the business which is directly linked to its profitability. Accordingly, as discussed above, based on the impact that the extortion amount has on the business, which is thoroughly evaluated using the current accounting inscriptions, the company can decide whether to be compliant, complicit or retaliate. All of these responses are, according to Neu (2019), informed by some form of accounting. It is without a doubt that all of these responses will incur expenditure for the business that would, in turn, affect its profitability.

The impact on the profitability of business was well captured in the assertion expressed by Székely et al. (2018) that the cost that is imposed by extortionist will always be substernal. This is because protection rackets cost for each firm extorted was is not a deductible expense for the company but is subtracted directly from the profit (Frazzica et al., 2016). It has also been further argued that extortion increases the cost of production of a business due to decrease in productivity; compromised quality of product; increase in labour cost; increase in security cost; increase in travel cost; increase in insurance costs; inefficiencies due to resources disruptions in the supply chain and stoppage of production activities (Koseli et al., 2021). All of these are additional expenses that have direct impact on the profitability of the company

According to Bahoo et al. (2020), profitability is one of the firm-level factors influencing whether to accede to extortion demands. This is because the manner in which crime syndicates operate inherently includes obstructing and disrupting the economic activities of formal businesses by reducing economic performance by deterring businesses from engaging in productive activities (Blackburn et al., 2017). Ranasinghe (2017) supported this view, arguing that extortion presents an obstacle to doing business and accounts for a significant share of sales. It is also argued that the decision to concede to an extortion amount is informed by some measure of affordability and profitability, where some negotiation mechanisms and risk reduction programmes are engaged (Neu, 2019). These profitability and productivity effects at the firm level accumulate to adverse impact on the economic growth at the macro-level (Ornelas, 2018).

#### **2.5.1.2. Firm size**

Balletta and Lavezzi (2023) have argued that the relationship between extortion and firm size is concave and highly regressive. This means that the smaller companies suffer the most burden as compared to larger companies. This is aligned with Ranasinghe (2017) who presented a model of extortion, predicting that business losses arising from extortion follow a normal

distribution across business size, with medium-sized businesses experiencing the most losses. It was suggested that percentage of profits derived by extortion groups ranged to 40% for small businesses and to 20% for large businesses (Balletta & Lavezzi, 2023). This is aligned with the assertion that the smaller the business, the greater the impact (Moncanda, 2019). This was alluded to the fact that smaller size firms could be easier targeted than larger corporations (Balletta & Lavezzi, 2023; Estévez-Soto et al., 2021).

Despite the view that smaller companies suffer significantly more due to the vulnerability, there is another perspective that extortionist are also likely to target victims on the basis of the reward that may be derived (Broadhurst et al., 2011). This is because there may exist a trade-off between vulnerability and maximisation of rewards because the rewards to be derived from small businesses are less compared to major businesses which makes them least attractive to extortion groups (Estévez-Soto et al., 2021). This alternate view is also aligned with the assertion that businesses with more observable profits or revenue can be easier to target because it would be difficult for them to claim unaffordability (Balletta & Lavezzi, 2023)

In addition, to the above general impacts based on the observable characteristic of size, Ranasinghe, (2017) added another dimension and asserted that business losses increases with weakening of property rights; and cost spent on protecting the business against extortion increases with size. As such, considering all the factors, the study contended that losses of profits as a result of extortion varies across business sizes (Ranasinghe, 2017). This is aligned with the views by Zabyelina (2022) where it was argued that the most typical victims and targets were small and medium enterprises as they could be easily identifiable and did not have adequate financial muscle to implement extra security measures to safeguard their businesses, properties and families. As such, because small businesses were extorted the most in that extortion groups take a large portion of earned profit from them, they end up being less profitable and unable to build more collateral to access further funding (Balletta & Lavezzi, 2023).

#### **2.5.1.3. Risks**

One of the key risks that resonate with most of the studies reviewed in this section is the risk to life of the business owners and associates in an event where they reject extortion demands made (Estévez-Soto et al., 2021; Koseli et al., 2021; Ponce, 2021; Rusev, 2018; Wang et al., 2018). However it was the study has investigated extortion in Turkey where extortion practices

were operated by terrorist groups which were mainly targeting construction companies which highlighted are number of risks applicable to this study. As stated in Koseli et al. (2021), these risks included the following:

- Physical safety and life: Resistance to demands resulted in kidnapping of business owners;
- Delays: Resulting from the delays cause by the extortion groups
- Reputational risk: The possibility of not delivering the work contracted on had a potential to cause reputational damage of the company
- Damage to property: Resulting from the delays cause by the extortion groups
- Inability to attract skilled workers: Skilled worker where selective in terms of areas to work in
- Inferior quality of work: The use of unskilled workers reduced the rate of production and quality of work
- Unaffordability of companies' services: Extortion fees and other associated risks were factored in the offer to clients
- Missed opportunities: Companies had to be selective in which area to work in. Opportunities in high risk areas were avoided.
- Closure of business: Some small businesses had to close down due to extortion demands.

Neu (2019) argues that the course of action that businesses take in response to extortion demands can take place in the form of any of the following: strengthening of the security measures to further protect the business, decision to close down the business, and the decision to venture into other businesses which cannot easily be extorted. In addition, the study also suggests two other responses that businesses will likely invoke: negotiation and risk reduction Neu (2019). The former entails setting up a formal structure whose purpose would be to negotiate extortion amounts and set acceptable standards. The latter is more premised on the idea of passing the extortion risk to a third party through some form of sub-contracting Neu (2019). These align with Ornelas' (2018) view that economic agents suffering extortion demands will likely sacrifice their productivity activities in exchange for those protecting their property, resources, and families. Ranasinghe (2017) also suggests that when there is a potential for extortion, businesses may adapt their decisions along both intensive and extensive margins, which include decreasing production to minimise potential losses and become less of a target, increasing production to recoup losses suffered as a result of extortion, and selecting not to pursue the business any further.



## **2.6. Conclusion**

Research on the study of extortion remains limited. The existing literature is attributing this reality to the complexity of the practice. The practice of extortion is illegal, it is largely premised on violent acts and it involves a number of actors operating at different level. The combination of these has led to lack of extensive research in this area of study due to lack of accesses to participants. The limited existing literature has largely focused on secondary data such as crime statistics report to understand the phenomenon at a macro-level. As a result of this reality, scholars such as Estévez-Soto et al. (2021) have encouraged studying of the subject of extortion at an incident-level. This is one of the gaps that this current study was aimed at filling by taking the advantage of the context in which extortion is taking place in the South African construction sector.

According to the existing literature, there are two types of extortion. There is an opportunistic extortion that takes place infrequently and is practice by those that are not necessarily member of organised groups. There is also systemic extortion that is characterised by hierarchical structure and territorial control and is mostly exercised by a violent group that is known as a mafia. This current study is concerned with the latter type of extortion which is the most prevalent within the frame of the South African construction sector.

Notwithstanding the paucity shortcomings around the area, the available limited research around the subject of extortion has highlighted some interesting characteristics and effects of the concept of extortion. It has been indicated that there are macro and micro-level factors that influence the existence and persistence of the practice of extortion in the environment of business. These are in the form of enablers of the extortion practice and the effects it has on those that are affected by it. The enablers that have been highlighted by literature include: the adequacy of the law and inefficiency in law enforcement; territorial control, community collaboration, collusion with politicians; and corrupt government representatives. The effects that the practice has on formal basis included: company size implications; impact on profitability and general risks that is imposed on the victims of extortion. These macro and micro level influences of extortion are explored in this study from the perspective of the South African construction industry at the incident-level from the lenses of key role players in the sector.

## CHAPTER 3: RESEARCH QUESTIONS

### 3.1. Introduction

The insights of Chapter 2 are useful as they support the problem as identified in the previous sections, but they still did not provide a clear account of the empirically substantiated determinants and enablers of the construct of extortion, how it accounts for a significant share in profits of firms and to what extent, and to what extent businesses are exposed to the risk of extortion. This justified exploring the concept and some tentative findings outlined above through further empirical studies. A view supported by Cahn and Owusu (2017) called for more rigorous empirical research on every single form of corruption identified, including extortion. It is further argued that this kind of thorough and deeper research would enable the understanding of causes, risk factors, and instigators to ensure that comprehensive strategies are developed to mitigate and deal with corrupt incidences in the business environment (Cahn & Owusu, 2017). This is a gap that this study aimed to address. As already indicated, the manner in which extortion takes place in the South African construction sector provided an opportunity to seek valuable insights into the current body of knowledge.

Neu (2019) has also stressed that an in-depth empirical study with different types of participants is required because the existing empirical materials indicate that the size of an organisation may contribute to framing responses engaged by the targeted businesses to receipt of extortion demands. This observation is indeed aligned with the findings of Ranasinghe (2017), who concluded that businesses of different sizes experience extortion differently. Bahoo et al., (2020) also emphasised the need to further explore different aspects of corruption in business, including the adequacy of current anti-corruption laws at the country level.

### 3.2. Conclusion

The current study was aimed at filling some of the gaps identified and further explored some elements of the theoretical findings outlined above by focusing on the determinants and enablers of extortion in the construction sector, how extortion practices affected the profitability of business operations, how businesses of different sizes experienced and reacted to extortion practices, and the risks businesses were exposed to as a result of extortion. These are demonstrated in the conceptual framework presented in Figure 1. The framework provided in Figure 1 is by no means proposing *a priori* model; it simply provides a structure that guides this research in the process of inductively building theory. Kelle (1995) (as cited in Flick, 2018, p.51).

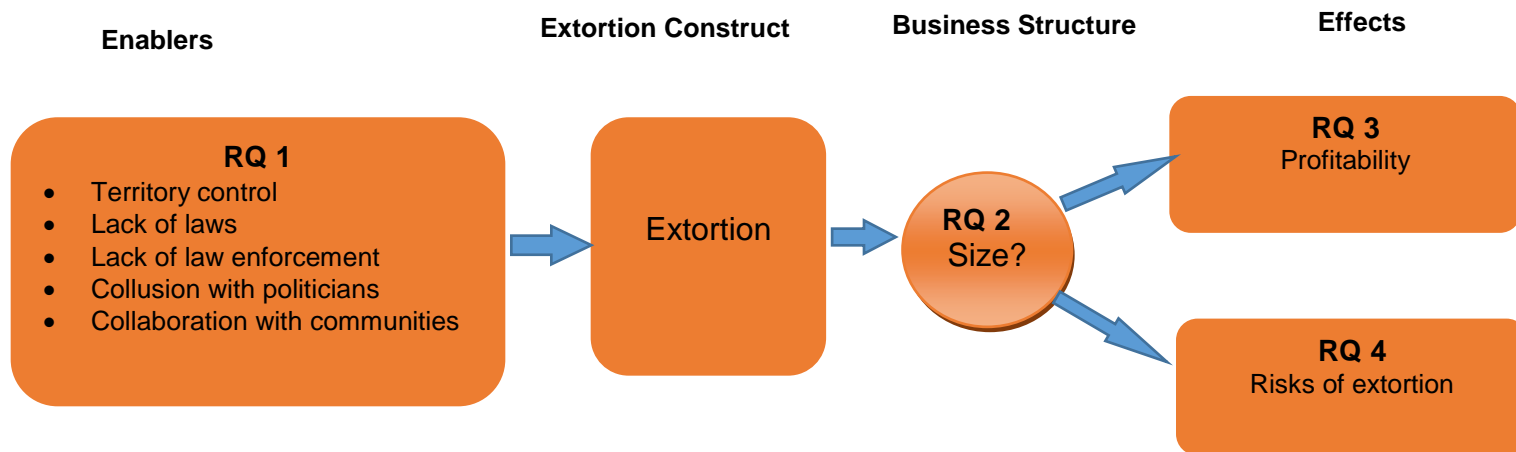
argues that in inductive theory building, it is expected for researchers investigating different forms of life to bring their own perspectives and conceptual frameworks. This is because researchers exist in a theoretical context where it is impossible for data to exist without theoretical influences, as the observation and collection of data are already theory-informed exercises (Flick, 2018). The following research questions were explored from the perspective of those who interact with extortion in the construction sector:

**RQ1:** What are the enablers of the subsistence of operations of legislation-justified extortion practices?

**RQ2:** Are businesses of different sizes affected differently by legislation-justified extortion practices?

**RQ3:** What are the effects of legislation-justified extortion practices on the profitability of construction businesses?

**RQ4:** What risks does legislation-justified extortion practice impose on formal businesses?



**Figure 1: Framework of the study**

## **CHAPTER 4: RESEARCH DESIGN AND METHODOLOGY**

### **4.1. Research Design**

#### **4.1.1. Research philosophy**

Research philosophy refers to a set of beliefs and assumptions adopted in the process of developing knowledge and the nature of that knowledge in relation to the research (Saunders & Lewis, 2018). The system of beliefs to be adopted for this research underpins the interpretivist philosophical paradigm. Interpretivism entails studying a social phenomenon in its natural environment (Saunders & Lewis, 2018). As summarised by Hussey and Hussey (1997), the assumptions underpinning the interpretivist philosophical paradigm include, among others, viewing reality as being subjective and multiple and that it is value-laden and biased as the researcher interacts with the subjects in the research process. This is supported by Denzin and Lincoln (2011), who emphasise that interpretivism is premised on the assumption that multiple realities exist where understandings are reconstructed between the researcher and participants in a natural world. Accordingly, interpretivism is essentially about getting better insights into the social world of our research participants from their own perspectives. Therefore, users of the interpretivist philosophical paradigm are accustomed to co-creating understandings of the social world (Denzin & Lincoln, 2011).

Applying the above to the research problem outlined in the previous section, it is clear that this current study investigated a social phenomenon of extortion in the business environment. The study explored this relatively unknown phenomenon to gain insights into how it operated and how it affected those it interfaces with. These insights were obtained from different role players in the business environment from their own perspectives and experiences with the phenomenon. All of these were achieved by following an interpretivist philosophical research design where understandings of extortion in the business environment were reconstructed. Accordingly, due to the practice of extortion being in its early stage of theoretical development, the interpretivist paradigm was appropriate because the perspectives obtained were used to create new concepts (Patton, 2015).

#### **4.1.2. Research approach to theory development**

This study followed an inductive process of theory development. Inductive theory building refers to the development of a theory from observations from the field as opposed to the theory developed in a laboratory (Patton, 2015). It encourages the exploration of emerging concepts

for which theory is limited (Woo et al., 2017). This means that a bottom-up theory conceptual framework was employed in which specific observations were utilised to build theory (Woo et al., 2017). This bottom-up approach to theory development began by utilising the existing literature on extortion and corruption practices in business to formulate speculative research propositions to be investigated, as outlined in Chapter 3. This is well aligned with the argument by Alvesson and Kärreman (2011) (as cited in Flick, 2018, p.51) that even in inductive theory development, it is inevitable for the prior understanding of a phenomenon to influence the researcher's observations.

The study used specific observations to understand the meaning human beings attach to events (Saunders & Lewis, 2018). This is in line with Woo et al. (2017), who asserted that through this approach to theory building, observations are used to establish patterns that can be generalised in a broad manner. In the context of this study, understandings from the perspective of those exposed to the practice of extortion within the construction sector, particularly their broader understanding of this phenomenon and how they see it affecting their day-to-day operations, were gained. Participants were considered to have been exposed to extortion if they had dealt with or were affected by it in the past 10 years.

#### **4.1.3. Methodological choice**

The methodological choice is dictated by the nature of the problem the researcher is confronted with (Bluhm et al., 2010; Horsburgh, 2003). Qualitative research is usually followed when literature on a topic of interest requires examination or re-examinations in order to capture new concepts (Bluhm et al., 2010). This is what this study sought to do; thus, a qualitative mono-method research was adopted. This is because qualitative research studies aim to obtain an in-depth individualised, and contextually sensitive understanding of each participant in the research (Bluhm et al., 2010; Patton, 2015). As advanced by literature, little remains known about extortion in the business environment. Neu (2022) further adds that most studies on this subject were concerned with model development and followed a quantitative approach using already existing data, which was limited. On this basis, it does not come as a surprise that most of the literature has highlighted a need for more rigorous and thorough empirical studies to further unpack this phenomenon. A qualitative study was, therefore, appropriate because it allowed a deeper understanding of the phenomenon from the lenses of those who interact with it daily. This is supported by Salkind (2010), who emphasised that qualitative research studies are employed in various fields to obtain greater insights into particular experiences.

This study contributed to the literature through a methodological choice, which is usually challenging to execute on the subject of extortion due to the criminality element involved, which affects the willingness of the perpetrators and victims to participate as subjects of the research. A qualitative research study was useful and appropriate in this regard because it aided the examination of a societal problem which impacts a certain group of people (Salkind, 2010). The conditions in South Africa were conducive for a qualitative study because of the manner in which the perpetrators in the form of business forums are structured and branded. These structures use national legislation to justify their existence and are recognised by all stakeholders in the sector as critical stakeholders that must be consulted. In addition, the lack of law enforcement presented frustrations to most victims. These frustrations served as a motivation and incentive for the victims to talk. Accordingly, access to targeted participants for this qualitative study was not a challenge.

#### **4.1.4. Purpose of research design**

The purpose of this research design was exploratory in nature. Woo et al., (2017) mention that exploratory approaches are relevant for discovering new knowledge as they are immensely problem-centred in understanding why things are happening. Exploratory focus in studies heightens the value of research results for those interested in the topic being researched (Ponelis, 2015). These sentiments resonate with what this study aimed to achieve because the body of knowledge about extortion in business, particularly in developing democracies, is still in its development stages. This study aimed to discover information about the phenomenon of extortion, which is still not clearly known and understood. Accordingly, semi-structured interviews were conducted from the literature review on extortion and corruption practices in business to gain further insights on and broadly clarify our understanding of extortion and how it interacted with formal business operations.

#### **4.1.5. Research strategy**

In order to answer the research questions and meet the study's objectives as outlined above, this study followed a case study research strategy. This is because a case study strategy can be enlisted to achieve several objectives, including describing phenomena, examining, and generating theory (Eisenhardt, 1989). As described in Creswell et al. (2007), the case study research strategy is applicable when one intends to explore a complex issue by answering research questions through an in-depth analysis and multiple perspectives. Therefore, using the case study strategy is congruent with exploratory research (Ponelis, 2015). Since this research

aims to get an in-depth understanding of extortion practices in the context of the construction industry in a constitutional democracy where the State is expected to protect citizens and their competing rights, the case study strategy approach was relevant because it enables the researcher to gain a thorough understanding of the context and the activity taking place within that context (Saunders & Lewis, 2018). This is in line with Yin (2009), who stated that a case study is appropriate for the in-depth investigation of a contemporary concept in a real-life context where the confinements between the concept and the context are not evidently clear. This research strategy can be based on a single case or a number of cases and multiple levels of analysis (Eisenhardt, 1989). In this study, multiple data sources were collected at three different levels.

The first level comprised interviews with owners and managers of formal construction companies affected by some form of extortion. The answers from these interviews are aimed at addressing all three questions. The second level was interviews with senior government officials involved in the delivery of infrastructure projects through construction management who normally serve as clients on construction projects. The answers obtained from these interviews were also aimed at addressing all research questions. Lastly, the last level consisted of interviews conducted with experts in the industry with intimate experience with the phenomenon. These included a leader of a voluntary association in the sector and leaders of statutory bodies that regulate the construction sector established in terms of national statutes. The answers obtained from these interviews were also used to answer all research questions. The outcomes of the three groups were triangulated against each other to enhance the reliability of the research findings. This is necessary and ideal because the validity and trustworthiness of research results are enhanced by collecting and triangulating data from different sources (Salkind, 2010).

#### **4.1.6. Time horizon**

Due to the time constraints in executing this research, a cross-sectional research was undertaken. Cross-sectional research is defined as a study that investigates an event in a particular setting at a specific time (Saunders & Lewis, 2018). Accordingly, data were collected once from each participant from the groups identified.

## **4.2. Research Methodology and Design**

### **4.2.1. Population**

The construction industry in South Africa is regulated by the Construction Industry Development Board (CIDB) through the Construction Industry Development Board Act (2000) (CIDBA). One of the responsibilities of the CIDB, as contained in section 16 of the CIDBA, is to register contractors in terms of the size and distribution of their operation in the industry (CIDBA, 2000). The registration follows a detailed risk assessment process based on firms' competence and financial capability. From this risk assessment, a grading system of 1 to 9 is used to register construction companies in accordance with their size and capabilities. A grade 1 company is typically a new small company only permitted to do menial construction work. On the other hand, a grade 9 construction company is a major construction company with extensive experience and a big balance sheet that can execute projects from R200 million and above (CIDB, 2023). Accordingly, in terms of level one participants, the population was all contractors registered with the CIDB that are in operation. The target population in this regard would be grade 2 to 9 construction companies affected by some form of construction business mafias' extortion in the past 10 years. This criterion ensured that perspectives from businesses of different sizes in the sector were sought to address the second research question.

For the level two group, the population was all government officials across all three spheres of government who are involved in the delivery of infrastructure projects through construction management. The population target in this regard was senior government officials who had to deal with the issue of extortion in their projects in the last 10 years. This group is important to this study because of the role the government plays in major construction developments. In addition, projects that suffer from extortion attacks the most are public sector projects. Accordingly, this group's voice is paramount to this current conversation.

The population of the last group was comprised of leaders of statutory bodies and voluntary associations in the sector. The target population was only leaders of these organisations at the level of senior management, executive, or non-executive who have encountered the issue of extortion in the sector in the past 10 years. This group of participants consisted of individuals responsible for the regulation and organisation of the construction sector. Their perspectives and perceptions in this research were important as the organisation they work for is responsible for ensuring uniformity within the general environment of the construction business.



#### 4.2.2. Unit of analysis

The unit of analysis for all three groups was individuals. The first group was individuals who owned or managed construction companies. The second group was individuals who mainly occupied senior management positions in various government departments and served as clients in construction projects. The last group comprised senior management, executive, and non-executive director positions in voluntary associations and statutory bodies.

#### 4.2.3. Sampling method and size

The method used for sampling selection in this study was dictated by both appropriateness to the research questions to be answered and accessibility to the members of the population as defined above. The sampling criteria and size are explained below and summarised in Table 1.

**Table 1: Sampling criteria and size**

Case	Criteria	Sampling Method	Number
<b>Group 1</b>	- South African contractors - Grade 2 to 9 CIDB grading - Affected by extortion in the past 10 years	Non-probability, purposive, maximum variation	6
<b>Group 2</b>	- Senior government officials - Responsible for construction project management portfolio - Dealt with extortion in the past 10 years	Non-probability, purposive, homogeneous	7
<b>Group 3</b>	- Senior Management/Executive/Non-Executive leadership of voluntary associations and statutory bodies	Non-probability, purposive, critical case	4
<b>TOTAL SAMPLE FOR STUDY</b>			<b>17</b>

For the first group of participants, although the sampling frame could be obtainable from the CIDB register of contractors because it is compulsory for every contractor to register with the CIDB in terms of the legislation, the sampling frame was likely to be unreliable and inappropriate for the research questions. This is because not all contractors in the sampling frame were expected to have been affected by extortion. The sampling frame may have not been updated. Therefore, the information contained in the sampling frame was likely not correct. On this basis, a non-probability sampling method utilising the purposive technique was considered appropriate for this group of participants. A maximum variations sampling strategy was utilised for purposive sampling. According to Miles and Huberman (1994), a maximum variation presents a wide range of participants, exemplifying the complexity of the phenomenon studied. Through this strategy, it was possible to select a sample of South African contractors in operation from the

two provinces of interest affected by extortion practices in the past 10 years, which fall within grades 2 to 9 of the CIDB grading system.

A non-probability purposive sampling that followed a homogenous strategy was employed for the second group of participants. A homogenous sampling is expected to provide minimum variations in the possible data collected, making it possible to explore the phenomenon in greater depth (Saunders & Lewis, 2018). Accordingly, the method was used to select senior government officials responsible for construction management portfolios who have dealt with construction extortion in the past 10 years. As indicated *supra*, all participants in this category held senior positions with the exception of one participant who had a more junior position. However, this particular participant was included in the sample because of a R1 billion active project that the participant was managing, which was subjected to extortion demands.

A non-probability purposive sampling method following a critical case was followed for the last group of participants. This group consists of experts relevant to the research questions to be addressed. According to Saunders et al. (2007), critical case sampling selects critical cases because they are important and can make a point dramatically. This is the appropriate method to select this group of senior managers, executive, and non-executive directors in the leadership of statutory bodies and voluntary associations. Voluntary associations are expert in the sense that it is their members who are subject to extortion demands and practices. Statutory bodies are experts because they are comprised of persons who are practitioners with a dual responsibility of regulating the sector

Regarding the sampling size in qualitative research, there seems to be no standard rule regarding what an appropriate size for a particular case would be. However, it is acknowledged that qualitative research studies usually derive data from small samples (Salkind, 2010). The recommendation is that for a case study strategy, a sample size of three to five for each case would be appropriate (Onwuegbuzie & Collins, 2007). Following this recommendation, the sampling criteria and size for this research are presented in Table 1 above.

#### **4.2.4. Measurement instrument**

In a qualitative research study, the researcher serves as the primary instrument to collect data (Patton, 2015; Salkind, 2010). This is because the researcher is extensively involved and immersed in the data collection process. Notwithstanding this, the measurement tool that the

researcher used was an interview guide, which contained semi-structured questions aimed at guiding the interviews with participants. The guide facilitated the discussions with the participants while enabling the gathering of information about the topic of extortion at the same time. This was then used to generate data that made it possible to further develop a theory on the subject of extortion. The instrument was drafted and amended in a manner which encouraged participants to narrate stories pertaining to extortion from their own perceptions to gain insights into each participant's experience with the practice of extortion.

The interview guide for each of the three groups is provided in Appendix A1. As emphasised by Saunders and Lewis (2018), the questions in the interview guide must be clear about all relevant topics to be covered in order to effectively collect the relevant data required to answer the research questions and satisfy the research objectives. Accordingly, the interview guide listed and categorised clear topics to be discussed with clearly set out initial questions for each topic. The manner in which the questions were structured was able to aid in the triangulation of data between groups.

#### **4.2.5. Data gathering process**

The data were gathered using semi-structured interviews, which focused on key themes related to the research questions as informed by the literature review conducted. This is in line with Jacob and Ferguson (2012), where the importance of questions being grounded in the literature was emphasised as this indicates a thorough review of other scholars' views of the subject. As argued by Salkind (2010), interviews are usually the common source of generating qualitative data as they can give specific information that augments understanding. It was also asserted that interviewing people is a primary means through which data is gathered, which makes it possible to achieve the objective of qualitative research mainly to study people's view of the social world they operate in (Jacob & Ferguson, 2012). Dikko (2010) further emphasised that when interviews are used appropriately, they may yield valuable insights into the topic of study. Semi-structured interviews were chosen in this study, particularly for the flexibility that they accord to the researcher in that they strike a balance between structured and unstructured interviews, giving the researcher freedom in the process of data collection (Dikko, 2010). Each interview lasted between 45 and 90 minutes. For each interview that was conducted, the following steps were followed:

### Part One: Preparation Stage

- i. Established basic information about the organisation the participant was associated with and what their role in that organisation entailed.
- ii. Ensured that the interview took place at a place and time convenient for the participant, where interviews were conducted in person. Where interviews were conducted virtually, the timing was also centred on the participants.
- iii. Ensured that the researcher's appearance was not intimidating but relatable to the specific participant.
- iv. Ensured that the researcher had up-to-date tools and skills that were functional and fit for conducting the interview. These include the updated consent form, recording devices and field notes pad.

### Part Two: Actual interview

- i. As an introduction to the interview, the first thing was to acknowledge the participant and the time dedicated to the interview. This was followed by an explanation of the purpose of the research and the emphasis that the interview is seeking the participants' opinions on the topic of extortion. The consent form was also read out to the participants. Once the purpose was outlined, the participant was asked if they were still willing to continue with the engagement and made to sign the consent form accordingly. Lastly, permission to record was sought from the participant while emphasising the confidentiality of the data collected and that there shall be limited and controlled access to it.
- ii. The next step was to conduct the actual interview. All participants were expected to be conversant in English because of their anticipated level of education. However, two of these interviews from the first group were conducted mainly in the isiZulu language to encourage the two participants to fully express themselves. This was not a challenge because the researcher is fluent in the isiZulu language.

Since the researcher is new to a qualitative inquiry, and as advised by Jacob and Ferguson (2012), the above interview protocol assisted in guiding the researcher through the interview process in order to elicit relevant data for the study. In addition, before the actual interviews were conducted, a pilot test was carried out with one subject who met the criteria of the actual participant of the study. A pilot study is crucial because it allows the pre-testing of the measurement instrument and assists in assessing its adequacy (Dikko, 2010). This pilot study aimed to establish the readiness of the interview tools and the researcher's skills. The pilot

study did not result in any significant changes in the data collection tool; thus, the questions posed in the subsequent interview remained comparable to the questions from the pilot test.

#### **4.2.6. Analysis approach**

A thematic analysis was followed to analyse the data collected. This type of analysis enlists a process that includes identifying, analysing, and reporting patterns and themes (Braun & Clarke 2006). According to Saldana (2013), these three main activities of thematic analysis can further be broken down into five typical stages, which are the identification of codes, sorting of quotations into code categories, sorting of code categories into themes, descriptive presentation through a visual presentation, and the use of inductive analysis to build theory from the themes generated. This detailed process is also supported by the argument by Hsieh and Shannon (2005), where it was advanced that qualitative data analysis should be more than just counting words. It should be extended to the intense examination of text in order to classify it into themes and patterns that represent common meanings (Hsieh & Shannon, 2005).

The intense examination of text advanced by Hsieh and Shannon (2005) essentially entails building theory by enlisting an auditable and systematic process that places structure on unstructured data. Braun and Clarke (2006) have simplified this process into six clear phases, which were followed in this study. This six-stage process is premised on the idea that thematic analysis remains about searching across the collected data set to determine repeated patterns of meaning (Braun & Clarke, 2006). Following the six phases, the thematic analysis in this study was conducted as described below. It must also be highlighted that since an inductive theory-building approach was followed in this research, the themes that emerged were strongly grounded on the data collected. As such, the entire thematic analysis followed was heavily data-driven. This is in line with the argument by Reichertz (2007) (as cited in Flick, 2018, p.51) that induction analysis should stick closely to the data collected to reveal new insights into an existing situation. This means that during the analysis process, engagement with literature was avoided in the early stages of the process as a means of allowing patterns, concepts, and theories to emerge from the processing of interacting with the data without pre-supposing the result *a priori* (Flick, 2018).

##### **(i) Phase One: Data familiarisation**

This phase consumed a lot of time for the researcher. This is because this is not a once-off task, but rather an interactive one where the researcher was engaged until the entire data analysis

process was completed. Data familiarisation demands the researcher to continuously be immersed in the data throughout the process. This stage began with the researcher transcribing the verbal data into text. This activity was necessary because the raw data had to be converted into a suitable format supported by the Computer Aided Qualitative Data Analysis Software (CAQDAS) selected for this analysis for compatibility purposes. In this regard, since ATLAS.ti was used for data analysis, the verbal data were transcribed into text following the guidelines provided by Friese (2012), which included marking each speaker, inserting a space between speakers, and breaking long speeches into separate paragraphs. Secondly, as advanced by Flick (2023), transcribing is generally regarded as the necessary step for interpreting collected data. This is because the act of transcribing allows the researcher to bring a short-lived experience into a permanent record that takes on new meanings (Flick, 2018).

Open transcripts were created in keeping with the inductive approach adopted in this research. Open transcripts imply that the researcher had abandoned most of the *a priori* assumptions that may have existed (Flick, 2018). Accordingly, in transcribing the verbal data, the researcher had to capture every noticeable feature of the talk (Flick, 2018). However, in creating these open transcripts, the researcher heeded the cautionary advice by Strauss (1987) (as cited in Flick, 2023, p.402), that because transcription in its nature consumes a lot of time and energy, it is reasonable for the researcher to only transcribe as much as it is required to address the research questions. In line with this advice, the researcher adopted the criteria proposed by Bruce (1992) (as cited in Flick, 2023, p.402), who provided that the transcripts development process should be premised on the principles of manageability, readability, learnability, and interpretability. This means a transcript should be easy to write, read, learn and search. Bearing these principles in mind, the researcher solicited the services of a speech-to-text converter to first convert the verbal data into text for those interviews conducted physically in person to produce preliminary transcripts. For the interviews conducted on a virtual platform, the in-built transcriber of the platform was used to produce preliminary transcripts. Time was then expended in editing and cleaning these preliminary transcripts by listening to each full interview. This was to ensure that the transcripts captured the essence of each interview and that the transcription followed the guidelines provided by Friese (2012) for suitability as inputs into ATLAS.ti.

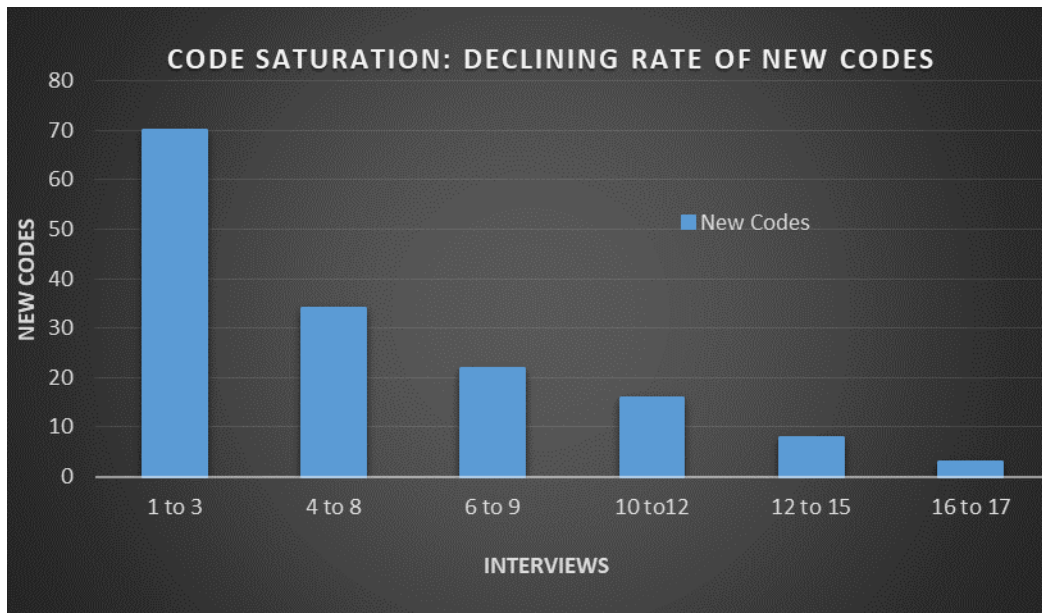
This form of immersion into the data set also included the active reading of the data several times. The reading engaged in this regard was an active one. This means that the researcher

read the data intending to search for meanings by looking for and noticing patterns and potential issues in the data (Braun & Clarke, 2006). The data set, comprising 17 transcripts, was read at least three times as part of the process of data familiarisation.

## **(ii) Phase Two: Generating open codes**

In this phase of the analysis process, initial or open codes were generated. A code in this regard refers to an essential and summarised extracted quotation from the data that reflects commonness in terms of space within each individual data and commonness throughout the entire data set (Braun & Clarke, 2006). As advocated by Flick (2023), coding establishes structure in the material and includes three iterative steps of generating open, axial, and selective codes. This phase of the analysis was concerned with generating open codes. Corbin and Strauss (2008) (as cited in Friese, 2012, p.43) describe open coding as a procedure where raw data is broken apart and concepts described to represent blocks of that raw data. Open coding is the genesis of developing a coding system to create a structure on data that is unstructured.

Following the guidelines by Friese (2012), open codes were generated in ATLAS.ti by first inserting a transcript document into the software and creating new codes for each segment of data that carried significant meaning in relation to the phenomenon studied. The segment of the data represented a quotation, and the shortened description of that segment represented an open code. This separation of a quotation and code is important as it has an advantage for analysis purposes. This process was conducted for all 17 transcripts. During this coding process, the researcher noted that fewer and fewer codes were emerging as the researcher progressed through the individual transcripts. This was an indication that saturation was reached. This form of saturation is described as code saturation, which signifies the decline of the rate at which new codes were created as the analysis process progressed. Although not conceptually the same, which is the point that was argued by Guest et al. (2006), some scholars still equate code saturation to theoretical saturation (Bhattacharjee, 2012; Flick, 2018; Flick, 2023). The code saturation for this study is demonstrated in **Figure 2**. The outcome of this stage was a comprehensive list of 153 different open codes identified across the data set. This list served as an input into the next phase of the analysis.



**Figure 2: Code Saturation**

**(iii) Phase Three: Searching for categories**

This analysis phase essentially entailed sorting the different open codes into possible categories and organising all relevant coded extracts into emerging themes. This corresponds to what Flick (2023) referred to as generation of axial codes and what Saldana (2013) refers to as sorting out codes into code categories. In ATLAS.ti, this was done through the creation of what is referred to as code groups. Through this process of organising codes, the researcher was able to conceptualise and develop an initial visual representation, which further helped in sorting out the different codes into themes. This was done through the creation of the initial network structure on ATLAS.ti. The development of this initial network structure assisted the researcher with the identification of emerging relationships between codes and themes. Therefore, the outcome of this analysis phase was a collection of preliminary themes or categories with their associated extracts of data that have been coded. At the end of this phase, from the preliminary themes and relationships that were marked, the researcher started noticing and having a sense of the importance of each emerging theme and the preliminary story communicated by the structured data.

**(iv) Phase Four: Reviewing of categories**

The essence of this analysis phase was to review the initial themes identified previously by establishing if there was adequate data to substantiate them as themes. This exercise demanded the researcher to iterate back to the raw data set and review the open codes.



Accordingly, this review was conducted at two levels. Firstly it was done at the level of the actual coded data extracts, where all coded data were read again to verify if they formed a coherent pattern. This was once again a form of re-immersion of the researcher into the data. For those themes that could not be substantiated due to lack of coherence, these were reworked by modifying them or creating new appropriate ones. If these could not be reworked, they were discarded altogether, reducing both open codes and themes.

Once it was established that a coherent pattern was formed, reviewing and refining the theme proceeded to the second level. At this level, the review was done on the whole data set by assessing the validity of each theme further in relation to the entire data set and evaluating the initial visual representation to establish if it correctly captured the meaning prevalent in the data set as a whole. This review process at two levels resulted in deleting some of the open codes that lacked coherence. It also resulted in merging open codes and themes (categories), which essentially communicated the same thing but were coded or named differently. The ultimate results of this phase of the analysis were a fair indication and idea of the different themes that emerged, their relationships, and the story they were developing of the collected data. Open codes were reduced to 57 at this stage with 16 themes/axial codes/categories.

#### **(v) Phase Five : Defining and naming final themes**

A further process of defining and naming themes was conducted from the refined visual representation of the data derived from the previous phase. The purpose of this stage was to produce the final main themes presented for the analysis in the next stage. Flick (2023) refers to these main final themes as selective codes at a higher abstraction level than axial codes. Through these main themes, a story of the entire study is formulated as a means of building theory (Flick, 2023). The main themes were produced by identifying the essence of each category and determining what aspects of the data were captured by each category in relation to the broader narrative of the data and the research questions. In ATLAS.ti, this was done by creating what is referred to as smart groups. At the end of this phase, the final applicable themes were clearly defined by their concise names, which according to the researcher, would give the reader a sense of what each theme is all about in the context of this study. A total of nine themes were developed, provided in Table A1, together with the 16 categories and 57 open codes in Appendix A2.

#### **(vi) Phase Six: Analysis and presentation of findings**

In this phase, the analysis and results using the completed worked-out themes from the previous stage are presented. The purpose of this phase is for the researcher to provide an interpretation of the story derived from the structured data in a logical, concise, coherent and interesting manner to the reader (Brain& Clarke, 2006). As argued by Fick (2023), putting the structure on the unstructured data through the different coding steps is merely a means of arranging the data to be ready for interpretation.

In this section, the researcher interprets the data's internal logic (Flick, 2023). This is done by answering the research questions set out at the beginning of this study. Accordingly, the themes that emerged from the previous stage are used to answer the research questions by narrating the rather complicated story in the data to demonstrate merit and credibility. To substantiate the story emanating from the themes, sufficient proof within the data in the form of data extracts is provided and elaborated on to demonstrate the prevalence of the main themes used for the interpretation. The main themes that emerged are provided in Table 2 below

**Table 2: Main Theme from the data**

<b>No</b>	<b>Theme</b>
1	Participants understanding of extortion
2	Founding enablers
3	Subsistence enablers
4	Size effects of extortion
5	Financial effects of extortion
6	Risks effects of extortion

#### **4.2.7. Quality control**

According to Lincoln and Guba (1985), it is important to establish the trustworthiness of a research by evaluating its worthiness. This view is supported by Morse et al. (2002), who argued that a lack of rigour in research would render any study worthless. Trustworthiness is attained through an exercise of scientific rigour which aims to establish its credibility, transferability, dependability, and confirmability (Lincoln & Guba, 1985).

In this study, credibility, which addresses the internal validity of the research, was enhanced through prolonged engagement in the interviews, ensuring that there is quality in coding and that it will give factual accuracy on the ground, triangulation of the data between groups, and

engagement of peer review of the final report and its findings which is demonstrated below. Transferability, which addresses the external validity of the research, was enhanced by following a clear purposive sampling in selecting the three groups to ensure that the research questions are answered and that the findings are interpretive of the study context. A clear description of the study was also described in sufficient detail. This ensured that the findings stand a good chance of being generalised beyond the scope of this study. Dependability, which is mainly about demonstrating the consistency of the findings over time to reflect reliability, was enhanced through standardisation of data collection techniques by keeping an audit trail of raw data, including filed notes, and triangulation of data between the groups. Confirmability, which deals with the neutrality and impartiality of the researcher, was enhanced by ensuring that the researcher's reflexivity is controlled by ensuring that everyone's view is represented as is.

Triangulation is enlisted as a data verification method to strengthen the quality of this research. Participant's triangulation was used to demonstrate the data's credibility as shown in Table 3.

**Table 3: Triangulation Matrix: Number of Respondents that mentioned the theme**

<b>RQ1: What are the enablers of the subsistence of operations of legislation-justified extortion practices?</b>			
<b>Themes</b>	<b>Group 1</b>	<b>Group 2</b>	<b>Group 3</b>
Forms of extortion	6/6	7/7	4/4
Law inefficiencies	4/6	7/7	4/4
Negative community involvement	6/6	7/7	4/4
Lack of law enforcement	6/6	7/7	4/4
Territorial control	6/6	7/7	4/4
Corrupt government officials	3/6	5/7	3/4
Local politicians	6/6	7/7	4/4
<b>RQ2: Are businesses of different sizes affected differently by legislation-justified extortion practices?</b>			
Major firms	4/6	5/7	3/4
Small firms	4/6	5/7	3/4
<b>RQ3: What are the effects of legislation-justified extortion practices on the profitability of construction businesses?</b>			
Increased operating cost	6/6	7/7	4/4
Financial Losses	4/6	4/7	2/4
<b>RQ4: What risks does legislation-justified extortion practice impose on formal businesses?</b>			
Operational risk	6/6	7/7	4/4
Sustainability risk	5/7	6/7	4/4

According to Flick (2023), this form of triangulation is a sub-type of data triangulation that entails studying a phenomenon at different dates, places, and from various participants. In selecting the

sample for this research and how the research was conducted, the researcher had this concept in mind as the intention was to triangulate data from the different respondents that formed part of this study. The three cases or groups of respondents are different because they play different roles in the sector and the value chain of delivery of infrastructure projects. The matrix presented in Table 6 shows that the majority of each group mentioned every emerging theme. This demonstrates the credibility and validity of the research findings.

From the above, it is clear that the ability of the researcher in all aspects of undertaking this research was very critical. This is because, as indicated previously, in qualitative research, the researcher remains the primary instrument of the research. This means that the trustworthiness of the study was heavily reliant on the abilities of the researcher (Golafshani, 2003).

### **4.3. Reflexivity**

It is often argued that the subjectivity of the researcher and the subject of qualitative research forms part of the research process (Flick, 2023). Accordingly, reflections of the researcher's field observations, responses, and reactions are considered part of the data. Therefore, they should be considered part of the interpretation process and documented (Flick, 2023). This section provides those reflections that have been noted and have accordingly influenced the analysis and interpretation process in one way or another.

It is critical to note that the researcher is fully active in the sector both as a senior manager in a government institution and a Non-executive director at one of the statutory bodies. These professional role of the researcher demonstrate that the researcher has views on the topic that is been studied as the researcher interfaces with it at two different. As a result of these two prominent roles that the researcher plays in the sector, this topic of study was selected because of the experience that researcher has with the topic. This means there are views and perception that the researcher hold about the subject studies. The privilege of the researcher in terms of the socio-economic challenges underpinning the context that the phenomenon of extortion is taking place in South Africa and in the sector that the researcher is involved in, cannot be denied. In addition, participants that were mostly interviewed were colleagues in the sector. The risk of this is that their responses to the question posed could have been framed in accordance to how they view the researcher. All of these aspects have a possibility of influencing the interpretation of the findings of this research. However, the researcher was always cognisant of all these factors mentioned. Accordingly, at every step of the process of conducted this

research, the researcher's reflexivity was controlled. To ensure that, participants provided from their own experiences and perspectives, the probing methods was engaged in every time when the researcher noted an element of probing when participants were answering interview questions.

One such reflection was about the challenges the researcher experienced with one of the small contractors interviewed in this study. This observation is key because it influenced how the data were interpreted. This participant is referred to as CON5 in Chapter 6. Although the participant was willing to have the interview with the researcher, the participant became hesitant when the interview had to be recorded. Prior to the commencement of the interview, it was agreed that the interview would not be recorded. Only after introductions were made and the researcher emphasised the relationship between the individual who made the referral and the researcher, and after the consent form was read in detailed and clear terms to the participant, the participant was comfortable going on record. The researcher deliberately adopted this tactic to build trust between the respondent and the researcher. This tactic is in line with Rubin and Rubin (2012) (as cited in Flick, 2023, p. 2023), who stated that for an interview to be responsive and useful, it is important that the attitude of the interviewer is one that builds a relationship of trust. Bhattacharjee (2012) also supports this, arguing that the interviewer's responsibility is to motivate the respondent and clarify any concern that the interviewee may have.

It must also be noted that even after the participant agreed to the interview being recorded, the participant still used a lot of gestures and body language to answer some of the questions deemed difficult or sensitive. In this regard, the researcher had to note and record all these incidents in the field notes book as part of the data collection process. This was done in accordance with the advice by Bhattacharjee (2012), which stated that even if the interview is recorded, the researcher must still take notes on key issues. In addition to writing as much as the researcher could capture, the researcher had to adopt a probing technique to encourage the participant to answer questions. Flick (2023) describes probing as an instrument which aids in achieving depth, illustration, and detail in answers provided by the respondents. The type of probing techniques adopted by the researcher was a combination of what Bhattacharjee (2012) refers to as over-encouragement, asking for elaboration and reflection. The first technique encouraged the respondent to go deeper in detail, particularly where he was seemingly reluctant to speak but engaged in gestures and non-verbal communication. The second was

used when the respondent deliberately used unclear language, and the last was enlisted when the respondent would respond with a low and soft voice.

The effort to obtain insights from CON5 was important because it was challenging for the researcher to get smaller and medium-sized construction companies, particularly from KZN, to form part of this study. This fact is reflected in Table 4, where it is evident that CON5 was the only construction business of small size at grade 2 that was interviewed, with CON4 being the only medium-sized company representative interviewed from KZN. It remained the view of the researcher that for the sake of the diversity, inclusion, and quality of the data set, it was paramount to obtain perspectives from at least one small and medium-sized construction company from KZN, where the phenomenon remains rife.

At the end of the interview, it later emerged that CON5 was being extra careful because of the intersectionality with how the company operates as far as the phenomenon studied is concerned. This intersectionality will be further elaborated on subsequently as the results are presented. CON5 participated in both the business forum structures and associated with the construction mafia group. This information was revealed to the researcher outside of the recording in as much as the respondent expanded on this type of operation on record. According to CON5, as a small grade 2 contractor that depends on sub-contracting opportunities to be sustainable in the province, it is helpful to be part of both groups. The respondent acknowledged that as much as the conduct of the other violent group in the form of construction mafia is deemed illegal, they are in collaboration with main contractors who issue sub-contracting opportunities where agreements are made regarding which small contractor is to be given opportunities. Accordingly, being associated with these construction mafias as a small contractor is the only way to access opportunities. However, this association is not to be discovered by the other group referred to as a business forum, which also suffers due to the construction mafia group.

#### **4.4. Ethical considerations**

The manner in which data is being collected in qualitative research where there is an intense human element involved bring a number of ethical complexities to the fore. The importance of the need for researchers to conduct themselves in an ethical manner during qualitative research, particularly during data collecting stage is always highlighted (Flick, 2018). In this study, participation was voluntary. No form of coercion or undue pressure was used to recruit

participants to form part of this study. Furthermore, participants were always informed that even after they had agreed to form part of this study, they were permitted to withdraw at any given point without a penalty if they wished to do so. These aspects were also clearly indicated in a written informed consent form which was presented and verbally explained to participants prior to any collection of data. Considering the sensitivity of the topic researched, maintaining confidentiality of the participant was of paramount importance and given the highest level of due care and diligence. To this effect, participants are only known to the researcher. The right to privacy of participants was also respected by firstly storing the collected data in an electronic password-protected file. Only the researcher and authorised persons may have access to the collected raw data. All the identifying information were removed from this report and collected data shall have been reported without identifiers.

The questions that were asked in this study had a potential of triggering harmful reaction from participants. This is because the act of extortion in itself is a criminal conduct and in this study it was uncertain who had participated in it. As such, attempts were made to protect participants and the researcher. To protect the researcher and participants from possible physical and verbal harm majority of these interviews were conducted virtually. Those which were conducted physically were mostly conducted in secured government offices to which the researcher had access to. An exception in this regard were two interviews where one was conducted at a secured hotel arranged by the researcher and the other at a secured workplace of the participant which the researcher was also very much familiar with.

The researcher also asked participants to keep the information about the exact location of the venue and time of the interview confidential. During the recruitment of participants the researcher disclosed all the necessary information including that this study may be sensitive and participating in the interview may be risky and could provoke emotional distress. During the interview the researcher used interviewing skills that helped in showing participants that he understands them. Such skills included empathy, non-judgemental attitude, and active listening. These skills helped participants feel supported by the researcher as they reflect on their potentially distressful previous and current experiences.

The researcher intentionally embarked on a careful selection of participant so that no violent members of the construction mafia groups were interviewed. This is because the construction mafia groups are usually perceived as dangerous and may inflict harm to those who are

deemed to question and expose their practices. For this study, it was important for the participants to not know other persons who were interviewed. This was because the researcher is not aware of any relationship that may further pose risks, in that a particular participant may be viewed as a threat of disclosing possibly confidential information about the operations of construction mafias. Accordingly, the identity, place of work, or occupation of participants were kept confidential by the researcher. As the researcher is actively involved in the sector, another layer of protection that was put in place was the enlisting of his experience and networks to carefully select participants that are well informed and trustworthy.

#### **4.5. Limitations**

Since a case study strategy is to be followed in this research, one of the limitations was the small sample for each case. The time horizon because a cross-sectional study was done where data were only collected once due to time constraints could be another form of limitation. The fact that the researcher is fully active in the sector that forms the context in which the study was conducted could have resulted in the researcher's bias. Biases could have been in the form of sampling, social desirability, and observer bias. However, these were reduced by clearly articulating the purposive sampling strategy and inclusion criteria, as demonstrated in Table 1. It was also ensured that the interview content was relevant to the respondent. Too many explanations and leading questions were avoided. Instead, the focus was placed on probing questions, encouraging clarity on the participants' opinions.



## CHAPTER 5: FINDINGS

### 5.1. Introduction

This chapter presents the key findings of this study. This is done by first providing a clear overview and profile of the participants of this study. The participants' profile aims to reflect on the quality of the raw data collected by highlighting the diversity and relevance of each participant to the phenomenon investigated. The importance of selecting appropriate participants has been emphasised by Bhattacharjee (2012), who stated that the selection of participants for a case study must be based on their intimate involvement with the phenomenon and their capability to address the questions of interest in a manner that inspires confidence. The sample overview is then followed by a detailed presentation of the study findings following the emerging themes. The chapter concludes by presenting consolidated research findings in a summarised manner.

### 5.2. Sample Overview: Demographical Data

Seventeen participants operating in the provinces of KZN and Gauteng were interviewed for this study. Participants were categorised into three groups based on their role in the sector. At the time of data collection, all participants managed or regulated construction activities as part of their day-to-day responsibilities. The demographical data of the participants are presented in Tables 4 to 6 below.

**Table 4: Profile of Group 1 Participants**

Participant Code	Position of Interviewee	Company Size (CIDB Grading)	Gender of Participant	Years in Construction	Area of Operation	Sector Rendering Services to
CON 1	CEO	9	Female	16	KZN and GP	Public
CON 2	Site Manager	9	Male	28	KZN	Public
CON 3	Director	9	Male	19	GP	Private
CON 4**	Site Manager	7	Male	7	KZN	Public
CON 5*	Owner	2	Male	10	KZN	Public
CON 6	Construction Manager	9	Male	10	KZN	Private

\* Small sized contractor mainly doing subcontracting work \*\* Medium sized contractor

The first group comprised representatives of contractors who were either owners of construction businesses or were responsible for the management of construction activities. In relation to this study, these are victims of legislation-justified extortion. To protect the identity of participants, each participant is designated a code of CON to indicate Contractor. CON1 indicates the

participant that has been interviewed first under this group, and CON6 is for the participant that was interviewed last. The demographical data in Table 4 shows that four of the contractors interviewed were major contractors. One was of a medium-sized contractor, and one was of a small-sized contractor. Four companies were operating in KZN, one in Gauteng, and one in both Gauteng and KZN. Four companies executed projects in the public sector and two in the private sector.

**Table 5: Profile of Group 2 Participants**

Participant Code	Position of Interviewee	Gender of Participant	Sphere of Government	Years in Construction	Area of Operation
GOV 1	Regional Manager	Female	National	17	GP
GOV 2	Divisional Head	Female	SOE*	25	KZN and GP
GOV 3	Director	Male	National	17	GP
GOV 4	Director	Male	National	23	GP
GOV 5	Senior Manager	Female	National	20	KZN and GP
GOV 6	Chief Construction Manager	Male	National	22	GP
GOV 7	Construction Manager	Female	National	10	KZN

\* State Owned Entity

The second participant set was government officials managing construction projects or responsible for construction portfolios. Participants in this group were assigned an abbreviation of GO to denote government officials. Similarly to the previous group, GO1 indicates the participant that was interviewed first. The demographical data provided in Table 5 shows that most participants in this group held senior positions in their organisations. An exception in this regard was participant GO7, who held a junior position although the participant had extensive experience managing construction projects. GO7 became a relevant subject of interest in this study because, at the time of data collection, she was managing a mega project worth over R1 billion, which was experiencing extortion. Accordingly, in line with the argument of relevancy and capability advanced by Bhattacharjee (2012), the researcher believed that including this particular participant would add value to the study as the participant's experiences were current. All participants worked for government departments in a national sphere except for GO2, who worked for a State Owned Entity (SOE). All participants had experience of not less than 10 years in the sector. Four participants were based and working in the Gauteng Province; one was based and working specifically in KZN, and two were working in both provinces but based in Gauteng.

**Table 6: Profile of Group 3 Participants**

<b>Participant Code</b>	<b>Position of Interviewee</b>	<b>Gender of Participants</b>	<b>Type of Organisation</b>	<b>Years in Construction</b>	<b>Area of Operation</b>
<b>SB 1</b>	Non-Executive Director	Male	Statutory	17	KZN and GP
<b>SB 2</b>	Non-Executive Director	Male	Statutory	25	KZN and GP
<b>SB 3</b>	Executive	Male	Statutory	17	KZN and GP
<b>VA 1</b>	Senior Manager	Male	Association	23	KZN

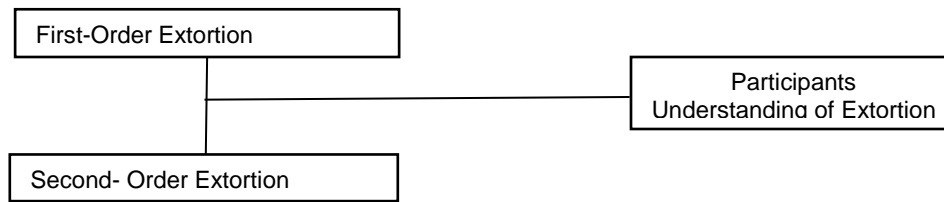
Like other groups, the first three participants are assigned the abbreviation SB to denote a statutory body. In contrast, the last one is assigned the abbreviation VA to denote a voluntary association. All participants in this group hold senior and strategic positions in their organisations and have extensive years of experience in the sector. Only one participant operates in the KZN Province, with the rest operating in both provinces.

### **5.3. Presentation of Findings**

This section presents the findings of the study by providing an interpretation of themes that emerged from the data analysis. The interpretation is provided through narrating the rather complicated story in the data using these themes. The themes that emerged are participants' understanding of extortion, founding enablers, subsistence enablers, firm size effects, financial effects, and risk effects. An exhaustive details of these themes are provided in provided in Appendix A2. To substantiate the story emanating from the themes, sufficient proof within the data in the form of data extracts is provided and elaborated on to demonstrate the prevalence of the main themes used for the interpretation.

#### **5.3.1. Participants' understanding of extortion**

The first question posed to participants was their understating of how extortion practically takes place and how it functions within the construction space. In answering the question, the theme of participants' understanding of extortion was prevalent. This theme was hardly referred to in the existing literature. This theme is, however, important because it is the context in which this practice is taking place in the South African construction industry. The relationships between the theme, categories, and theory are provided in Figure 3 below.



**Figure 3: Representation of Theme 1**

This theme reflects that there was consensus among participants that two types of organised groups practice extortion differently in the construction industry. Participants strongly believed that the operations of these two groups need to be distinguished because their effects are not the same. This distinction formed a foundation of the study as it contextualised all other questions to follow. In this regard, the participants emphasised that understanding extortion would be out of context if it is not acknowledged that two different groups use two different forms of extortion in operations.

The findings show a group genuinely seeking business opportunities to participate in construction activities and using aggressive and violent means to demand free money. The first group is called a business forum; the second is known as a construction mafia. These groups engage in extortion practices towards formal construction businesses to advance their demands. The former uses non-violent intimidation and threats to demand opportunities to secure work from main contractors. The latter group uses violent intimidation and threats to demand free money in the form of a protection fee. The extortion exercised by the first group is referred to as first-order extortion in this study because it is premised on the poor implementation and misinterpretation of the legislation. The form of extortion exercised by the second group is called second-order extortion because it is based on the demand for money to protect the contractor from demands made by the first group. Accordingly, the second-order extortion exercised by the construction mafia group is based on the existence of the first-order extortion exercised by the business forum group.

In providing the history of how the two groups came about, VA1 explained the genealogy of these two groups. In providing these critical moments of history, VA1 shared:

*“I think the mistake that they made when the people who have, I think, were trying to do the right thing is that they needed muscle, and you know nobody you know in the township has more muscle than the taxi industry, so they then got the taxi guys involved*

*and also some criminals, who had the guns and the force and they went and took the work over or demanded the work at gunpoint. And then I think opportunism took over then. What seems to be happening more and more now, which is most common, is that people are just coming in stopping your work at gunpoint and demanding money, demanding payments to the value of 30% of the contract and then in exchange for protection that nobody else would come and bother you. And I think that is probably more the construction mafia. But initially, it was, they were business forums and I think there is a difference between them. Maybe I'm naive but I still do think there are some legitimate business forums but there are now fewer. They are mostly now just criminals that that are operating, who want to come in and they just want money.”*

The distinction between the two forms of extortion was best put into perspective by SB3, who stated:

*“I would want to differentiate the two. Let me start by the business forums, and business forums, legitimately speaking, are the bodies that are there to take care of the interest of the communities in participating in projects in terms of sub-contracting opportunities of the 30% legislated by National Treasury, how they participate in various trades whether they get an opportunity to plaster if the building is going to be a plastered building to do brickwork, or at least to be trained in some things that they didn't know before and get some certificates acknowledging the skill transfer that should have been done in that project. Then the construction mafias are people who come in to bully a project and want specific benefits, even if they don't qualify by any paperwork to participate. These are the people who temper with the contractor's profits and demand more participation, than the contractor can bear to an extent that, they use a political power of involving some leaders referring to their names that we have spoken to, this and this person, they said we must come here and get a benefit of this kind and this nature. So I would want to believe that and although you're not implying that the two are the same but I also want to emphasise that there is very strong line between business forums and construction mafias, so what construction mafias also do is to hijack the business forums.”*

The difference between the two forms of extortion was also acknowledged slightly differently by SB1:

*“A mafia is someone who comes to the site and says, give me 30%, or else this project does not continue. They have no interest in the business or the actual construction, but they just want money. And that is obviously a mafia-type style.”*

In reference to the other group, SB1 added:

*“...it was local businesses where someone is at grade one, or grade two, or someone who might not even be registered with the CIDB, but are building houses, and they're saying we are building something there, we can participate. So that was, and they formed themselves into groupings. So for me, it was sort of the Business Forum type individuals where, it's like a chamber of commerce, to say, for instance, when you come to this community, what are we going to benefit as businesspeople in this, but it's not money. It's about opportunities, construction opportunities that can make them a little bit of money.”*

The excerpts by VA1 provided accounts of the origin of the two forms of extortion. He alleges that it started with genuine business forums trying to enforce the sub-contracting requirement on main contractors. He alleges that because these business forums needed force to coerce the main contractor to appoint them as sub-contractors on projects, they solicited that force from the members of the taxi industry and criminals in the township who are known to be violent. He also indicates that this led to the situation in which the sector finds itself, where there are two groups, with the other group now dominating. According to him, instead of providing the help the business forum sought, the taxi industry and criminals saw an opportunity and took over. This led to the formation of the second-order extortion exercised by the construction mafia group. They have no interest in participating in construction because they don't have expertise. They are violent and they are using the violence to demand the same 30% demanded by the business forums in exchange for the protection of the contractor against business forums. This is the opportunism that VA1 is referring to. The views of SB1 and SB2 re-enforce these assertions made by VA1. All participants aligned with the views summarised by these three quotations.

Most of the participants have not only acknowledged the distinction between the two forms of extortion that exist in the sector, but agreed that both operations of business forums and

construction mafias are illegal as they are tantamount to the criminal offence of extortion in their nature. In arguing this point, GO4 stated:

*“It's criminal. Both of them it's criminal. It's not legal. The other ones are using the legalised access to do their criminal activities. They are not legit in a project to facilitate that the community must benefit. They've got their own interest first and then, then the people so that when whoever can come to look or the community complains, they say some of your fellow people are working there so they have appointed some of you, so what do you want? Then, they will make the community to stay away from the project. But they use this legal access to do their criminal activities.”*

In highlighting the illegality of the operations of the two groups, SB2 stated:

*“The approach is, in my view, not legal, it's 100% not legal. It's just that you can't just say that these actions are illegal and will not entertain you, cause that is going to be antagonistic, you know, so we've always found a way to sort of sit around the table and work out a solution. But if you apply the law to the tee, it would be illegal. It emanates from an illegal, in my opinion, deliberate misrepresentation of the law.”*

The quotations above reflect the views of most of the participants in this study. GO4 makes it clear that both forms of extortion are illegal. He further highlights first-order extortion and suggests that regardless of the first group justifying its conduct on legislation as already advanced previously, its conduct remains illegal and criminal. This point is also supported by SB2, who acknowledges that regardless of always trying to find a solution around the first-order extortion through dialogue, if the law had to be applied to the latter, it would mean that they are engaging in illegality. SB2 further highlights that this illegality of first-order extortion is premised on the deliberate misinterpretation of the law to advance it. The views by SB2 and GO4 are the views shared by the majority of the participants, *albeit* not all.

It must be noted that there were two dissenting views on the legal nature of the business forum groups. These were from CON4 and CON5. Both participants agreed that the operations of construction mafias are illegal, but argued that those of business forums are legal. This is not surprising because, as demonstrated in Table 2, participant CON4 worked for a medium-sized sub-contractor that usually obtains work through sub-contracting from the main contractor. Therefore, it is expected that the participant will defend the operations of the business forum as

it is likely for the participant to be part of that group. The participant insinuated this possibility by stating:

*“This thing of tenders, there were workshops for SMME’s, some of which I attended. They emphasised that when a project is brought to the community, it must uplift that community, so they said a maximum of 30% it needs to uplift people who stay there”.*

In advancing the argument for the legality of operations by business forums, CON4 indicated:

*“They are legitimate. Yes, they are legal. Forums, actually, they call themselves businessmen that they are trying by all means to help the community to get what they deserve, to get their portion. They found that all the tenders there is that 30% which has to stay with the community. So they created a forum. It’s a business forum that will make sure that the 30% stays in the community because a lot of people they didn’t understand how this 30%.”*

As indicated in the reflexivity section above on the researcher's experience with CON5, his stance does not come as a surprise because of the intersectionality in which the participant participates in both groups. However, it must be indicated that in the open, the participant identifies as a member of the business forum while discreetly associated with the construction mafia group. In defending the stance on the legality of business forums, the participant vividly argued:

*“Business forum is legal because Public Works said there is 30% which must be local, so for this 30% to reach the community, there had to be a business forum so that we can sit on the table so that everyone is accommodated so that it can run smoothly. The forum is able to engage with the owner, and they know how to allocate and create a database for different sectors so that they can be structured.”*

Concerning the operations of construction mafias, participant CON5 was clear that *“construction mafias are thugs who think for themselves.”*

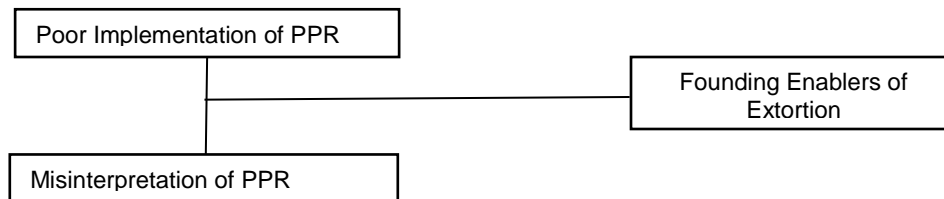
From the above results, it is clear that extortion in the construction industry is enabled by two groups that operate differently, resulting in two forms of extortion. One form of extortion is first-order extortion driven by business forums that enlist intimidation, but are not violent in advancing their demands. The other form of extortion is second-order extortion driven by construction mafias that employ violent means to intimidate and bully main contractors into



succumbing to their demands. The findings also indicated that the overwhelming majority of participants (15 of 17) agree that the operations of both groups are illegal, while two disagree that the operations of the business forum are illegal as they are based on the 30% provision in the preferential procurement regulations.

### 5.3.2. Founding enablers of extortion

The second question was about the adequacy of laws and legal prescripts regulating the country's human behaviour. With this question, the researcher attempted to examine if any gaps in the law may be perpetuating this practice of extortion in the sector. Categories and themes that emerged from the data on this question are highlighted in Figure 4.



**Figure 4: Representation of Theme 2**

The insight received in relation to the law in its current form was that the current laws in South Africa are deemed adequate. All participants have advanced that there is nothing wrong with the law. In emphasising this point, GO3 lamented: *“The law in South Africa is one of the best regulatory systems, and if it’s implemented by conscious people, very righteous, and trustworthy, we can achieve everything.”* This view was shared by participant CON3, who was clear that: *“I don’t think there’s a problem with the law.”* On this aspect of the law, CON6 asserted:

*“I don’t necessarily think it’s the law. Fundamentally, there’s no law that powers this. I think it’s the management and enforcing of the law and making sure that the guys comply with the law that’s the problem. The law, I don’t necessarily think that’s the problem I think it’s only the thing of enforcing the law that’s not being done.”*

In decrying the poor implementation of the law, GO6 argued the views expressed by: *“When you come back to the law, is that it is there, but the law as it is written is not active until somebody applies it to deal with the challenges.”* This sentiment about the adequacy of the law was also shared by participants SB1 and SB3, respectively: *“So the law is not a problem,*

however, and I'm speaking the law in its written form, it's not a problem" and "From the law perspective, I don't think our laws are wrong." In closing the discussion around the adequacy of the law and responding to the probing question by the researcher, SB2 added: "I'm not necessarily convinced that the law itself needs to be changed." Participant VA1 applauded the national legislator for promulgating appropriate laws:

*"I don't think that legislation, I personally believe it's a great legislation that was aimed at transforming the construction industry, which is still heavily male, heavily white, specifically white Afrikaans actually, especially at the highest level with all your big construction companies. And this was a good legislation at trying to force transformation in this industry. But what went wrong is when people started taking an opportunity and rubbishing the legislation, you know, and turning it into something negative. I personally don't think there is a problem with government forcing people, or not forcing but encouraging transformation through legislation like that."*

Notwithstanding the participants' common view that the country's laws are adequate, there were also common concerns about their implementation and interpretation. The general implementation of the good laws in the country has already been highlighted by the statements of CON6, GO3 and GO6 above. In raising these concerns around the implementation and interpretation of the law, most participants narrowed the argument to the PPR 2017. This was expected because, as detailed in Chapter 1, these acts of extortion in the sector were fuelled by the promulgation of these regulations. Participant SB1 advanced: "Where it has gone wrong with 30% is actually the implementation when it gets to you at public works, or Amatola or Umgeni or DBSA."

In highlighting the poor implementation of the PPR 2017 by the government, CON1 opined:

*"I believe that the government does not do enough to inform its people. To make people aware of certain things. I'm not sure public participation about this 30% how it was done. I've never checked if it was done, how it was done whether people participated. But the first time I experienced this 30% and I asked myself, the people don't seem to even understand that it's only projects of over a certain amount."*

With the above excerpt, CON1 is advancing an argument that the government simply promulgated the PPR 2017 and never educated the public on how it works and should be applied. She further supports this with the anecdotal experience that made her realise that people are demanding an incorrect interpretation of the PPR 2017 because they seemingly did

not understand it. G01 strongly shared her views on the government's lack of education for the public and stakeholders:

*"Anything and everything is subject to interpretation; that's number one. And if you issue any legislative framework, whether it's an Act or circular or whatever directive, if it is not properly understood, and there's no involvement in its constitution, chances are you leave it subject to interpretation, that's number one. Now, when it comes to somebody who wants to access things by deviation, chances are they are looking at the weaknesses of such a thing."*

Concerning interpretation, GO2 added: *"I think it's also worth it to mention that 30% sub-contracting it's actually misunderstood in terms of what is crafted for in the legislation."* GO1 also raised this point:

*"I limited this point to your PPR 2017 because that's when it became apparent and they would use that to be the basis of why they are feeling that they should be on site, they are entitled to it, without going to the details of what do you mean when you're saying as the community we are entitled, what does it mean? Give us whether they qualify for the work, whether they got good aptitude to carry out work, whether they've got the means to carry out the work. That aspect would never get discussed. It would limit it to 30% threshold for the local community, So that aspect is how I would say it has contributed, but if it's interpreted correctly, implemented correctly, and supported by a framework for the department, it could have worked. But we've created that gap."*

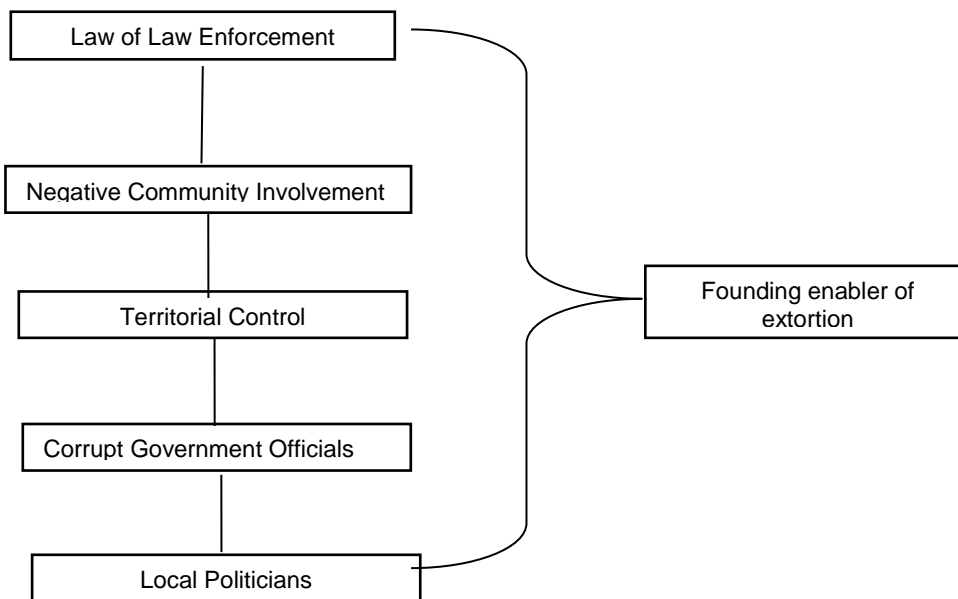
The above arguments advance the narrative that the legal norms that exist in the form of authoritative sources of the law applicable in the construction sector are adequate. However, the problem was highlighted in the specific public preferential procurement regulations in the form of PPR 2017, where it was argued that that piece of legislation was poorly implemented; thus, it has led to abuse and misinterpretation. This is why those engaged in and benefit from these acts of extortion are using the PPR 2017 incorrectly to advance their demands. As succinctly stated by SB2, these are deliberate misinterpretations of the law in order to shield and advance criminality. This poor implementation and misinterpretation have enabled the legislation-justified extortion that is taking place in the sector. Accordingly, in answering RQ1, one of the enablers of legislation-justified extortion in the construction sector is the founding enabler in the form of PPR 2017, which was poorly implemented and misinterpreted.

### 5.3.3. Subsistence enablers of extortion

Several factors emerged as enablers sustaining the subsistence of the legislation-justified extortion that is taking place in the construction sector. These included a lack of law enforcement, negative community involvement, territorial control, corrupt government officials, and local politicians. The themes and categories that emerged from the data generated are demonstrated in Figure 5.

#### - *Lack of criminal law enforcement*

Lack of criminal law enforcement is one of the strongest common enablers from the data collected. This is consistent with the view by participants that both first-order and second-order extortions are criminal conduct. This factor always found expression across all the questions posed to participants. This indicated that lack of criminal law enforcement is one of the main enablers of the subsistence of this legislation-justified extortion experienced in the construction sector. The main question about this theme was generally around the role of law enforcement in relation to the operations of these extortion groups in the construction space.



**Figure 5: Representation of Theme 3**

Participants have attributed this lack of criminal law enforcement to three contributing factors. These factors include non-corrupt police officials, corrupt officials, and the lack of reporting by those affected and impacted by extortion. In terms of police officials who are tasked with enforcing the law, participants' views were that these can be differentiated into two. They

argued that there are those police officials who are not corrupt but have limiting factors. These limiting factors have been raised as incompetence to deal with the crime committed, fear, and lack of capacity both in terms of non-human and human resources. Some are said to be corrupt and are in collusion with the extortion groups through relations or the financial benefit they derive from them. In making this distinction, SB3 stated:

*“There will be police with good intentions to disrupt and arrest construction mafias. Those are the non-corrupted ones, meaning either they've rejected the offers from the construction mafias. Then you will have the same group of this police who just don't have the capacity to address this issue. And thirdly, you will have a cohort of police who are bought to support this phenomenon by the construction mafias. So if you look at those three things I've mentioned, they are the ones that are bought. They are the ones with good intention, but they don't have capacity and then some want to do (...).I think lets reduce these groupings to two. There are those who want to arrest these people, they don't have capacity, they are not trained enough. Then some are corrupt.”*

Concerning the element of fear in making the distinction between the two kinds of police, GO4 opined:

*“In my own perspective, it's one: either the police are also afraid of these cartels, or they are in their pockets. So when I say I'm talking corruption now. These people benefit from these activities. So they won't be interested because they know that they will be stopping what is coming their way.”*

In adding a voice to this issue of incompetence among the police force to deal with the organised crime of extortion in the construction sector, VA1 shared:

*“Even when an incident happens, the fact that we don't know who to call because, at the police stations, the police officers there don't seem to know how to even record the crime. As I'm saying, they won't give you a case number. They will give you an incident number and it's not really like if somebody has stolen your car, you know you get a case number, with any other crime you will get a case number, but you don't get a case number in these incidents. They just write it down as an incident so it seems like the police didn't consider it as a heavy crime. There's an incident where another member of ours is telling us about the way police came on to site, and they were well, whilst the forums were there, they would go and they will chat to them and then get in their vans and leave and leave the contractor with these people on site you know.”*

Regarding the lack of capacity, most participants agreed that this is also a limiting factor to those honest police officials who would want to do their work, as indicated in SB3's excerpt above. GO1 also supported the limiting factor: *“We already know that they are overburdened and they're are not capable of taking on everything that we bring on board.”* GO2 also made a similar expression:

*“So the role of the law, theoretically, it's supposed to be managing those to make sure that where they are bullying and intimidation that is managed and they protect the contractors and that the rule of law is applied. From my experience, they either do not have the capacity or the will to do that. That is my personal experience.”*

It must also be mentioned that there was a dissenting minority that argued that capacity was not an issue, but rather the will of the police to do something about the crime that has been committed. When defending his position, GO2 argued: *“It's not a problem of capacity where someone goes and reports and you do nothing.”* On the other hand, GO4 referred to incidences that he believed were a clear indication that capacity was not necessarily a challenge, but the will and interest to do something about the crime is what is standing in the way. GO4 asserted:

*“No, capacity is not an issue. I believe that if you look at, for example, when the EFF was matching, there were enough police; where were they coming from? During Covid, there were enough police and soldiers; where were they coming from? If we're talking about*

*capacity? They were not appointed because of those events. Capacity is always there; it is in the manner that you resource them and deploy them”.*

Notwithstanding these dissenting views, it is noted that the majority of the participants agreed that lack of capacity is one of the contributing factors toward the state that has led to a lack of law enforcement in dealing with extortion practices in the construction space.

The last factor contributing to the lack of law enforcement mentioned by almost all participants is the lack of reporting by those affected by these extortion practices, particularly contracts. They attributed this to the fact that the public has lost trust and confidence in the police. Firstly, it is because once it is known that you have reported the matter to the police, there will be no protection offered to you. Furthermore, the inaction by the police has demoralised those affected by this practice to report it. According to most participants, this is supported by the fact that although these perpetrators are known, none of them have ever been prosecuted. In highlighting this point, GO6 advanced that:

*“You can open the case today when you have to go to court you get killed or they will say, if you point me, is the last, so even workers for this construction firms and consultants, they have to evaluate the financial loss and losing of life, what is more important? In pursuance of profit or preservation of life? Criminals, they understand those dynamics.”*

The above sentiments are aligned with those of GO4, who expressed a strong view on this aspect of the lack of reporting of cases by victims of the construction mafia. In this regard, he argues:

*“So it means that as the one that money has been extorted from, I should have the guts and the confidence that I'll have protection if I go and report these people. But remember, these people approached me, intimidated me, said I should give them the money. So whether I gave them the money or I didn't give the money, I should be able to go and report the case and where you are reporting the case like it will be in that local section where the project is. These people are big. You find that even the police are afraid of them. So once you report the case, you put your life in danger. So the issue is, am I willing to put my life in danger? Most of the time, contractors don't want to do that.”*

The above analysis has shown that the lack of criminal law enforcement remains a challenge that enables the criminal conduct of extortion to thrive. This law of law enforcement is exacerbated by corrupt police officers, incapacitated police officers who don't have resources and are incompetent, and a lack of reporting by victims of extortion. The experiences and anecdotal accounts provide support for this finding. Therefore, it is concluded that the lack of criminal law enforcement is one of the enablers to the subsistence of legislation-justified extortion.

- ***Negative community involvement***

This theme highlights that whichever way the community is involved or not involved in this extortion practice, it is negative or detrimental. As already advanced, the role of the community in either preventing or enabling the practice of this practice is important. This is because these criminal acts are happening in communities, as most of these construction activities and projects occur in communities. Secondly, the perpetrators of these criminal acts remain members of the community. The question in this regard was around the community's role in relation to the successful operations and the sustainability of extortion practices.

Negative involvement of the community, either by omission or commission, is an enabler of extortion in the South African construction sector. The findings in this regard indicate that community members either engage in extortion practices by collaborating with extortion groups or do not engage at all, which in this context is considered non-collaborating. They collaborate mainly because of community members' lack of job opportunities. This leads to these extortionists exploiting the community because they will demand opportunities from contractors posturing as the community's mouthpiece. The community will participate, hoping to secure job opportunities from contractors, mainly as unskilled labour. Secondly, some of the community members participate because they are in collusion with the extortionist either through relations or are paid for their services as information proxies. In putting this point across, CON1 asserted:

*"I don't see the threat going away anytime soon. People are still hungry. People don't have jobs. People are desperate. The construction industry is giving a lot of work to a lot of people. I mean, the number of people that we employ, I mean, one person, it translates to eight people that you are employing as this person is going to feed eight people."*



These sentiments were supported by participant GO5, who emphasised:

*“When a project is brought into that area, they see themselves being economically developed in one or the other way. At least they've got a plate of food on the table, and as soon as that doesn't happen, if that expectation is not fulfilled, then it's when they tend to be violent and fighting against each other.”*

When arguing about the exploitation of socioeconomic challenges faced by the community, CON6 stated:

*“It is simple, unfortunately, that they are the pawns in the system. If it's a game of chess, you know, they are unfortunately the pawns. They are the guys that are unhappy, that are looking for work, that are wanting to have their business, that are the people that are unemployed and the people that have, the business forums, and effectively running the show are promising, you know, the world. And don't worry, we'll go and sort it out on your behalf and then we'll guarantee that you get work from this project and that project and form the construction. Unfortunately, they are the pawn and the guys that also loses out the most. I don't think construction mafias have a local community benefit at all except for the few that get rich from them.”*

Regarding the community members being information proxies for the extortion groups in exchange for payment, this was well highlighted by participant CON1, who opined:

*“But remember, even the mafia is coming from the community itself. These people they know, they put their people to know that somebody has started establishing this site or we see somebody putting a board that there's a new project. Remember, we are the mafia. That's why I'm saying if you're going to rob a bank, you will need to know which bank you want to go to. You will have people who will look for, it will take on such and such a day there is so and so that's doing one, two, and three. I mean, they don't do it in one day. They don't decide that tomorrow we are going to be there. So they have their people that they know they work with. I'm part of the mafia, but my job is to just go around and see what is happening who supply them with information, as you know, we saw somebody establishing that we know somebody is establishing there and they plan, I think we are going to go to this one or are we going to go to all of them at once.”*

Concerning members of the community who do not participate in extortion activities, most participants have attributed these to two factors. Firstly, they argue that the community

members cannot be mobile among themselves and stop the extortion groups because they fear them. The argument in this regard is that most construction projects within communities are there to deliver essential services for the betterment of the community. It is, therefore, advanced that ordinarily, the community should have a sense of ownership of these developments and protect them because they benefit them in the long-run. However, it is argued that the community cannot play this active citizenry role because they are intimidated and fear these extortion groups. In supporting this assertion, CON1 argued:

*“You see these mafia, no community can speak to them or stop them because they would deal with them. They will beat their own people. If the mafia are here now today, the whole community cannot do anything to them. So they are scared of them. The community doesn't act on them because they are afraid that they'll be beaten up.”*

In emphasising that these extortion groups instil fear in community members, SB1 was unequivocal: *“They know about them but stay out of their way. Well, out of fear because they have nothing to gain from interacting with them. That's just my view; it is out of fear. I'm not going to jump in front of a car to save a chicken on the road unless it's my chicken.”*

In giving an account of the inactiveness of some members of the community, participant VA1 asserted:

*“I think these are ordinary citizens and they don't have guns and they don't have force; what could they really do to a bunch of people wielding guns, AK-47 and big weapons? I don't think there is much that they can do. That's my take on it. But I guess they could. They could all band together and outnumber them. They could do more. But I think the intimidation factor of these people makes it is a deterrent to the ordinary community member.”*

The second factor of the lack of interest by the community to fight the extortion groups is that some of the community members get disgruntled because they were never consulted regarding the development taking place. This then leads to the community losing not only trust in those who are implementing and leading the development in the community, but also a loss of sense of ownership of the development. This point was argued by GO3, who shared an example of a specific construction project that was affected by construction mafias. He stated: *“The community said we were never consulted about this. We just saw a company drop their own people. This is why we never protested these people who want money.”* The same view was

supported by SB1, who highlighted: *“I do believe that if we engage the communities properly and provide decent opportunities for the communities from the word go in projects, they could play a significant role in protecting this infrastructure. So throughout the development of these, communities must be meaningfully engaged.”*

The analysis above demonstrates that several contributing factors explain why the community is not playing an active role in curbing or stopping the practice of extortion in construction projects in their areas. Those who collaborate with the extortion groups do so either as proxies that give information to these groups or by being part of the disruption of construction sites. Participants have advanced that the reason why the community is behaving in this manner is because of the socioeconomic challenges of unemployment and poverty that they are faced with. The prospects of employment and income presented by these extortion groups to the community render them vulnerable because they exploit to advance their demands without the community getting what is due to it. Respondents have also highlighted that another part of the community does not participate in extortion activities and does nothing to help stop them. These findings indicate that this behaviour may be attributed to the fact that, in most cases, the developers do not meaningfully engage the community, or it is purely out of fear of intimidation by the extortion groups.

- ***Territorial control***

Most participants agreed that the successful operations of the extortion group in the construction sector can also be attributed to the fact that they have some level of control of the area they operate in. Findings from the study suggest that these groups enlist violence and fear to communicate to the community that they are in charge of the area. They make sure that everyone in the area is aware of them and what they can do to entrench obedience so that no one can interfere with their operations. The fact that they control the area manifests through how they use invisible borders to demarcate it. In explaining how they attain this control of the area, CON3 claimed: *“It's basically the strongman concept, the strongest, I am not saying the strongest in the arm, or the physically strongest guy rules the area, but it's the guy with the most influence in the area who rules that area and they, I mean this mafia game its ages old and was not invented recently.”*

CON 5 also supported the above views: *“They control the area in that they are above the law, they are feared, and no one can touch them.”*

CON1 further alleged that these groups are feared in the community:

*“They have killed. They have done things that people are afraid of them for, and hence when we started with XXXX, we had to bring our people to go talk to YYY specifically because they know YYY, to say YYY, please do not harass this our person. This person needs to do this for your community. We want to be out of here. We don't want stories. If YYY is controlled, no other person can come and try to give us a problem. If we have spoken to YYY and we told YYY this is what we want to do, YYY, what is your interest in this? What we don't want to give you is money. We want to give your people; these are your people in your community. This councillor that we also bring into play, he doesn't have the power. It's YYY. So we say, well, why don't you give people jobs? What is your interest in this? We don't want disturbance.”*

GO4 expressed similar sentiments:

*“We had a project where we had a similar problem and the social facilitation was not done with the local people. So they pitched at the gate and disrupted the work. So in that instance, what happened, to be honest, the problem was resolved by hiring one of these mafia's as the sub-contractor on site. So because he is feared by the community, everybody ran away from the projects. So these people who were demanding jobs, demanding sub-contracting work, after we appointed him, they never came back because he said he will be the security and he will protect the project and that is how it was solved. The project was completed without challenges. He was the bouncer there. The fact that he was there, everyone knows that he is working there and they are afraid of him. They never came. I don't know what he did to them and if he has done something in the community, but we don't know, we are not privy to that, but with his appointment, the problems were solved.”*

Regarding the indication that there is a demarcation of territories, VA1 put this into perspective:

*“Here in KZN, we are even aware of what areas are operated by which forum. For instance, as I said, in the South of Durban, you would have iDelangokubona, which originated from uMlazi which is in the South of Durban. So generally, that was the most active business forum in that area. But there's obviously since been many opportunists*

*who cropped up and made their own business forums. But the big forums that we are aware of is Delangokubona in the South of Durban. We've got Black Business Forum, which is in the North of Durban, cause they are originally from the KwaMashu area, which is in the North of Durban. So they operate in the North and then in the West we have the Outer West Business Forum. Now, there are also other business forums I don't know. Actually, I don't want to call them a business forum. I think they are a mafia, in my opinion."*

GO6 also supported the demarcation of areas, stating:

*"The second avenue is the issue of the most feared criminal in the area, like, you know, in Pretoria, there is XXXX. He is based in Soshanguve, so that one dominates everything in Garankuwa and Soshanguve, so his gang is always involved and links to territorial control."*

In explaining why one is not allowed to work with one good sub-contractor from one place to the next and thereby substantiating control of territory, CON6 indicated:

*"So there are small pockets of truly brilliant local community contractors and those guys all performing up to the standard. However, they all once again limited to that local council and if you if you risk taking them from that council and using them somewhere else in a different council, what effectively happens is this mafia then pounces on this company and frightens them, effectively saying that you are not from here, you are not local."*

There is generally a consequence among all participants that one of the tactics used by extortion groups to sustain the successful operation of their practices is to control the area they operate. All participants have indicated that this control is attained through fear and intimidation of the community. They also use their violent and sometimes criminal history to drive this fear into the community. Participants have also highlighted that since there are a number of these groups, control of territory is also managed through the demarcation of areas because it becomes clear who controls which area. In this way, one mafia would not go and extort businesses that are not within the jurisdiction of its control.

- **Local politicians**

Another factor that emerged strongly from the data is that of local politicians. Although one specific question asked about the role of politicians in relation to this extortion practice, this sub-theme emerged throughout the various questions. With this sub-theme, participants made it clear that politicians involved in extortion are mostly from the local level and not necessarily at the provincial or national level. Accordingly, these are local community members affiliated with a particular political party and would also have some form of representation in the local council because the ward councillor of their area would come from their political party. This is how they then attain and misuse influence for their own financial gain. In putting this into context, SB1 explained:

*“You see, when you think of politicians, think of them in this context, say in your local ward, you will have first, your political party is ANC, EFF, DA or IFP, and out of that you would have your branch chairperson, secretariat and then you would have your branch executive committee. Those are all community members that in my mind are politicians. Your chairperson becomes your local councillor and goes to city hall. As a councillor they get a salary. You might find your secretary, at least when you're looking at this parties, it would get whatever maybe 10k per month, because it's a full-time position, but all the others are not employed. What you will find is that some of these people are deemed as business people and they know very well what happens in the community, they know when the road is coming. They know how much the budget is, who the contractor is. I've seen in a few instances where the mafia is actually some of these. They are seen as community leaders, but they need to eat, and with the unemployment rate in the country at such a high level, not all of them will become MP and not all of them will be municipal managers; some of them will remain in the community, some of them unemployed.”*

Regarding local politicians who collude with the extortion groups, the findings suggest that these are driven by two factors: future political aspirations and corruption. They do this with the former because they want to retain their positions within their political structures by retaining their popularity with the community members. This is why they collude with these extortion groups so that they can appear to be securing work opportunities for community members. GO1 argued:

*“Politicians speak about constituency and as and when programs, projects and everything is happening within a constituency, you're trying to appease as much as possible. And in appeasing, you are buying sentiment for future goals and your*

*existence in that position is informed by what you then deliver as and when opportunities come; there is issues of extortion through the extorter. There is also the issue of putting together individuals that you are then compelling whoever is appointed and influencing whom they should then put on the project for you to then access either financial benefit or even if it's not just funds, it might be financial and the popularity aspect because of your aspirations.”*

The above argument was also succinctly put forward by CON6, who asserted:

*“The representatives that I have dealt from the local community were effectively appointed by a politician. It's also a thing where, oh look this is what we're doing, to show the local community that we are supporting them and helping them. That is the whole concept that I need to win over the people in the local community, and it's not necessarily that I am talking Minister-level. I'm talking in the local community politicians, but don't be surprised if one of those companies that's on theirs is also owned by that politician. So once again, it comes back to deriving that self-gain and self-benefit and what easier way than to benefit from that?”*

Advancing the same argument, GO4 brought a different perspective on why local politicians would work or have a relationship with the extortion groups:

*“Remember the ward councillor has got his own committee. So these people, they will be introduced to you as people who work with him in the council, or as people who, what they call in IsiZulu, “uzothi bamphethe”. It's like people elevated and put him there so which means he works for them or they work for him, but he also work for them because these are the people who voted him into power or who mobilise his voting into power. So those people, it is like they are being rewarded for elevating him to the position, but when they are introduced, they are not introduced as people who are coming to disrupt, they are introducing people who work with the Council. I believe that the money extorted there is also used to campaign for the higher position of the councillor. Or this money even aids the ward councillor is to be elevated to that position so that they can continue benefiting.”*

However, participants emphasised that not all politicians collude with these extortion groups. They emphasised the point that those who are not entangled with the construction mafia simply do not get involved as they choose to stay away because they also fear these violent groups.

Participants, particularly contractors, decried this non-participation as they argued that locally elected councillors have a role to play, and by not playing that role, they are in dereliction of what they were appointed for. By omission, they are contributing to these extortion groups' subsistence and successful operation. In emphasising this point, CON2 stated:

*"The only way you can solve this mafia is dialogue. There is no other way. And you need a good community leader, strong, who can challenge these guys. If you can get a good community leader, a strong person who can kick these guys out, then you don't need them. And I think twice it happened where we had a very strong community leader in uMhlanga. He never allowed these guys. He said, guys, this is my area, my community. Who are you? It almost became a physical confrontation with them. He's never allowed them. So it's difficult because now his life is at risk, but he said you're not going to come in. He said who are you? I know who lives in my community. I know which sub-contractors are there; I know which workers we have."*

When explaining why some of the local politicians choose not to get involved, CON1 narrated an experience he had with a local councillor when he reported the matter:

*"They do not respect councillors. They can even beat a councillor in front of you. In Soshanguve, there was a roadblock and we needed water. The police did not create that roadblock, it was the community where they stopped the project so they didn't want anybody to pass. We went to the councillor and said, could you come and talk to them, we already put the cement onto the tank and the water. He said to us; you want them to come up and burn my house. I said what? He said, do you want them to come and burn my house? That was the councillor."*

Lastly, the findings also reveal that the politicians' association with the extortion business is also motivated by sheer corruption and greed. In this regard, as already indicated in the quotation by CON6, these local politicians are sometimes in it for their own financial benefit. This goes to the extent where the companies they will use to extort money would be their own companies, using relatives, friends, and acquaintances as fronts. In highlighting this point, GO2 stated:

*"I want to believe that there's some monetary gain because, in our case, remember, the people that will then be managing the procurement of those services of sub-contracting will be the project Steering Committee. So they enforce themselves into being the steering committee where they can channel sub-contracting to specific individuals I want to believe they are interested in."*



SB2 also supported the above view:

*“My suspicion has always been that there is potential financial gain. So if your sub-contractor makes it onto the list of sub-contractors, they are obviously going to get paid something. That payment, you would derive some benefit in the back end. That could potentially be your interest in making sure, or is just somebody who is a close relative of yours or I don't know, maybe there are some linkages between you and that sub-contractor and as a political leader in the area you'd want them to benefit, but it could have been many reasons, but there is certainly a link somewhere, you know family, business associates or whatever the case is.”*

In summary, the above provides an account of why local politicians would either stay away from these extortion practices or why they would get involved. They stay away mainly because of fear for their lives. They participate because they are either simply corrupt and want to derive a financial benefit or they are motivated by political aspirations to either retain political power or gain enough popularity among their political supporters and the community to be elevated to the next higher position. Whichever way local politicians decide to show up regarding the phenomenon of extortion in the construction industry, the participants strongly believe that their decisions are enablers to the successful subsistence of this extortion business faced by the sector.

- ***Corrupt government officials***

The corrupt government official is another sub-theme identified from the data, which was not explicitly highlighted in the study's literature review. This sub-theme emerged as the researcher was engaging in other aspects of the study with participants and was explored as engagements proceeded. However, this is not a surprise because the theme of participants understanding extortion further supports the view that the context in which extortion occurs in the South African construction industry is different. This sub-theme emerged mainly because of two reasons. The first reason is that the extortion experienced in the construction sector is justified through the Preferential Procurement Regulations, which should apply to government projects, as outlined in Chapter 1. Secondly, the government is the major client for infrastructure projects in South Africa. The implication is that government officials responsible for facilitating the procurement and management of these projects would have a critical role to play in the value chain for infrastructure delivery.

Participants, particularly those involved in public sector projects, argued in the strongest terms that government official remains one of the enablers of this legislation-justified extortion in the construction section. In advancing this point, GO1 highlighted:

*“The architecture of it, in my view, comes even from inception where you've got individuals that are already compromised in their positions which they occupy, and it is already designed to enable a particular outcome, and because of issues of a compromise position where you've got corruption, it has created an environment of expectation, number one. Number two, it has created an opportunity for, in the event that the expectations are not met, a demand and command, because people are already compromised. Bid rigging is but one of those pillars of what we are now seeing and coining to be construction mafias, because part of that is that already at inception, it is, I'm looking at your minimum requirements and framing what I'm going to put out to the market to suit you. In an event that it does not, I still create an opportunity for somebody to come and demand and command because of whatever is prescribed without even being willing to implement.”*

On the other hand, GO3 provided a different perspective and dimension to it without deviating from the argument that corrupt government officials enable this phenomenon:

*“We have learned somewhere that some of the officials of the department are actually involved in these things. They know these mafias, they send them, and that is a way of milking the contractors. Those people know when the contractor is paid. How do they know that? It is because there's an official who tells them. That's how big this thing is, we are only looking on the surface, but the way it basically goes, its officials who are running and assisting these cartels. You can see, some of the officials, if we can do vetting, you will find what I'm talking about, which is some of this money goes to the officials. If you can go and interview some of the contractors, that's the biggest problem, officials who take the inside information and go and give these mafias.”*

As a major contractor working on public sector projects, CON1 decried the role of government officials in leaking information to these extortion groups. When the participant asked about the benefit of government officials in giving information to these groups, the participant stated: *“Remember, it gives them information so that when they come to us, they know exactly, we cannot lie to them about anything. They know exactly what is in that bill of quantities because they have it.....they will show it to you.”*

The above analysis indicates that for government-sponsored projects, officials involved in the value chain in the delivery of infrastructure projects perpetuate the practice of extortion in the construction sector. They do this by colluding with extortion groups by mainly being their proxies by leaking information that will aid the successful operations of their extortion practices. The benefit corrupt government officials gain is in the form of money, which they are compensated for their collaboration.

#### **5.3.4. Firm size effects**

The question from which this theme emerged aimed to explore two aspects of how the phenomenon occurs practically on the ground. Firstly, it was to establish if there is a criteria that extortion groups use to target formal construction businesses as far as the size of the business is concerned. Secondly, it was to determine if there is a difference in impact on construction businesses, which can be attributed to the size of the construction business.

The majority of the participants agreed that although small construction firms are not spared from extortion, these extortion groups prefer to target projects of a larger value. The reason for this, as already outlined in Chapter 1, is that their extortion demands are based on the PPR 2017, which provides that projects of a certain contract value should have a provision of 30% towards certain categories of HDIs. Accordingly, as it is argued by most of the participants, a project of a higher contract value would result in a bigger stake in terms of 30%. As demonstrated in the results under research question 1, these extortion groups are misinterpreting the 30% sub-contracting provisions by ignoring the threshold amount attached to the project the 30% threshold is applicable. Thus, they demand 30% even on projects below the set threshold provided in the PPR 2017.

It is also important to note that the threshold provided in the regulation directly relates to the size of the company. This is because, according to the CIDB, which regulates the sector, only businesses of a certain size can execute projects of a particular value. This is reflected in the grading system provided by the regulator, which ranges from grade 1 to grade 9, with grade 9 being the highest grade a construction business can acquire. The grading indicates the size of the construction business and the project amount that a specific contractor can undertake or be awarded by a client. An example in this regard is that only grade 9 contractors are permitted to undertake a project valued at R200 million and above. No other contractor can be awarded

unless they are graded at 9. This explains why the higher-grade construction businesses, which are larger, are mostly targeted; this is because of the size of the project they undertake, which results in a higher 30% share.

In unpacking what has been stated above regarding why larger companies are targeted the most, GO1 has argued:

*“So the higher the grading the higher the contract value and obviously by default, the higher the 30%, with that the higher the apportionable 30% attached to that higher value, and with that, you are able to amass a bigger assault on the project and bring on board more than, your normal 30% that we would be talking about thirty thousand Rands, if we are talking about a one hundred thousand projects. So it means if you are talking about a billion Rands worth of a project and then it means 300 million. Then you are able to then put together a bigger force to assault the contract itself, sophisticated form of extortion to then come on board because they are, you know, guaranteed a sizable chunk if they succeed.”*

These views were supported by GO2 and SB3, respectively: *“The higher the value, the more focus they will have on it. Obviously, by virtue of it being a high-value project, it tends to attract more of them”* and *“the mafias who know what they are doing in this space, they target real cash and that real cash is available on bigger projects.”*

Regarding small construction businesses, the participants also acknowledged that they are also targeted, although they prefer larger construction businesses. In emphasising that smaller businesses are not spared, GO4 stated:

*“They attack anything, but it will be derived by the value. They target everything as long as you are coming here with millions, with the letter which has got millions. They don't say we are targeting grade 9. Whatever the job that you have and the value of the job that is what make determine the appetite. So if there is nothing, they will attack everything and get crumbs from everything and eat something. They will scavenge, but if you've got bigger chunk they attack, they strategies and attack.”*

SB1 also supported this:

*“I know of grade one projects and some people will come if the contractors is on the ground. You just take five thousand and give them and so on. I know for a fact, even on*

*can one project, they come through and then give them five thousand Rands and they move on with the rest of your life.”*

In highlighting the fact that the threshold as set in the regulation is ignored and while making the point that small contractors are also not spared, GO2 stated:

*“So, from my experience, the size of the contractor or the contract itself, is immaterial. As I said, I've seen situations where they would make demands for a project that is 1,000,000. It doesn't matter; hence, I was saying earlier that they disregard the fact that in terms of the law, the 30% or it's only for project with a specific value.”*

The second part of the question deals with how companies of different sizes feel the construction mafia's impact. The findings revealed that although it is the larger companies that are targeted the most, it remains the smaller construction businesses that are affected the most. Smaller and medium-sized construction companies usually serve as sub-contractors to the main contractors at the highest grade of 9. As held by most of the participants, these genuine smaller companies form themselves into business forums to demand sub-contracting work from larger contractors based on the 30% provision in the regulation. The violent mafias then use their force to demand the same 30% because they will protect the main contractor against disruptions by smaller contractors in the business forums. Should the main contractor accede, which in most cases they do, the mafias would keep out the business forums comprised of small to medium-sized contractors from participating in the project. In keeping the business forum out, they demand a portion of the 30% as free money for protection fees. They allocate the remainder to small and medium-sized contractors associated with them, who participate in the project. Once they have secured sub-contracting opportunities for that small contractor, they demand their share from that small contractor because they secured an opportunity on its behalf. This practice was revealed by CON5, a small contractor in grade 2: *“There are deals that they make on the side. They conclude deals with the main contractor.”* He added:

*“It's in many ways this thing, I can say that business forum, as part of business forums, people who are genuine who are after opportunities so that they can work, and there are those who are also part of construction mafias but they are a forum. You hear what I am saying? That is where the problem lies..... What happens is that they end up being the ones benefiting so that there is no disruption..... Also the mafias become suppliers of machinery such as TLB to them after they have gotten in. So they end up like that. They use the protection fee to own the machines. There are other things that are happening,*

*sometimes they don't even bring the machine, and so at the end of the day, 30% will end up being 10."*

CON4 supported these allegations:

*"We had a project with a similar problem and the social facilitation was not done with the local people. So they pitched at the gate and disrupted the work. So in that instance, what happened, to be honest, the problem was resolved by hiring one of these mafia's as the sub-contractor on site. So because the community fears him, everybody ran right away from the projects. So these people who were demanding jobs, demanding sub-contracting work, After we appointed him, they never came back because he said he would be the security and protect the project, which is how it was solved. The project was completed without challenges. He was the bouncer there. The fact that he was there, everyone knows that he is working there and they are afraid of him. They never came."*

The allegation was also corroborated by CON1, a major construction business at grade 9 that is ordinarily expected to award 30% sub-contracting work to small companies as its projects are mainly in the public sector. Explaining how they control disruption on site, CON 1 stated:

*"So what we decided to do in this particular project is to employ the same methods that use. They come they scare you, they will do this to you they will do that. So whenever they're scared of bullies, they're not scared of the police. So you use the same kind of people, people like them, to get to them. What we did, we found people from their own community. Those people who gave you a chance to stay in their community, you take those people to places for them to negotiate for you, because you cannot do it, public works cannot do it, and even police cannot do it. We actually fly every one of them to KZN to go and negotiate before the project even starts? It's almost like we have a security department that even does community; what do you call it? The engagement, whatever."*

VA1 agreed with the sentiments that the small contractors were the ones suffering the most:

*"And another thing that is affecting the smaller contractor is that these guys are coming in and demanding the sub-contract work and then, you know, bringing their people in and bringing people in and charging them for sub-contract work. So you'll have your main contractor who says, ok, fine, you're the business forum. You handle all the sub-*

*contracting, bring us all sub-contractors to do the 30% and they would get small contractors in to do the work. But then they would charge the sub-contractor money, basically, so that they, you know, can buy, sub-contract work.....So the smaller contractors are affected I think quite a bit, but probably the most in this whole thing.”*

Regarding the impact on larger construction businesses, the consensus among the participants was that although they are also negatively affected by these extortion practices, they have resources and are also well-experienced in managing them. CON2 explained how they managed the situation when it occurred at their R1 billion project:

*“What we did over here, the first time they did what they wanted to do and they went away. The second time we had heavily armed security. So they came the second time with same tactics, they came with armed people, we had our own armed people so there was a confrontation. The moment they saw our armed people, they backed off and there were thinking hold on, what’s going on here.”*

This measure is similar to those implemented by CON1, as indicated above, where they had to employ their own security department to deal with the construction mafia. CON 6 also argued:

*“I think bigger entities can manage it better, and manage the impact a lot better. Where smaller companies can’t necessarily take that part of punishment. I think that the bigger companies can handle it a lot better from a cash flow and a management point of view, I think they have enough experience, and they’ve enough margins in their pricing structure to manage it and still make a significant profit on them and deal with it, also on that I also believe a big portion of it is big companies or enabling the construction mafias by exploiting smaller companies and local communities by driving price down and causing some of that upset, I think.”*

From the above analysis, it can be deduced that size determines how extortion groups target construction businesses because, according to the construction regulator, size is related to the contract value that a contractor can undertake. As a result, construction mafias prefer to target larger companies because larger companies are associated with a bigger stake of 30%. Notwithstanding this, the results also show that small contractors are not spared and are still targeted. In terms of how companies of different sizes feel the impact, from the analysis, it is clear that larger companies can deal with the impact better as they are better resourced and, as such, can implement appropriate security measures as they deem fit. However, smaller

companies are the hardest hit because they do not have resources, and construction mafias overly extort them.

### **5.3.5. Financial effects**

The findings from the analysis show that the profitability of the construction business is subjected to extortion practices in two ways. The first effect is from an increased operating cost perspective. In this regard, participants indicated that the cost of doing business in the construction sector has now become high. One of the arguments they have raised is that since the construction business is capital-intensive and requires a substantial amount of money on each construction project, construction cannot negotiate reasonable rates with suppliers due to the risks that the project may not be completed. Furthermore, some contractors cannot secure credits with suppliers due to the risk that they may be unable to settle the debt. This has resulted in contractors having to fund construction out of their own capital instead of the debt that can be obtained from suppliers and financial institutions. It was also argued that the overheads of contractors in the form of insurance and guarantee premiums have now increased due to the risks imposed by these extortion practices.

GO6 argued that the increased cost of doing business was a result of extortion practices:

*“As a contractor, you can’t get material on credit because of the area that you are working with, if is a higher risk area, the likelihood is that you will not be able to service the credit..... it will be difficult for a bank to finance a project as a potential failure because of security risks also from the pure investment appetite from the developers. If you are certain that this area is a no go area, it means that you cannot invest in that area, even for private as well as for as well as for a public. So there is a reduction in capital investment, reduction in retailing because if they are no project, it means there's no cement to be paid for, there is no material proof tiles, so the effect of that is very huge.”*

SB2 also advanced the argument on the increasing operating cost due to project overheads:

*“There's also your cost of doing business, profit is one thing, but also typically your contractors need to have your contractor’s liabilities there. Then there's the other insurances, professional indemnities and you know. Those are the insurances I think, if you're going to be operating in certain areas that become defined as hotspots, the*



*insurances themselves will naturally be higher. You know the premium will have to pay for operating will go up. So there's those I would imagine are another factor."*

Besides the increased overheads, participants also indicated that operating costs increased by the payment of free extortion money that did not add value to the delivery of the project. They also highlighted that the security measures a contractor must put in place to keep these groups out negatively affect profit margins.

To highlight the impact of implementing extra-ordinary security measures, CON2 stated:

*"But at the same time, it's going to cost you think about it, we never priced this job to have heavily armed guards, it's a construction site you have unarmed guards that the normal protection you have and that's what you do. Yes, we have to make that call, which was probably the wrong call, because it cost us money and its straight loss to us because security is contractor's responsibility, I mean, the protection of the site against whatever you want to call it."*

In decrying the additional cost that had to be incurred to implement extra security measures to deal with these extortion practices, CON1 stated:

*"It's affecting it in the sense that when you quote for any job, you don't quote for that kind of security, because these people also you need to, if I have to take them to KZN, I need to buy tickets, accommodation and things like that. So when I am pricing for the client, where do I even put it? to say my security is going to cost me this much? and now you have to forecast for three years maybe the project is a three year project, meaning anything can happen at any time. So those are things that we don't put in our bills or quantity that is something that comes out of the profit because you have to spend it so that you don't end up in penalties. If I have to part with three million and lose profit on that, let me part with it, because if I run into penalties, because the client also sometimes they don't look at some of these things. When you say an extension of time and all that, you get people who just don't want to even consider that. You end up spending a lot of money. It's a lot of money that you spend just to make sure that everybody stays in their place."*

Reflecting on the payment of extortion money that is paid as a protection fee without being worked for, SB3 stated:

*“So, a portion of whatever they are stealing or extorting from the contractor is from the construction value. The contractor would not be able to take some money from somewhere and invest it into this project. So if, for example, the construction mafias come in and say, OK. We see that you've given 30% to the communities. We are demanding 10%. Ten percent is likely to be the entire profit of the project. That is why, then, you get contractors who calculate and realise that the project is no longer worth it. Why? Everything that I was coming here to work for is already taken away from me.”*

On the other factor of financial loss that adversely affects the bottom line of many contracts, participants argued that this is mostly due to additional resources that they need to bring on board to supervise those that demanded work without construction experience and had subsequently been given to sub-contracting work. They argue that this results in slowing down productivity and increases the contractor's overheads, which cannot be recovered anywhere. Additionally, they argue that in most cases, much time is spent doing remedial work for sub-contractors who could not perform the work properly because the main contractor remains liable for all the work.

The one main thing that participants have attributed to financial losses incurred by contractors is the inflated rates demanded by these extortion groups, where their demanded prices would be higher than what the main contractor would have quoted the client for. Lastly, participants have attributed the contractor's financial losses to the inefficiencies in the standard contracts used in the sector. They argue that they do not take the factors of disruptions by extortion groups; thus, when there are delays and contractors request an extension of time, such are usually approved without cost due to the risk not being covered in the standard industry contracts. This means it becomes the contractor's burden to cover all costs incurred when the project was stopped and there was no productivity. The same applies when the original duration has passed, but the work is unfinished. In this regard, they argue that the client would usually impose penalties for the delay of project delivery as permitted by the standard contract without considering the prevailing circumstances. Some of these arguments have already been highlighted in the quoted texts above. However, CON1 clarifies the issue of financial loss:

*“But they want to give their services at a higher amount than what you have a quoted public works for. So if I come and say I'm going to give you brickworks, and I've priced, for example, R80 or R100, they want to charge me R150 or R200. If you tell them that it is too much, then they would rather stop the project.”*

GO4 mentioned the issue of exorbitant rates:

*“If you remember normally what happens the contractors they price without knowing who is going to be involved in this project in terms of the community and what is their demands or what they are expecting to benefit. So if you price a package for R5 and your profit there was 5% of that R5, so when you get a contract like this in the community, they will want this work package and then they will price it. So if they are forcing the machine on you. They will force you to take it at their price. Then it compromises you because you've got your 5%. Now, if they see your exact price because in some instances they demand the price bill or they demand the bid and then they price more than the estimate. You can find that all of them price more than the estimate, it means that you have lost your 5% and also lost another 5% because you are forced to take this one. So that's when you are succumbing or you've got no way out. Now you end up taking prices which are not in relation to your prices then you end up losing your money.”*

The issue of additional resources that construction companies need to invest in to monitor the work of these forced sub-contractions was also highlighted by various participants. However, GO7 stated:

*“And now that was impacting the delay on the contract because now these people had to be monitored on a regular basis. I remember some of them were not even using SABS approved paintings, the work was just so wrong. So the contractor started complaining that notice people are delaying us because now we need to monitor them more than we monitor the others.”*

Several participants also highlighted the issue of remedial work that becomes the responsibility of the main contractor. In this regard, GO7 stated: *“It will affect profits as well because remember, if the work is not done properly, I am not going to approve it, the Architect is not going to approve it, it then means that the contractor must do the remedial work themselves, which is a loss because we don't pay for remedial work.”*

### **5.3.6. Risk effects**

This theme emerged from a question that aimed to investigate the non-financial risks that formal construction businesses face due to the extortion practices taking place in the sector. This

question was important for the researcher to understand the non-financial effects of extortion, which may hinder the effective operation and management of the construction business. The question brought some level of completeness as far as this exploration is concerned. This is because performance in the effective running of businesses should not only focus on financial factors, but may consider other factors that are key to the business attaining its goal of making money now and in the future.

It was found that there is a general agreement among the majority of the participants that the risks suffered by formal business in construction can be divided into two categories: operational and sustainability risks. Operational risks are short-term risks that contractors grapple with daily. On the other hand, sustainability risks have long-term negative consequences on the company that may not be felt now, but will certainly have a major long-term impact.

Regarding operational risks, the most common and key risks highlighted by most participants were safety, delays, and abandonment of sites. Other risks, such as poor quality work, malicious damage to property, termination, psychological effects, and loss of human capital, were also highlighted. However, for the purpose of this report, only the three key risks that were the most prevalent will be focused on.

From the perspective of safety, most participants have emphasised that one of the key operational risks is the risk to one's physical safety. This risk emanates from the violent nature of the construction mafia when they pursue money. As already indicated by a participant responding to how territorial control is attained, it is believed that they are dangerous as they have done horrendous things. When highlighting how dangerous these groups are, SB3 captured this in a simple phrase where he said, *"You play at their mercy, you deny at your peril"*. On the other hand, when mentioning this risk, CON1 stated:

*"It is our lives. They have killed many contractors. There is this one contractor that they have killed recently. That's the risk that the government is putting contractors in. People sometimes don't relax or workers, let me talk about workers, I saw it in one of the project, workers were so scared. So you go to work, you have workers who are going to work not knowing what will happen, you know, and they are forever scared, and if they hear something fall all of them jump, have you ever seen where workers (...) and it was so sad to see workers that are scared. They are scared because they know these*

*people from their communities. Hence, I mentioned XXX. They know XXX's people. So now when XXX and his people come to site they know them and they get scared."*

In emphasising the risks to one physical safety, GO1 and GO2 said the following respectively: "Firstly, the most glaring is from a fatal point of view, there is that risk that you might be killed on the job, and risk is not limited to just you yourself. The intimidation tactics are wide. They might even go after your family", and "The intimidation actually becomes a threat to your personal life..... sometimes you may even lose your life."

Concerning project delays, participants detailed how this adversely affects the contractor. They argue that it affects not only profitability, but also the speed of productivity due to abrupt intermittent stoppages. Making remarks about these delays, CON1 stated:

*"It causes major delays, and it causes the potential to get penalties for which will also be financial, because the minute you start getting penalties every day, then you're going to even end up paying the department more than what your contract was. I mean, that's why how a lot of contractors go down."*

Bringing in the element of the opportunity cost, GO1 argued:

*"I have spoken about opportunity cost. It delays me from accessing another opportunity that I might have accessed and doubled my profit. If I got a six-month project, if I finish it within the six months and I do not have external resources or additional resources, I can adopt this team that I have here, the very same team I could be taking to the next job, but I'm delayed in delivering the first job, so I'm unable to then take on two contracts in 12 months and sitting on this one, I may be paid extension of time. I will not be getting the full value of the opportunity that I am eligible for. So it affects my direct profitability in that instance because I'm unable to then move out of the job and get access to a new job that would give me a different margin because I'm locked into this one."*

On the third risk of abandonment of the site, the findings indicate that contractors end up abandoning sites because they realise that the project is no longer financially viable due to extortion rents that they pay. When giving an account of why contractors often leave construction sites unfinished, GO5 indicated:

*"At the end of the day, one of the effects is that they will milk the contractor dry at the end of the day, the poor person will say no, but rather, paying people like for nothing, let*

*me just abandon the site. Then abandon the site. You are left with a project that is incomplete and it's not about the performance of the person, but it's about the fact that, and he will not say, some just pay and do not say that that I'm being milked out here."*

GO6 echoed the same sentiments: *"So it's not a surprise for me to see that most of these project, they are abandoned. Those that are not abandoned, they become more expensive and contractors walk away because they no longer have capital to finance the project."*

Regarding the second category of risk, the result shows a risk to the companies' brand equity because the companies may be known as those that do not finish projects. This damage to the brand equity may affect a company's sustainability. This was well stated by SB1: *"Significant reputational risk as people that do not complete your project on time and run away."* GO1 also highlighted the same risk where the participant stated that *"the integrity of the business itself in completing works"* is at risk. GO7 also mentioned the reputation issue although from a different perspective of mitigating the risk: *"But sometimes contractors do that because they want to keep their credibility"*. The argument in this regard is that for contractors to maintain their reputation of completing projects and producing quality work, they would rather pay off these groups so that they do not interfere with the quality of work they produce.

There is also a risk of losing talented employees who wouldn't work in an unsafe environment. In expressing his concern over this point, participant VA1 stated:

*"Well, what we've seen is a lot of people who have experienced intimidation by these mafias, either leaving the organisation, leaving the industry, leaving the country because I mean it makes sense. You've gone and studied civil engineering or quantity surveying or whatever it is that you studied, and you want to work in a safe environment, but it's no longer safe, so we're losing quite a few resources. Quality people who just thought, you know what? We live in a criminal state and it's not worth it. I can make more money going working in Dubai."*

GO2 shared the same sentiments :

*"My biggest fear with contractors is that you're going to end up with bona fide contractors leaving the industry, and as a result, you will end up with the industry being dominated by the very same people that you don't want to be dominating the industry."*

The last two sustainability risks that were raised are related. One is the risk of company closure, and the other is the risk of being uncompetitive. This risk of company closure concerns the impact of extortion practices on financial sustainability. This is also related to the previous risk and financial impact that have already been discussed because those individual effects and risks affect the company's financial sustainability. To bring this risk to the fore, GO4 asserted that; *“The risk is that they are killing businesses. So they're killing business by taking away the profits from the service providers. So people are just waiting now to break even or to survive under pressure. They're killing the business”*. These views were also shared by GO5, who opined: *“The big risk that they are doing is the service delivery and the killing company companies that employed specifically black people. Because most of the construction employing majority black people. They are killing businesses.”*

Concerning the risk of being uncompetitive, this emanates from the need for contractors to afford these extortion demands. This means the money should be priced somewhere in the bill of quantities. This would imply high offers made by contractors, rendering them uncompetitive because they become expensive. When they are uncompetitive, they will be unable to secure work, affecting the companies' sustainability. CON2 reflected on this dilemma: *“The risk would be that we do not price extra security on our tender because we will lose the tender”*. The issue was also highlighted by CON3 when reflecting on the unaffordability of dealing with these extortion demands: *“With the margins we are tendering on, I can't afford to do that as well if my bottom lines are under pressure already.”*

#### **5.4. Summary of findings**

The results obtained from the data analysis reveal several insights regarding the practice of extortion in the South African construction industry, with particular reference to Gauteng and KZN. The story emerging from these results presents the practice of extortion from a South African lens. The findings have suggested that extortion occurs in the South African construction sector in two forms. The first form may be considered the first-order of extortion from a group called a business forum. This first-order extortion emanates from the misinterpretation and poor implementation of the Preferential Procurement Regulations of 2017. It is these misinterpretations and poor implementations of regulations that have created an extortion opportunity for this group, which is mainly comprised of HDIs. They demand 30% of the contract value that would have been awarded to the main contractor. This share of the contract value is demanded irrespective of whether the project falls within the 30% provision of the regulations. In

order to advance its demands, the group operates by influencing members of the community to disrupt the construction site in order to put pressure on the main contractor to allocate work to it. The results also suggest that this group has some small emerging contractors genuinely interested in participating in the construction sector. However, it also has members who do not have adequate skills and knowledge in construction.

The second group of extortionists is referred to as construction mafias. This group exercises what this study has termed second-order extortion. It is second-order extortion because its operations are premised on the first group, which exercises first-order extortion. The results suggest that this group has a violent history, as it is mainly comprised of former convicts and members of the taxi industry who are known to be violent. They then leverage this violent and criminal experience to control the areas in which they operate through fear. They are known for the heinous crimes and violent activity they have previously engaged in by the community; hence, they are feared and able to attain territorial control. Their *modus operandi* is to threaten the contractor through violent means in order to negotiate a protection fee. They would claim that they will provide security to the contractor's site. This protection or security fee protects the main contractor from the demands of the business forum group and the community. If the main contractor accedes to their demands, they will keep the business forum away from the construction site so that the contractor does not experience first-order extortion. They can do this because the community and the business forums fear them. At times, over and above the demand for protection fees, they would also demand that the main contractor appoint some of the small contractors associated with them as sub-contractors to make up for the remainder of the 30% portion of the project value. This has since created intersectionality among some business forum members who would be part of the business forum while also associated with the construction mafia group. In the open, these small contractors with this intersectionality present themselves as business forum members, while out of sight, they associate with the construction mafia group. The drawback of this arrangement is that once they have secured sub-contracting opportunities for these small businesses, the same mafia extorts money from them to secure such opportunities. This is part of the reason why small contractors are the worst affected by the practice of extortion that is taking place in the construction space.

The role of the community as an enabler of the sustainability of the practice of extortion in the South African construction sector has also been brought to the fore. As already indicated above, the community is generally influenced by the business forum to assist it in achieving its first-



order extortion objectives. However, not all members of the community are involved in this. Those community members who collaborate with business forums do so because they are promised job opportunities from the specific construction site to be targeted. This easy collaboration is attributed to the socioeconomic challenges of poverty, inequality and unemployment, which are rife among black South African communities. However, some of the community does not collaborate with the business forum. These community members do not occur because they claim they were not consulted about the project. They also choose not to collaborate because they are fearful of the violence associated with extortion practices. The study also shows that the fear instilled by the construction mafia groups generally deters community members from playing an active, positive role in defeating the practice of extortion.

The results have also revealed a strong nexus between politicians at the local level and the two groups of extorters. Through this link, the substance and successful operations of these extortion practices are also enabled. There are those politicians who chose to stay away and, as such, fail to play their expected civic duty and also serve as enablers of the sustainability of the practice in their communities. They choose this option because they fear the violence that they may be subjected to, particularly from the violent construction mafia group. Those who collaborate with extorters do so because they are corrupt. They are associated with both groups for their self-benefit. This benefit can either cement their current political standing or advance future political aspirations. It can also be in the form of pure financial gain, where they will be getting money from these groups, or they would have companies that these groups use to secure construction work opportunities.

The results also reflected the applicable laws that regulate activities in the sector. The study explored the questions around the adequacy of these laws and their role in this seemingly thriving practice facing the sector. The results suggest that the laws of the land are adequate. These include both criminal laws and industry-specific laws. What was found to be a challenge was the misinterpretation and poor implementation of these laws. This inefficiency was also mostly attributed to the PPR 2017 resulting from PPPFMA. Accordingly, these regulations are an enabler of the successful operation of the extortion practices because they are misinterpreted by the perpetrators in order to justify their conduct. They are also an enabler because they were poorly implemented by the organs of the State when they were rolled out, which is why the misinterpretation is rife.

**Table 7: Consolidated Results**

<b>RQ1: What are the enablers of the subsistence of operations of legislation-justified extortion practices?</b>		
<b>No</b>	<b>Answers</b>	<b>Description</b>
1	Poor implementation and misrepresentation of PPR2017 (Founding enablers)	The provisions of the law in its current form are adequate. Inefficiencies, misinterpretation, and poor implementation of the PPR 2017 enable the sustainability of extortion.
2	Negative community involvement (Subsistence enabler)	Participation and non-participation of community members enable extortion because, in both instances, community members cannot assume an active citizenry in fighting against extortion practices.
3	Lack of law enforcement (Subsistence enabler)	Both corrupt and non-corrupt police officers create an environment for extortion practices to thrive because they render law enforcement inactive. The non-corrupt police officials are incompetent, lack capacity, and fearful of dealing with the organised crime of extortion. The corrupt police officials choose not to do anything about the crime because they have vested interests. The lack of law enforcement is also exacerbated by the non-reporting of extortion cases by victims due to fear.
4	Territorial control (Subsistence enablers)	Control of territory by extortion groups makes it possible for them to sustain their operations.
5	Corrupt government officials (Subsistence enablers)	By serving as proxies of extortion group through the leaking of information, government officials enable the subsistence of extortion practices.
6	Local Politicians (Subsistence enablers)	By either not getting involved or colluding with extortion groups, local politicians neglect the civic they were elected for. This, in turn, enables the subsistence of and successful operation by extortion groups.
<b>RQ2: Are businesses of different sizes affected differently by legislation-justified extortion practices?</b>		
1	Yes	Large businesses are targeted the most while smaller businesses are affected by extortion the most. Larger businesses equate to high project value in terms of the regulator. The larger the business, the higher the 30% demanded; hence, they are targeted the most. Smaller businesses suffer the most when targeted because of the lack of resources to implement measures to avert extortion practices or fund extortion practices.
<b>RQ3: What are the effects of legislation-justified extortion practices on the profitability of construction businesses?</b>		
1	Increased operating cost (Financial effect)	The cost of doing business increases due to additional resources required to monitor business forums when allocated work. Cost increases due to extra-ordinary securing measures that contractors must implement. Contractors are unable to negotiate favourable rates with suppliers. The cost of insurance and guarantees increases. Contractors must fund projects from their own funds due to diminishing investments.
2	Financial Losses (Financial effect)	Extortion of rents results in financial losses. Delays result in penalties imposed by clients. Delays result in increased opportunity costs.
<b>RQ4: What risks does legislation-justified extortion practice impose on formal businesses?</b>		
1	Operational risk (Risk effect)	Extortion practices impose day-to-day safety risks to life on those involved in construction activities. This risk is more prevalent among contractors and their site employees. There is the risk of delays in project delivery, which come with penalties. There is a risk that extortion may render a project to be financially unviable, resulting in contractors abandoning sites.
2	Sustainability risk (Risk effect)	These are long-term risks with long-term effects. They may contribute to business closing down because it is no longer sustainable. These risks include reputational risk, which may result in businesses not being awarded work in the future. Loss of competent staff and the business becoming uncompetitive due to increased business costs.

Law enforcement, particularly by the police, was also lacking in general. This was attributed to three factors: non-corrupt police officers, corrupt police officers, and non-reporting of extortion cases. Non-corrupt officials contribute to the lack of law enforcement because although they are not corrupt, they remain capacitated in human and non-human resources. They are incompetent because they are not trained to deal with this kind of crime and are fearful of the violent acts associated with extortion crimes. On the other hand, corrupt police officers are enablers because they either collude with the extortion groups or are related to them.

There were also interesting results that emanated as far as corrupt government officials are concerned. According to the results, corrupt government officials are also an enabler to the thriving and persistence of extortion practices in the South African construction sector. They enable this practice by being proxies to the extortion groups where they leak information to advance the success of their operations. Therefore, they are colluding with extortion groups for their selfish financial gain. The above results are consolidated and summarised in Table 7 above.

## **CHAPTER 6: DISCUSSION OF RESULTS**

### **6.1. Introduction**

The purpose of this chapter is to synthesise all the activities conducted in this research. This is accomplished by elaborating further on the results outlined in the previous chapter while simultaneously contrasting them with the literature outlined in Chapter 2. Through this discussion process, the real-world problem, as defined in Chapter 1, is given context through the insights that were uncovered by this research. The research questions which were adopted in Chapter 4 guide this discussion.

### **6.2. Contextualising Extortion in the South African Construction Sector**

As a form of entrenching the context of extortion in South Africa, the findings have revealed that extortion in the sector takes place in two forms. These are explained in detail below.

#### **6.2.1. Forms of Extortion**

##### **- *First-order extortion***

The genesis of what gave rise to the extortion currently experienced in the South African construction sector, as outlined in Chapter 1, is the provisions of the preferential procurement regulation that makes it compulsory for a project of over R30 million to sub-contract 30% of the project value to a category of individuals referred to as HDIs. This group is mainly comprised of black people, women, and youth. According to the results obtained from this study, this provision resulted in the first-order extortion practised by a group called a business forum in the construction sector. Business forums operate by misinterpreting and misusing the 30% provisions to demand work opportunities from legitimately appointed contractors. They do so even after the contractor has complied with the 30% requirement because compliance with the provision is compulsory for a contractor to be appointed on a public sector project with a contract value falling under the provision. Failure to comply with this provision would result in the contractor's being regarded as non-responsive to the requirements of the advertised bid; thus, a contract would not be awarded. Accordingly, since a contract has been issued for a project falling under the 30% requirement, it means that the contractor has complied. Business forums would, however, disregard this fact and still subject the contractor to their demands. They also demand that the provision be applicable to private sector projects while the regulations only apply to public sector procurement activities. Both these demands are an abuse of the 30% provision of the PPR 2017. In addition, business forums would also target

construction projects with lower value than the threshold set in the regulations, thus not falling under the 30% requirement. This is what results in the misrepresentation of the 30% provision of the regulations.

When the contractor does not accede to the demand put forward by the business forum, the business forum would then engage in practices to ensure that construction sites are disrupted. They disrupt construction sites by influencing community members by promising them job opportunities on the same construction sites. Community members would then engage in riots, strikes, and civil commotion on construction sites. The intention is that once these happen, contractors would be coerced into engaging them and acceding to their demands due to the fear of negative consequences of delays on their projects. Though they hardly engage in violent acts of intimidation, business forums negatively impact delays, which places the contractor at a risk of facing completion penalties on a project and other financial consequences. This is the reason why contractors end up succumbing to the demands advanced by business forums.

- ***Second-order extortion***

The second form of extortion emerged in this study as second-order extortion practised by a group known as the construction mafia. Unlike the business forums, these groups do not directly base their demand on the 30% provision of the regulation. They are instead opportunistic and use business forums to advance their extortion demands. One can argue that this group operates in the same manner in which literature has described the operations of a typical mafia group. This is because they primarily operate on the basis of protection and extortion (Wang et al., 2018). They make extortion demands by enforcing protection rents on the contractor. These protection fees imposed on the contractor are seemingly to protect the contractor against potential disruptions by the business forum group and the community. This is in line with how Neu (2019) explains the operation of a typical mafia. According to Neu (2019), mafias are criminals who target certain assets and make them weak by convincing the owners to believe that their assets are exposed to risks, requiring the owners to pay a fee in exchange for the protection of their assets. This is precisely how this second group of extortionists operates. They make contractors believe they are exposed to the risk of disruptions from business forums and the community. They then demand a protection fee from contractors to protect them against business forums and the community. As described in the literature, it is comprised of criminals. Their operations are based on sheer criminality as they do not have any intention to participate in the project, unlike the first group, but they are using the first group as the basis to demand

free money from the contractor. Since their demands are based on business forums that would have demanded 30% worth of work, they also demand 30% worth of benefits, broken down into protection fees and sub-contracting of smaller companies of their choice, which they further extort.

As a result of their criminal and violent nature, construction mafias enlist violent tactics to intimidate the contractor into succumbing to their demand. In this regard, should the contractor not accede to their demands, they will threaten the contractor and site workers with guns, hijack the construction site, and stop work completely. This conduct is similar to the one explained by Ponce (2021) who alleged that mafia enlist violent methods and pressure tactics to re-assert their violent reputation and deter acts of non-compliance to their demands. Construction activities would not resume until the contractor succumbed to their demands. As uncovered in this study, their violent nature comes from the fact that they are comprised of members of the South African taxi industry, which is known to be violent and former convicted criminals.

#### - **Conclusion**

The two groups, therefore, explain how extortion is practised in the South African construction sector and how it has been sustained. Accordingly, business forums and construction mafias emerged as two themes that contextualised the practice of extortion in the South African construction sector. It must be noted that in terms of literature, both forms of extortion fall under the systemic extortion. This is because both of them operate on the basis of hierarchical structure and territorial control which are the characteristics of a systemic extortion (Ponce, 2021). The only difference in this regard is that one group is violent which complies fully to the expectations of typical systemic extortionist, while the other is less violent but rather relies on intimidation and threats which are to use the community to disrupt the construction sites.

### **6.3. Research Questions 1: What are the enablers of the subsistence of operations of legislation-justified extortion practices**

#### **6.3.1. Discussion of Research Question 1 findings**

The previous chapter's findings indicate that two different types of enablers contribute to the existence and subsistence of the practice of legislation-justified extortion. These are founding and subsistence. Each type of these enablers is discussed in detail in the subsequent paragraphs.

### **6.3.2. Founding enablers**

The law, which comprises legal rules and norms meant to regulate human behaviour and are binding to the whole of society, is meant to entrench order in society. This is why literature has asserted that the ineffectiveness of existing laws due to inadequate laws would give rise to an inability to curb and prosecute the demand-side of corruption (Bahoo et al., 2020). In this regard, the results have shown that South Africa has adequate laws in general that are well-written and relevant to the context and history of the country. Therefore contrary to what has been argued by Bahoo et al. (2020) the emergence of the extortion practice is not enabled by lack of relevant laws. The findings suggest that the laws, in their written format are there and are adequate. The weakness highlighted was how one key legislation was poorly implemented and interpreted. This misinterpretation led to what is currently experienced as legislation-justified extortion in the construction sector, as explained in the previous section.

#### **- *Poor Implementation and Misinterpretation of the Preferential Procurement Regulations (PPR 2017)***

In this regard, since the findings were that the law is adequate, the results did not reflect much on the criminal law in the country as far as the practice of legislation-justified extortion is concerned. The results of misinterpretation and poor implementation were towards the same law that gave rise to the practice of extortion, which is the PPR 2017. The findings in this regard reveal that regulations are misinterpreted because they were poorly implemented. As a result of this poor implementation, a gap for misinterpretation to enable criminality in the form of extortion was created. This finding is aligned to the assertion by (Rusev, 2018) who argued that the existence of cumbersome and complex legislation create loopholes which are exploited by extortionists to intimidate businesses. This is precisely what the findings suggest has happened in the case of PPR 2017. Government promulgated the regulations without proper consultation with stakeholders. As a result of this, extortionists exploited the regulation to advance their demands.

According to the findings, when the PPR 2017 were promulgated, no proper consultation with interested and affected parties was conducted. This is where the poor implementation emanated from. Due to this poor implementation, all affected parties interpreted the regulation according to their own understanding, biased towards the maximum benefit they can derive from that interpretation. This conduct is also explained assertion that extortion manifests as a

result of the weak State characterised by confusing legal framework (Rusev, 2018). From the extorters' point of view, the first misinterpretation was that the 30% applies to any project irrespective of the project's contract value. The second misinterpretation was the HDIs that the 30% sub-contracting is awarded to should come from the local community in which the project is being implemented. The third misinterpretation was that, although the regulations are applicable to the public sector, as indicated in Chapter 1, they should also apply to private sector projects.

In contrast to what is suggested by the literature, law inadequacy is not a contributing factor to the subsistence of extortion. Instead, the implementation and interpretation of the specific law in the form of PPR2017 are enablers to the subsistence of the extortion experienced in the South African construction sector. This effect where poor implementation causing misinterpretation is explained and supported by literature. Although there is therefore alignment between the findings and the literature in terms of the causes of the types of legislation experienced in the South African construction sector

- ***Negative community engagement***

Literature has argued that extortion practices by organised criminals are most likely to be prominent and successful in those places where a significant component of the community participates in illegal activities (Zabyelina, 2022). The findings from the study have confirmed this assertion. This study has revealed that the lack of active citizenry by community members where they should come together and fight the social ills within their communities has resulted in the thriving of extortion practices in the construction sector in South Africa. This is because these projects are disrupted and hijacked within communities. Furthermore, members of these groups are from the community. Accordingly, the community has a role to play in curbing and stopping this practice of extortion.

The community fails to exercise an active citizenry role in two ways. The reasons why this failure occurs have been corroborated by literature. Firstly, community members collaborate with business forums and as such engage participate in criminality by disrupting construction sites. This is in line with the assertion by Zabyelina (2022). It must however be noted that the findings of this study suggests that members of the community takes part in these illegal activities not they are criminals According to the findings, members of the community participate in these illegal activities because of the socio-economic challenges of poverty and unemployment that they are faced with. This is why it becomes easy for them to be used to



advanced illegality because they are vulnerable. They see construction projects as an opportunity to be economically emancipated by securing jobs and putting food on the table. This is why, in most cases, through the aid of the community, business forums can coerce the contractor to the discussion table because they can influence a significant number of members of the community to disrupt construction sites because the majority of black communities remain poor and unemployed.

The second aspect of the negative involvement of the community is attributed to those members who do not participate in illegal activities, but still do not play that active citizenry role expected from them. In this regard, the results have revealed that this part of the community chooses not to be involved because of fear and lack of consultation with them by authorities responsible for the development. This kind of behaviour can be explained through the social norms theory that has been advanced by Lipari and Andrighetto (2021). This contingent of the community has seemingly accepted the ills that are happening in their communities as a norm. Hence they do not have a sense of agency to take part in stopping it. The social norm theory can also be enlisted to explain the behaviour of those who participate in disruption of construction sites. This is because poverty and unemployment can make them to see their behaviour as normal and acceptable.

It can be concluded that the community not only enables extortion through participation, as suggested by the literature, but can also enable it through omission by not positively playing a positive role in fighting the ills within their communities and protecting assets meant to benefit and develop the community. It can also be concluded that the findings in this regard are in support with literature on the role of community as an enabler of extortion.

- ***Lack of law enforcement***

The lack of law enforcement in relation to extortion practices experienced in the South African construction sector was found to be one of the major contributors to the successful operation of the phenomenon. Since it was found that the law as provided is adequate, the question remains: why is this practice thriving in the presence of adequate laws? The law is expected to be enforced by the State; thus, when one ignores or disobeys the law, he or she must be prosecuted and punished by the State. However, this was not the case in the context of the phenomenon of extortion investigated in this study. Instead, the lack of enforcement by the State was found to be a major contributor because there are police officers charged with law

enforcement on behalf of the State who are incapacitated or corrupt. Those that are incapacitated lack resources, are incompetent to deal with the type of the crime committed, or are fearful of the extortionists. The corrupt ones either have personal relationships with extortion groups or are in a financially beneficial relationship with them. In both instances, these were found to be contributing to the inactivity of law enforcement in aiding the extortion practices to thrive.

These findings corresponded to what was advanced by the literature in a number of ways. Firstly, as stated by Bahoo et al. (2020), a lack of law enforcement also gives rise to an inability to curb and prosecute the demand-side of corruption. The findings have confirmed this because no prosecution and sentencing of perpetrators of extortion practices in the South African construction sector have been reported. This is despite the results suggesting that these extortion perpetrators are well-known within their communities. This is also supported by the third factor that emerged as a contributor to the lack of law enforcement: the lack of reporting of extortion cases by victims. The result shows that victims of extortion choose not to report these cases because of a lack of trust and confidence in law enforcement. This lack of trust and confidence is induced by the fact no prosecution and sentencing has been secured by law enforcement. This is in line with what was argued by Koseli et al. (2022) and Rusev (2018). The former has asserted that ineffective and inadequate protection of the victims by government has resulted in the victims not having confidence in the capability of the State to deal with the crime of extortion (Koseli et al., 2022). The latter on the other hand advanced that one of the factors that contributed to the rise of extortion has been noted as low trust in public institution among local citizens, which has resulted in low reporting to the police and compliance with the extortion demands (Rusev, 2018). Both these assertions are in support of the findings in this study.

The other aspect mentioned in the literature and confirmed by this study is the assertion by Blackburn et al. (2017), who alleged that extortion practices are likely to be successful when there is compliance by law enforcement officers willing to be bribed in exchange for favours. The finding of corrupt police officers who become complacent in enforcing the law because they are in collusion with extortion criminals confirms this assertion. This element of corruption and bribery was also highlighted by Suykens and Islam, (2022) where they stated that reporting any incident of extortion to the police would be a futile exercise because they were already bought by extortion groups.

The findings are also aligned with the assertion by Ornelas (2018) that one of the common factors that make formal businesses susceptible to extortion is that the public sector is relatively big, and institutions charged with law enforcement are weakened. It is the same argument that was made by Rusev (2018) that where the presence of the public sector is strong but institutions have been weakened, businesses are left vulnerable. In the context of the South African construction sector, the largest client in the industry is the government in all three spheres of government. In line with the argument advanced by Ornelas (2018) and Rusev (2018) it can be argued that the public sector is big and strong in the construction sector. In terms of the second aspect of weakened institutions charged with law enforcement, it is clear that the findings of corrupt and incapacitated police officers are tantamount to weakened law enforcement. Therefore, it can be concluded that the subsistence of the practice of legislation-justified extortion in the construction sector is enabled by the lack of law enforcement by weak law enforcement that suffers from incapacity and corruption and loss of trust from the victims of the crime of extortion.

- ***Control of territory***

Both groups practicing extortion were found to exercise some level of territorial control. This territorial control also emerged as an enabler of the successful operation of extortion groups. This therefore gives credence to the literature that asserted that territorial control is one of the pillars of the successful operations of systemic extortionists. This is because territorial control allows the extortion groups to exercise some form of extra-legal governance over the area (Balletta & Lavezzi, 2023). Through territorial control these systemic extortionists are able to assert themselves in the area, control local resources, infiltrate legal businesses and demarcate geographical boundaries (Ponce, 2021).

The business forum group exercised territorial control by preventing the main contractor from appointing sub-contractors that do not come from their area, even if this sub-contractor was for specialised services in the project. This is a form of putting invisible borders to demarcate areas of operation. On the other hand, the construction mafias exercise territorial control by intimidating the community and the contractor into obedience by putting invisible demarcations to control competing mafia groups. Both groups enlist some form of fear in enforcing this territorial control. With the business forum, the fear and intimidation would be aimed not necessarily at the main contractor, but at the outsider sub-contractor that would have been appointed. As part of causing the disruptions on site, they will also be frustrating the outsider

sub-contractor, indicating that he or she does not come from the local community and, as such, should not be benefitting from a project in their community. The other violent group of construction mafia instil fear through violent intimidation by ensuring that the community is aware of the heinous crimes and criminal activities that they have committed. As such, they remain feared by all members of the community. With competing construction mafias, they acquire more force than the other groups to ensure that competitors also fear them and do not come to their demarcated areas of operation. Through this fear, both groups are to attain control of territory and reinforce themselves at their different levels of operations and keep competitors out so that they can successfully operate in the area. This method of gaining territorial control was explained by literature in that attainment of territorial control gives the extortionists illegal governance through which they are able to re-inforce themselves by inflicting further violence and fear resulting in an environment that makes life in the community uncertain and more violent (Stephenson, 2019).

There is therefore alignment between the findings and the existing theory regarding why territorial control is important to the extortionist groups. The literature has advanced that control of territory is crucial to organised criminals for evading law enforcement, protection from rivals, and drawing out as much profit from the territory as possible (Magaloni et al., 2020). Accordingly, by compromising police officers and intimidating them, as found in this study, extortion is putting in place means not to account to law enforcement. Insisting that sub-contracting work should only be awarded to business people from the area and placing an invisible demarcation area; extortion groups are attempting to protect themselves from rivals. These measures are put in place so that they can derive as much profit from the territory as suggested by the literature. The findings confirmed the existing literature in this respect.

As argued by the literature and as confirmed by this study, territorial control by extortion groups is important for the successful operations of these groups. This is because, through territorial control, the extortion groups can extort as much as they can from the territory because they would be operating freely from potential disturbances from law enforcement and competing rivals. It is therefore concluded that territorial control is an enabler to the subsistence and successful operations of legislation-justified extortion.

- ***Corrupt government officials***

Corrupt government officials were found to be one of the enablers of extortion in the construction sector. In the context of South Africa, one can argue that the emergence of this finding does not come as a surprise, considering the level of corruption associated with the public sector. Corrupt government officials emerged as a finding in this study due to the nature of extortion that is studied and the context in which it takes place. The nature of the extortion that is studied finds its origin in a piece of legislation. This piece of legislation is applicable in the public sector because it becomes compulsory for organs of state to comply with such a piece of legislation. This mandatory compliance to this 30% provision of the PPR 2017 implies that the government would have a major role to play. It plays this role through its agent regarding those relevant people in the government's employ. In the context of the construction project value chain, government officials play a critical role in procuring contractors to provide construction services to the government. They are responsible for setting specifications for the projects, inviting offers from prospective contractors, evaluating offers, and adjudicating offers to award contracts. They are also responsible for managing these awarded projects during the implementation stage. Government officials are also expected to play a major role in the industry because the government is the main client of major projects.

The findings in this study suggest that during one or more of the stages indicated above, government officials collude with extortion groups by leaking inside information. This leaking of information compromises contractors because they cannot conceal information from extortion groups to protect themselves. By the time these extortion groups make and enforce their demands, they would have already had the information supplied by those government officials that they are in a collusion-working relationship. Examples in this regard include that they would know the exact value of the contract, they would know how much the contractor has quoted for each line item of the Bill of Quantities (BoQ), and during execution, they would know when and how much the contractor was paid so that they can make their extortion demands timely and form an informed position.

Literature in as far as this factor has been scanty. However this finding confirms speculation by literature that widespread predatory corruptions by government representatives was one of the possible contributing factors to the increased extortion practices (Estévez-Soto et al., 2021). The finding also gives credence to the assertion by (Rusev, 2018) that State representatives have often been found to abuse their power and official positions for their own personal benefit

(Rusev, 2018). Literature has also argued that successful operation of extortion practices can only be possible if there is collaboration with some community members who supply criminals with key information to enable their illegal operations (Magaloni et al., 2020). This argument was made because under normal extortion practices that usually extort businesses in the community, critical information such as how much a business is making and how many buyers the business has would ordinarily be those close enough to the business and who are community members. In this context of construction projects, the people who would have such intimate and reliable knowledge of the information are those responsible for issuing the contracts and effecting payments to appointed contractors who are government officials. Accordingly, it is therefore not a surprise that corrupt government officials would enter into mutually beneficial relationships with these extortion groups because they hold the key information they need.

This finding confirms the suspicion by literature that corrupt government officials are an enabler of the successful operation. The above discussion suggests that due to the role that the government plays in the delivery of infrastructure and its involvement in the constructs, its agents in the form of officials have emerged as a contributor to the persisting extortion experienced in the construction sector. They are a contributor because they are in a corrupt relationship with extortion groups. They provide these extortion groups with privileged information used to target and advance demands on formal construction businesses. This specific findings also contributes further to literatures as it specifies how corrupt government officials collaborate with extortion groups to enable their successful operations.

- ***Local politicians***

Local politicians have also been found to be an enabler of extortion practices within construction projects that are taking place within communities, which is attributed to the structure of politics in South Africa. Political structures in this regard refers to structures within each ward or branch at the local level. The leadership of each ward or branch would comprise the positions of a chairperson, secretary, treasurer, and others. In addition to these local leadership structures, there are members of that political party that are influential by affiliation with the party and perhaps due to the contribution they make in the party. Not all of these leadership and party members will be deployed into political offices in the local sphere of government or anywhere else. Should that political party win and govern that particular ward, the chairperson will usually

be the ward councillor and derive a salary from the local council that he or she sits in. The rest of the members will remain active members of the community.

Due to the rife unemployment in South African black communities, these members of the governing party would try to use their political influence to make a living. The findings suggest that the individual elected as a councillor with authority over the ward is expected to look after the rest. This is what leads to local politicians colluding with extortion groups. If they are part of the business forum group, they create companies and prioritise their companies over others when work is allocated. As the findings suggest, each project should have a Community Liaison Officer (CLO) and steering committees. These two structures are exploited to advance their collusion with extortion groups.

The findings also suggest that most companies imposed on contractors for sub-contracting work by either group have strong links to local politicians because they own them or someone related to them is the owner. This *modus operandi* is aligned with Ornelas' (2018) argument that the corruption of local politicians and authorities responsible for local decisions makes it possible for criminal syndicates to operate and succeed with pure impunity. The findings also reveal that local politicians collude with extortionists in order to advance their political aspirations. This finding has been corroborated by literature where it was argued that that local governance was shared between political parties and extortion groups in exchange of electoral support (Ponce, 2021). Politicians benefit by receiving campaign contributions or donations to political parties which allows the extortionist to further buy access and influence with the aim of furthering their extortion interest (Rusev, 2018).

In addition to the corrupt politicians, the results have also brought to the fore the argument of non-corrupt politicians as enablers of successful operations in the construction sector. These politicians have been found to not intervene and instead stay away when extortion occurs. The study suggests that they do this out of fear of the extortion groups. However, the findings suggest that this is a dereliction of duty on behalf of politicians because they are precisely appointed to deal with and lead the process of finding solutions to challenges that the community may be grappling with. Selecting to stay away as a community leader has also been found to perpetuate the subsistence of legislation-justified extortion in the construction sector.

It is therefore concluded that corrupt local politicians are an enabler of the successful operation of legislation-justified extortion practices in the South African construction sector. Non-contract local politicians are also an enabler when they neglect the responsibility they have been appointed for.

### **6.3.3. Conclusion of Research Question 1 results**

The above discussion demonstrates an alignment between all the factors mentioned by the literature and those suggested by this study. It is only in two instances of forms of extortion and corrupt government that literature was speculative. This speculation has been confirmed by this study in that how government officials become an enabler of the subsistence of extortion has been explained by this study. It is therefore concluded that legislation-justified extortion in the South African construction section is enabled by forms of extortion that exist, law implementation and interpretation inefficiencies, negative community involvement, lack of law enforcement, control of territory, corrupt government officials, and collusions with local politicians.

## **6.4. Research Questions 2: Are businesses of different sizes affected differently by legislation-justified extortion practices?**

### **6.4.1. Discussions of Research Question 2 results**

With this research question, the researcher aimed to determine the impact of the practice of extortion on construction businesses of different sizes. The literature has suggested the effects of extortion related to size in terms of losses suffered. It indicated that medium-sized businesses experience the most losses and that the cost spent on protecting the business against extortion increases with size (Ranasinghe, 2017). Balletta and Lavezzi (2023) also in supporting of this view held that the relationship between extortion and firm size is concave and highly regressive. It has also suggested that as far as the targeting of businesses is concerned, smaller size firms could be easier targeted than larger corporations (Balletta & Lavezzi, 2023; Estévez-Soto et al., 2021).

The results from this study were contradictory to the literature in this aspect. Firstly, the study found that larger construction businesses are targeted the most, and not small and medium-sized construction businesses, as suggested by the literature. This is because extortion is founded on and justified in the South African construction sector using legislation. This



legislation, which is in the form of PPR2017, makes it compulsory for projects over R30 million to sub-contract 30% of the contract value to construction businesses owned by HDIs. In accordance with the classification of sizes of construction companies by the construction regulator and also considering the nature of most construction projects executed by the State, this provision is mostly applicable to larger construction businesses. This is because only major construction businesses are permitted to execute larger projects.

Furthermore, the larger the project, the greater the 30% that is to be allocated towards the compulsory sub-contracting. As the extortion is based on this 30% provision, high-value projects are therefore targeted because the stake is bigger. High-value projects correspond to major businesses, as already indicated. Major construction companies are targeted because the amount to be extorted is lucrative. This is aligned with the counter view provided by Broadhurst et al. (2011) and supported by (Balletta & Lavezzi (2023), who held that extortionist are also likely to target victims on the basis of the reward that may be derived. This is what is happening in the South African construction sector, major businesses are targeted because the reward is higher.

In terms of the impact that extortion practices have on construction businesses, the findings of this study suggest that small construction businesses are affected the most, not necessarily medium-sized businesses, as suggested by the literature. This is because small businesses do not have the resources and skills to deal with extortion groups if they are targeted. Therefore, they succumb to the demands of extortion to the extent that the losses experienced would compel them to abandon the construction site as the project becomes financially unviable. Larger companies, on the other hand, were found to have enough resources to deal with extortion groups, which can be in one of three ways. Firstly, they can find ways to negotiate or accommodate the higher rates demanded by the business forums. Secondly, they can negotiate with construction mafias and pay them the demanded protection. Lastly, they have adequate financial resources to put security measures in place to protect themselves from these extortion groups.

There is congruence between the literature and this study regarding the assertion that the cost spent on protection against extortion increases with size. The results indicate that the larger the company, the more the ability to put in place security measures to protect the company against extortion practices. Large construction companies usually implement security measures to

protect themselves, while small to medium companies cannot afford to. This has been attributed to the fact that the profit margins in the sector are too small for small construction companies to afford extra-ordinary security measures such as armed guards securing the site and key personnel of the contractor. There is also alignment with the alternative view that extortionist are also likely to target victims on the basis of the reward that may be derived (Broadhurst et al., 2011) because there may exist a trade-off between vulnerability and maximisation of rewards because the rewards to be derived from smaller businesses are less compared to larger businesses which makes them least attractive to extortion groups.

#### **6.4.1. Conclusion of Research Question 2 results**

It is concluded that due to the context in which extortion is taking place in the construction sector, in terms of the impacts based on business size, there is a contradiction between the two aspects of the most affected targeted and affected victims between the literature and this study. However, there is alignment regarding the victim who spent the most on protection measures.

### **6.5. Research Questions 3: What are the effects of legislation-justified extortion practices on the profitability of construction businesses?**

#### **6.5.1. Discussion of Research Question 3 results**

This research question was explored because, as already argued, companies engaged in business activities to make money. In the context of the construction business, this question was paramount because profit margins in this line of work are low. This point was re-affirmed in this research. Accordingly, this question aimed to investigate how the practice of extortion in the construction sector affects the bottom line of the targeted contractor and if it informs how companies respond to extortion demands.

In terms of profitability, there are several arguments that the literature has advanced. Firstly, the literature has argued that profitability is the key determinant of whether a company would accede to extortion demands (Bahoo et al., 2020; Lipari and Andrighetto, 2021; Neu, 2019). It has been further argued that profitability will also inform how a company responds to extortion demand by implementing risk reduction measures or engaging in some form of negotiation with the extorter (Neu, 2019). The findings from this research support these assertions.

This study reveals that extortion practices in the construction sector by either group affect the profitability of contractors. This was supported by the assertion that the cost that is imposed by extortionist will always be substantial (Székely et al., 2018). This is because they increase operating costs and induce losses on the contractor. Operating costs increase mainly because the cost of doing business increases. This is due to the case of accepting business forums; contractors often need to source additional resources or expand more time than usual to monitor their work. This finding is also supported by literature. Literature has argued that extortion increases the cost of production of a business due to decrease in productivity; compromised quality of product; increase in labour cost; increase in security cost; increase in travel cost; increase in insurance costs; inefficiencies due to resources disruptions in the supply chain and stoppage of production activities (Koseli et al., 2021). Operating costs increase because contractors can no longer secure material for the works from their suppliers on credit and discounted rates because of the uncertainty that extortion groups create. The uncertainty in the sector has also resulted in increased insurance and guarantee premiums.

The other factor affecting contractors' profitability is financial losses incurred due to extortion. In this regard, it was found that the inflated rates demanded by business forums result in financial losses suffered by contractors as they have to pay these groups higher rates than they quoted their clients. In terms of construction mafia, losses are incurred because the protection fee that has to be paid comes straight from the company's profits. This is the argument that was put forward by Frazzica et al. (2016) that protection rackets cost for each firm extorted was not a deductible expense for the company but is subtracted directly from the profit. Financial losses are also incurred due to slow or loss of productivity from imposed incompetent sub-contractors, stoppages and disruptions. The remedial work that the main contractor must do to rectify the incorrect work that sub-contractors would have completed also results in financial losses. All these different forms of financial losses affect the productivity of contractors.

In terms of the responses engaged by contractors to manage the adverse impact on their profitability, it was found that there are two ways in which contractors would respond. Firstly, they would heighten their security if they did not accede to extortion's demands. This aligns with the literature that suggests that one of the options that contractors exercise in response to extortion is to implement risk reduction measures (Neu, 2019). In this regard, the profitability impact would be greater if contractors acceded to these demands compared to implementing risk mitigation measures of putting extra-ordinary security measures in place. This option is

usually exercised against the construction mafia group, where the contractor would have accommodated the 30%, which would have been allocated to the business forums group. However, the construction mafia group are still demanding its protection fee.

Another contractor response, which would also be informed by the extent to which profitability would be impacted, is to negotiate with the extortion groups. These negotiations with either of the groups would be mutually exclusive because an agreement with one group excludes the other. If a contractor can negotiate with the business forum groups, which would mostly be around the inflated rates to avoid disruptions, this agreement would exclude the construction mafia group, as there would be nothing to protect the contractor from. If the construction mafia group resorts to its violent, intimidating tactics, the contractor would enlist the other measure of implementing extra-ordinary security measures as it would not be financially viable for the contractor to pay protection fees while they have accommodated the demands by business forums. Accordingly, this would be a case of utilising both response measures of negotiation with one group and putting extra-ordinary security measures against the other. This study found that some major contractors enlisted this kind of combination response when dealing with extortion practices they had faced.

The other form of negotiation response is when the contractor enters into negotiations with the construction mafia group. In this regard, the agreement would be to pay reasonable protection, including sub-contracting opportunities to the construction businesses associated with the construction mafia group. In this regard, the agreement will be premised on the construction mafia protecting the contractor against disruptions against the business forum group and the community. The construction mafia ground would use intimidation tactics to ensure that the community and business forum groups do not disrupt the project. This kind of response was also found to have resulted in intersectionality in some of the members of the business forums in that they would be full members of the business forum, but would also be secretly associated with the construction mafia group.

One aspect highlighted as part of the findings in this study was the impact on profitability on small companies. This distinction is not necessarily made in the literature, but is implied by Neu (2019), who argued that the impact of profitability may also drive the business to close down and look for other alternative businesses that cannot easily be extorted. This study suggests that in the context of the construction businesses, this may be rare for larger, established and

profitable businesses that can deal with extortion as outlined above. However, this may apply to small businesses. This study has found that smaller construction businesses are exposed fully to extortion demand without bargaining power because they lack resources to negotiate or protect themselves. They, therefore, do not have a choice but to comply with the demands of the construction mafia until it is not financially viable to continue with the project, as the company would not be making any profits. When these companies are awarded a small project directly that they are responsible for as the main contractor, the consequence of the impact on profitability in most cases is that the contractor would end up abandoning the site. Where the small contractor is a sub-contractor brought in by the construction mafias as part of the negotiation with the main contractor, they get extorted to the extent that they would not be able to purchase material and pay their workers, which in turn would be a challenge for the main contractor because they would strike on site due to workers of the sub-contractor not having received their salaries.

#### **6.5.2. Conclusion of Research Question 3 results**

The above discussion demonstrates congruence between what is asserted in the literature and the findings from this study. The findings support Neu's (2019) assertion that companies subjected to extortion enlist some form of accounting to determine how the extortion groups impact profitability. From this determination, companies can then determine an appropriate response to deal with the extortion demands they are subjected to. This study has also supported the assertion that these responses are either in the form of negotiation or implementing risk reduction mitigation plans. It can be concluded that extortion groups negatively impact the contractor's profitability due to increased operating costs and incurred losses. This negative impact on profitability would ensure the contractor responds to the extortion so that the business is not adversely affected on that particular project that has been targeted.

### **6.6. Research Questions 4: What risks does legislation-justified extortion practice impose on formal businesses?**

#### **6.6.1. Discussion of Research Question 4 results**

The purpose of this research question was to further investigate other risks that formal construction businesses are exposed to outside profitability. This question aimed to investigate non-financial risks imposed by extortion practices that would affect the effective management of

formal construction businesses. The findings from this research suggested that formal construction businesses are exposed to categories of risks due to the successful operation of construction groups. These risks are operation risks, which are short-term and sustainability risks, which are long-term. These risks and their standing against existing literature are discussed in detail below.

- ***Operational Risks***

These are short-term risks that construction businesses experience on a day-to-day basis due to having to deal with extortion groups. The study has highlighted three major risks: safety, delays, and site abandonment. The lives of contractors and their employees are threatened in instances where they do not accede to the demands of construction mafia groups. The risk to life is one risk that was predominantly recognised by literature. Literature suggest that risk to life of the business owners and associates become more prevalent in an event where they reject extortion demands made (Estévez-Soto et al., 2021; Koseli et al., 2021; Ponce, 2021; Rusev, 2018; Wang et al., 2018).

The aim of these threats to the victim's physical integrity is in two folds. Firstly, it is to coerce contractors to accede to demands under duress and to ensure that employees comply with their commands while advancing those demands. Secondly, it threatens the contractor and employees not to report the matter to the relevant law enforcement agencies. This finding corroborates the assertion that the victim is approached and threatened as a means of convincing the victim to accede to the advanced extortion demands without reporting the incident to the relevant law enforcement authorities (Rusev, 2018). Enlisting threats to safety of contractors is at the core of operations of mafias and is also what sustains their operations. In order to mitigate this threat to their safety, contractors prefer to employ extra-ordinary securing measures that are in equal force to construction mafias. This is usually in the form of armed security guards. This is also aligned with the view that companies that are financially independent tend to implement some form of private vigilantism by employing violence tactics against the extortionists in equal or even elevated measures (Moncanda, 2019). In this regard, the risk imposed on contractors is then transferred to a third party in the form of an armed security company that would have been sub-contracted to guard the construction sites and key construction personnel. The presence of risk to contractors' safety has also been acknowledged by Neu (2019), who argued that in dealing with the risk, contractors would pass it to a third party through some form of sub-contracting. Moreover, the literature argues that in dealing with

extortion risks, businesses would sacrifice productivity to protect property, resources, and families (Ornelas, 2018).

Delays are another operational risk highlighted in the study. This risk is of concern to contractors because of the financial implications that it has on contractors. One such implication is the increased opportunity cost because contractors cannot speedily project and invest their resources into the next project that would generate higher returns. Accordingly, they expend more time in completing projects that have been protracted delays caused by extortion groups. The second implication is potential contractual penalties that clients enforce when the contractor has exceeded the contract duration. The client can do this because standard construction contracts used in the construction sector make the security and protection of the site the contractor's responsibility. On other standards, contract strikes, riots, and civil commotion are not accepted risks from which the contractor is exempted. The third implication of delays is increased overheads such as insurance, plant hire, and other time-related costs. The longer the projects take, the longer these costs increase.

The last operation risk that was prevalent in the results was that of abandonment of the site. With this risk, the results show that it is possible for contractors to be extorted to the extent that continuing with the project no longer makes financial sense because it would no longer be profitable. This is because construction is a capital-intensive project where one is expected to invest financial resources to execute the project and only get paid after certain milestones are completed. Accordingly, one spends money first before they receive payment with profits. If the contractor has been extorted to an extent where profit margins are exceeded, it will not make financial sense for the contractor to keep injecting funds into the project while it is clear that profits or breakeven won't be realised. The solution in this regard would be for the contractor to abandon the project.

#### - ***Sustainability Risks***

The second category of risks that emerged from this study is sustainability risks. Sustainability risks include those risks that would affect the business in the long-run. These are the risks that may contribute to the demise of the business in the future. The identified risks were reputational damage, loss of competent staff, and the company not being competitive when bidding for work. The reputational risk was highlighted as a risk that will weaken or dilute the company's brand equity. In this regard, the study has highlighted that companies are at risk of being known for not

completing projects on time or not completing projects altogether. Thus, when bids are adjudicated, the adjudication committees also conduct what is referred to as a risk assessment of the business that is considered for the opportunity being adjudicated. If a prospective contractor is considered a high risk due to non-completion of projects, such a contractor will not be awarded the contract. With fewer contracts being awarded to the contractor, this may lead to it closing down in the long-run.

The second sustainability risk identified by this study is the loss of competent staff. The result suggests that the act of extortion that at times places the lives of construction professionals renders the sector unattractive as no qualified person would want to work under fear and duress. The findings suggest that if this practice is not contained and continues at its current rate, the sector will experience a brain drain. It is suggested that many talented professionals would leave the sector by looking for alternative professions or immigrating to other countries. The result is that contractors will, in the long-run, be unable to attract suitably qualified and experienced people in their employ to deliver their services effectively, efficiently, and economically. The study indicates that it would be detrimental to many construction companies in the future if this practice of extortion is not curbed.

The last sustainability concern prominent in the results is the risk of companies not being competitive. As elaborated in Chapter 1, one of the requirements that organs of States are required to comply with in terms of Section 217 of the Constitution of the Republic of South Africa of 1996 is that when organs of state procure goods and services, they should do so in a competitive manner. Furthermore, the current PPPFA provides that the evaluation weighting of bids should be done on an 80/10 or 90/10 basis, depending on the project value of the contract (PPPFA, 2005). In most construction projects, the applicable evaluation criteria is the 90/10 basis, where 90% is allocated to price while the 10% is for a specific goal. This criterion implies that being competitive, as required by the constitution, means being competitive on price in that you should be able to offer a lower price than competitors. However, as previously indicated, the practice of extortion makes the cost of doing business expensive. For companies to afford the extortion demands and implement appropriate security measures, the associated costs must be incorporated in the bidder's price offer to the client. This increases the cost of the bidder to render construction services, which makes the bidder uncompetitive. The risk of being uncompetitive translates into the contractor not being able to secure work opportunities, which would impact the sustainability of the business in the long-run.



### **6.6.2. Conclusion of Research Question 4 results**

The discussion above illustrated that the extortion practice that is taking place in the construction sector poses two categories of risks to contractors. These risks are in the form of operational risk and sustainability risk. The operational risks look at the immediate day-to-day risks, while sustainability risks refer to long-term risks that may contribute to the business closing down. All the risk are mention in literature the formal construction business are faced with albeit not that prevalent (Koseli et al., 2021). Accordingly, there is an alignment because literature and all risk identified by this. This is why businesses deal with risks that come with the mafia in many ways, including passing it over to a third party. Therefore, there is an agreement between the literature and this study that there are risks that mafias pose to formal businesses and that there are common mitigation measures that formal businesses would ordinarily enlist to reduce such risks. This study further identifies the type of risks that formal businesses face as a result of the operations by mafias. The type of risk contributes to the extension of the body of knowledge on extortion in the business environment.

### **6.7. Conclusion**

This study has argued that seven factors contribute to the subsistence of legislation-justified extortion. There is generally congruence between the literature and the findings of this study. The study agreed with the literature on the argument that businesses of different sizes are impacted by and experience extortion practices differently. There is, however, a misalignment in terms of how extortion practices impact businesses of different sizes. While the literature suggests that small companies are targeted the most and medium companies are affected the most, this study suggests the converse. In the context of legislation-justified extortion in the South African construction industry, larger companies are targeted the most, but smaller companies feel the impact the most.

There is also an agreement between the literature and this study's findings regarding the impact on the profitability of formal business extortion practices. There is an alignment that extortion practices adversely affect the profit margins of targeted formal businesses. This study further categorised how this adverse impact came about, which is another area of clarity presented by this study. The study has attributed the adverse impact on the profitability of construction businesses to increases in operating costs and financial losses incurred due to construction mafias.

As a last point, there was also congruency with the literature on the risks faced by formal businesses imposed by extortion practices. There is further agreement on the measures formal businesses employ to reduce the risks they face. While the literature did not explicitly specify these risks, this study categorised such risks into operational and sustainability risks, where a distinction was made between those risks experienced on a day-to-day basis and those that are long-term in nature. This distinction was also in a different way; thus, the study has contributed to the extension of the body of knowledge in the field of extortion in the business environment.

## **CHAPTER 7: CONCLUSIONS AND RECOMMENDATIONS**

### **7.1. Introduction**

This study has explored the practice of extortion in the context of the South African construction industry with participants from the two provinces of KZN and Gauteng. It has studied this phenomenon through the lens of three cases or groups that play different yet critical roles in the construction sector. This phenomenon was studied because, as detailed and substantiated in Chapter 1, it is now one of the biggest challenges the sector grapples with as it has reached uncontrollable stages (Fraser, 2022). The motivation to study this phenomenon was also from the fact that, because of the complexities and sensitivity associated with the practice of extortion, the phenomenon is hardly studied (Neu, 2019; Dammert, 2021).

Therefore, this study aimed to expand the body of knowledge around the phenomenon of extortion while simultaneously providing a South African context. This was achieved by exploring the phenomenon in two ways. It was first explored from the point of understanding its root causes by exploring what enables its subsistence and successful operation, considering that it is alleged to have reached uncontrollable levels. It was also further explored from the perspective of its effects on the victims subjected to it in the form of formal construction businesses. These explorations resulted in naming the type of extortion experienced in the South African construction sector as Legislation-justified extortion.

This chapter, therefore, highlights the main findings of the study of this legislation-justified extortion. These main findings are highlighted by providing concise conclusions on the research questions that guide this study. The chapter also provides recommendations to stakeholders in the sector on how this practice can be addressed to mitigate its sustainability and adverse effects. The chapter concludes by proposing a model that explains the concept of legislation-justified extortion.

### **7.2. Enablers of legislation-justified extortion**

In this regard, seven findings enabled the subsistence legislation-justified extortion in the construction sector in South Africa. Firstly, the study has revealed that two forms of extortion are in operation in the construction sector. These are the first-order extortion in the form of business forums and the second-order extortion in the form of construction. The existence of the second-order extortion is primarily based on the first-order extortion. This does not imply that the

second-order extortion is dependent on the first-order extortion to function. They function independently from one another, though their targets are almost the same. The relationship between the two levels of extortion is that one justifies its extortive demand based on the existence of the other.

The two forms of extortions are founded on the misinterpretation and poor implementation of the 30% provision of the Preferential Procurement Regulation of 2017. The poor implementation in this regard is that the promulgating body has not embarked on extensive consultation with all affected parties in the sector prior to the promulgation and when the regulations were in effect. This has created an opportunity for misinterpretations of the regulations. These misinterpretations in the context of extortion mainly affected the first-order extortion practised by business forums. The misinterpretations by the business forums are that the sub-contracting component is applicable to all projects irrespective of the contract value, only local businesses can be sub-contracted, and that the provision is also applicable to private sector projects. Second-order extortion occurs when construction mafias demand a protection fee and sub-contracting work from the contractor in exchange for protection against first-order extortion.

Six other enablers further sustain the subsistence and successful operations of the two forms of extortion. The first of these is negative community involvement. The community enables this practice on the projects in their areas by not positively contributing and curbing in. This contribution is in two forms. It is when some of the community members collaborate with the extortion groups to secure job opportunities. They also contribute to the sustainability of the practice by not playing an active citizenry role by fighting against the practice to protect assets meant to benefit the community in the long-run. This finding corroborated the assertion by literature that extortion practices by organised criminals are most likely to be prominent and successful in those places where a significant component of the community takes part in illegal activities (Zabyelina, 2022).

Lack of law enforcement in terms of criminal law was also found to be one of the enabling factors of the sustainability of the practice of extortion. In this regard, three factors were noted. Firstly, it is corrupt officials who are in collusion with extortion groups. This is because either these corrupt police officers are related to the extortion groups, or they are simply in a financially beneficial agreement with them. This finding is well aligned with the assertion that extortion practices are likely to be successful when law enforcement officers are compliant to be bribed in

exchange for a number of favours (Blackburn et al., 2017). The second factor is police officers who are incapacitated because they lack resources, they fear extortion groups, or they are simply incompetent to deal with the kind of crimes associated with organised extortion. Lastly, it is the non-reporting of extortion cases to the police by the victims of extortion. This is because the victims have lost trust in law enforcement agencies because of the lack of prosecution of previously reported cases. Other victims do not report simply because of fear of further threats by the extortion groups, which may even lead to loss of life. These three factors contribute towards the weakening of the policing function. This was aligned with the argument in the literature that one of the common factors that make formal businesses susceptible to extortion is that the public sector is relatively big and institutions charged with law enforcement are weakened (Ornelas, 2018). Magaloni et al., (2020) argued that this kind of environment, where law enforcement is weakened, enables criminals to maximise their extortion rents. This is the case in the South African construction sector.

The other enabler identified as contributing to the successful operation of extortion groups in the sector is their ability to control the areas in which they operate. A view supported by New (2022), argued that having full control and influence over a particular territory by a criminal syndicate, together with visibility practices directed mainly at targeted assets, make the assets weak and thus makes people likely to give in to extortion demands (Neu, 2022). The findings suggest that this is achieved by preventing sub-contractors from operating in their areas through threats. This is mostly done by the business forum group, which is considered a form of demarcation. Control is also attained by instilling fear in the community so that the extortion groups are feared by everyone in order to have a free range to do whatever they want.

Construction mafias also demarcate the areas of their operation by ensuring that they are stronger than other competing mafias. This ensures that these mafias do not operate in those areas they consider to be theirs. This form of area control intends for organised criminals to evade law enforcement, be protected from rivals, and draw out as much profit from the territory as they can (Magaloni et al., 2020). The only aspect where there is misalignment between the findings in this aspect is the manner in which this control of the area is attained. While literature is based on Olsen's theory of stationery bandits, this study has suggested that it is driven by fear instilled in others. However, there is greater agreement as to why control of territory is important to extortion groups.

In the context of the South African construction sector, corrupt government officials also emerge as an enabler of extortion. The emergence of this finding has been attributed to the significant role of government in the sector. The government is a big player in the sector because it is the main client of contractors. This is because the government is responsible for developing public infrastructure, and providing public infrastructure such as roads and government facilities are usually large projects. Accordingly, the government utilised its officials to conduct this major role in the sector. These officials enter into corrupt relationships with these extortion groups where inside information is provided to enable them to carry out their demands from an informed position. Although the literature has not specifically mentioned government officials, it has nevertheless acknowledged that the effective operation of mafias is enabled by them receiving inside information (Magaloni et al., 2020).

Local politicians were the last enablers of the subsistence and successful operations of the construction mafia. Local politicians were found to collude with extortion groups for two purposes. Firstly, to secure and advance their political careers, they enter into agreements with extortion groups to gain popularity among the communities by pretending to be fighting for the community's needs through business forums. This is supported by Bahoo et al. (2020), who argued that organisations that lack ethics use both political and social connections in a highly corrupt political environment. Secondly, the collusion is premised purely on corruption, where local politicians receive financial benefits from these relationships of collusion. These may be in the form of receiving proceeds directly from the extortion groups or using their own companies or companies with close ties to participate in extortion activities. The operations by elected local politicians confirm the suspicion by Neu (2022), where it was insinuated that the sustainability of extortion practice might be enabled by cooperation between the democratically elected governments and criminal networks.

There is also another group of local politicians that the study recognised. This is comprised of local politicians who choose not to get involved in extortion in their constituencies, thereby neglecting their civic duty of fighting against social ills in the area in which they are elected to lead. This is considered a dereliction of duty, which further contributes directly to the sustainability of the extortion.

In summary, the findings of the enablers of the practice of legislation-justified extortion can be summarised in a sequential manner as follows: Legislation is poorly implemented and

misinterpreted; through the misinterpretation, the first-order of extortion is created; opportunists use the first-order of extortion to create second-order extortion; and the two forms of extortion thrive because of negative community involvement, lack of law enforcement, territorial control, corrupt government officials, and collusion with politicians. This summary is visually presented in the proposed model in Figure 6.

### **7.3. Effect of legislation-justified extortion on business of different sizes**

This study concludes that legislation-justified extortion in the South African construction sector impacts businesses of different sizes differently. Major businesses with higher grading are mostly affected by extortion practices. This finding is attributed to major construction businesses executing projects of high value. The implication is that a project of high value will result in a bigger 30% stake. This contrasts with the assertion of literature that smaller to medium businesses are targeted the most (Zabyelina, 2022). However, it has been accepted that this misalignment is brought about by the context in which extortion occurs in the South African construction sector.

However, it was found that smaller businesses are impacted the most by acts of extortion when they are targeted. Unlike major construction businesses, smaller businesses do not have adequate financial resources to implement extra-ordinary security measures. This makes them fully exposed to extortion when they are targeted. They do not have much choice, but to concede to the demands until a project is no longer financially viable. This is also in contrast to the views of Ranasinghe (2017), who argued that medium-sized businesses experience the most losses.

The conclusion in terms of the impact of legislation-justified extortion across business sizes is that larger businesses are targeted the most, while smaller businesses are impacted the most.

### **7.4. Effect of legislation-justified extortion on profitability of businesses**

The main finding in this respect is that regardless of how a business deals with extortion practices, its profitability will always be adversely affected. This is because extortion practices increase operating costs, resulting in businesses incurring financial costs. Operating costs increase because the practice has generally increased the cost of doing business, contractors are unable to negotiate and secure good rates for raw materials, and the industry is now considered volatile and risky; thus, such insurers increased construction-related insurance and

guarantee premiums. The most prevalent impact on profitability is that the delays increase company overheads, which cannot be recovered from projects.

The study has also found that the financial losses incurred as a result of extortion come straight out of the company's profit as they cannot be allocated or recovered from anywhere. These include the cost of implementing extra-ordinary security measures, penalties imposed by clients for late delivery of projects, the inflated rates demanded, cost of remedial work and the actual protection fees demanded. All contractors must fund while they cannot be recovered from the client.

As a result of profits being adversely affected by extortion practices, the study has also found that profit informs how construction businesses respond to extortion demand. This view aligns well with Bahoo et al. (2020), who posit that profitability informs whether a business would accede to extortion demand. In this study, it was found that larger businesses usually exercise two mutually exclusive decisions depending on the extent of the extortion demands. This is more so the case regarding the construction of mafia groups. Companies can either negotiate, accede to the demands, or implement extra security measures to keep the mafias out.

Therefore, it is concluded that extortion practices in the construction sector adversely affect profitability. This is despite the size of a company or the response chosen to deal with extortion demands. It is also profitability that informs how construction businesses respond to extortion demands.

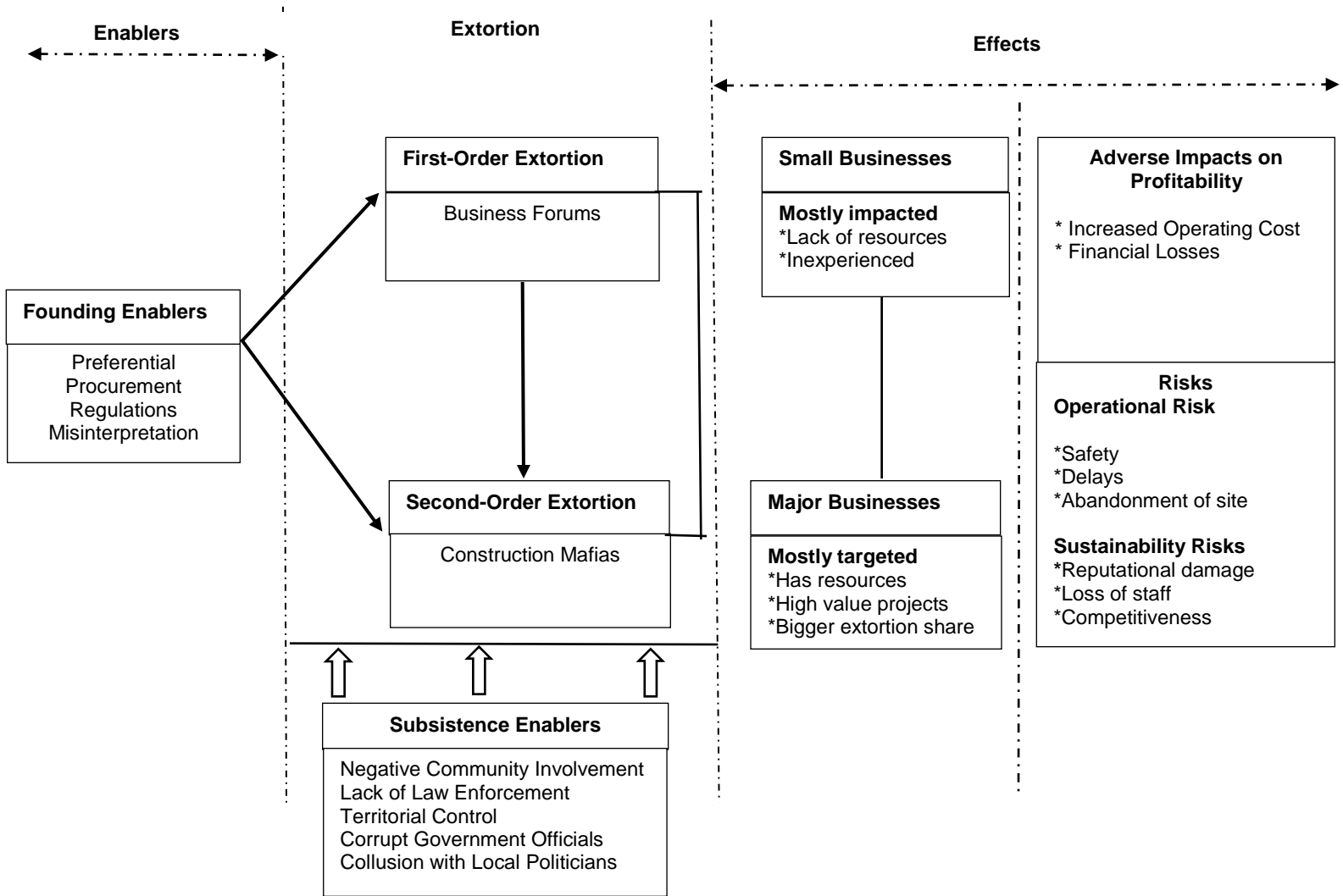


## **7.5. Risk imposed by legislation-justified extortion on businesses formal construction businesses**

The study has identified several risks imposed by extortion practices on construction businesses. These risks were classified into two categories: operational risks and sustainability risks. Operational risks are short-term risks that contractors are exposed to on day-to-day business; these include safety, delays, and site abandonment. If these risks are not mitigated and accumulate, they may become sustainability risks. Sustainability risks are long-term and can lead to the shutting down of the business. The risks identified in this regard were reputational risks, loss of competent staff, and uncompetitive business.

## **7.6. Proposed model of legislation-justified extortion**

From the findings of this research, the model that explains the practice of legislation-justified extortion in construction is proposed and presented in Figure 6. This model explains the root causes of legislation-justified extortion, what sustains it, and its effect on construction businesses. Through this model, the study further contributes to the development of theory in the field of extortion. The model may practically assist those tasked with devising and implementing a legislation-justified solution in understanding the problem in detail to develop a practical and workable solution. The model may also assist other countries with similar characteristics as South Africa to implement preferential procurement legislation. The model will assist by highlighting areas of weaknesses and the mistakes to avoid.



**Figure 6: Legislation-Justified Extortion Model**

## **7.7. Recommendations to Stakeholders**

This study makes two key recommendations, as derived directly from the findings. These are mainly policy and management recommendations applicable in practice to effectively deal with the challenge of extortion in the South African construction sector.

### **7.7.1. Preferential procurement policies**

As indicated in Chapter 1, the Procurement Bill has already been introduced in the national legislature by the Ministry of Finance. The purpose of the Bill is ultimately to enact the law that will repeal some of the existing laws. These laws to be repealed include the Preferential Procurement Policy Framework Act (2000), which the regulations are derived from. The anticipated Act is expected to extensively and comprehensively deal with all matters pertaining to preferential procurement in the public sector. It is therefore recommended that, as the national legislator deliberates and finalises this important legislation, the Act should address the gaps that were created by the PPR2017 as follows:

- Once promulgated, over and above the consultative progress that would have been followed by parliament, an extensive awareness drive in the sector must be conducted. Accordingly, a period of one year must be provided for the sector consultation process between the date of assent and the date on which the Act eventually comes into force. This consultation effort must take the form of an educational and informational campaigns. This recommendation is well aligned with the suggestion by Lipari and Andrighetto (2021) which held that to shape citizen's moral values and expectations about the-socially desirable action to take, a bottom up approach must be followed. This bottom-up approach entail educational and promotional campaigns, and public discussion. Adopting this implementation process will ensure that mistakes of the past are avoided. This bottom-up approach must be led by the CIDB, the national department of Finance, and all other built environment professional bodies in the sector. The consultation process must take place across all three spheres of government, with a particular focus on the local sphere of government where these extortion challenges are experienced. This will ensure that the issue of poor implementation, as previously experienced, are properly addressed.
- The Act must contain an explicit provision that the Act is only applicable to procurement in the public sector and not the private sector and that the private sector is not bound by

the provisions of the new public procurement Act. This will deal with the first area of misinterpretation that was exploited under the PPR 2017.

- The Act must also contain an explicit provision that any compulsory sub-contracting provision aimed at addressing any specific goals aimed at advancing HDIs does not prevent the contractor from appointing specialist sub-contractors outside the HDIs as long as that part of sub-contracting does not affect the percentage threshold prescribed for HDIs.
- There must also be an explicit provision that, in terms of the Act, HDIs are not limited to local HDIs in the community. However, where relevant skills exist in the community, a significant part of the sub-contracting percentage should be allocated to the community.
- The Act must also have a provision that compulsory sub-contracting is only applicable to projects of a particular value and above.
- There must be a clear provision in the Act that any deliberate misinterpretation of the Act used to advance extortion is illegal and punishable by law. A minimum sentence aligned to other laws that deal with extortion must be provided to serve as a further deterrent.

The extensive consultation and the educational and awareness campaigns that are to be conducted must cover and emphasise these proposed critical provisions of the Acts.

### **7.7.2. Improvement of Law Enforcement**

To deal with the inefficiencies and lack of law enforcement, measures must be implemented to encourage reporting and disrupt corruption among police officers and capacitate. This can be achieved in two ways. Both initiatives are expected to improve the law enforcement by the police. The first initiative is for the South African Police Service (SAPS) to establish a dedicated unit that deals with extortion practices in the construction sector. Members of this unit must be trained and capacitated to deal with this crime. Among others, the training must include how to register and investigate a crime. There must be adequate members of this unit across provinces and major towns. These members must be equipped with all necessary working resources.

Secondly, the management of the unit must be centralised at the SAPS provincial headquarters and report directly to the offices of the provincial commissioner in each province. There must, therefore, be a dedicated number for each province where victims report extortion cases. This will ensure that reporting is removed from the local police station, which will assist in improving the reporting rate and reduce the corruption of police officials. The provincial headquarters will

open the case and dispatch a member of the unit stationed at the nearby station to the reported incident to investigate the matter. The provincial headquarters should also follow up on the matter until the investigation is concluded and handed over to the National Prosecution Authority for criminal prosecution. This recommended management standard operating procedure in dealing with extortion will improve reporting, enhance accountability, and reduce collusion between police and extortion

### **7.7.3. Conclusion**

The policy and management recommendations made above are key to deal with the existence and subsistence of the practice of extortion in the construction sector. If implemented, they will directly and indirectly address both the founding and subsistence enablers of extortion, as presented in the model in Figure 6. With these discussed sufficiently, the battle against extortion in the sector is likely to be won.

### **7.8. Limitation of the Study**

This study may be limited because it was only conducted in two provinces of the country. Other people may hold different views and have different insights from the participants from these provinces. The study was also conducted from the perspective of the victims of extortion and those responsible for the management and regulation of the construction businesses. Accordingly, the voices of the perpetrators and those responsible for law enforcement who are adversely implicated by the findings remain silent in this study. These two groups of persons may have views and insights which may affect the validity of the findings of this study. To cater for this potential risk, the researcher encouraged the neutrality of participants during the data collection. This was done before the actual data collection and during the interview processes, where probing mechanisms were engaged, and instances of potential lack of neutrality were identified.

The researcher is an active participant in the sector at different levels. This means that the researcher is close to the subject investigated, which could result in bias by the researcher. In order to deal with this potential bias, the researcher exercised restraint where he may have disagreed with the views of a participant and avoided asking leading questions. As an inexperienced novice in qualitative research, the lack of experience conducting interviews may have affected the quality of the collected data. This risk was contained by first conducting a pilot interview to test the interviewing skills of the researcher as proposed by Dikko (2010). Through

the pilot interview, areas of improvement were identified and improved for the subsequent interviews.

The subject's sensitivity may have been a limiting factor when the data were collected from participants, which would also affect the data quality. To deal with this threat, the researcher worked on building trust with each interviewee prior to and during the data collection process. This was done by assuring confidentiality of the collected data, which was also carried through in the manner the questions were framed. The physical area where the interview was conducted or taken by the participant could have presented a safety risk to the participants. The interviews were conducted and structured around each participant to avoid exposing participants to any potential risks. Those conducted virtually were conducted at a time convenient to the participants where they knew they would be in a safe place to be interviewed. Those conducted physically were done in areas where participants felt safe. These were secured areas with physical security on site and they mostly took place in government office to which the researcher had access to.

## **7.9. Recommendations for Future Research**

Law enforcement by police officials emerged as a strong finding in this study. Police officials did not form part of this study. It is paramount that the voice of law enforcement officers be added to this debate. Therefore, future research may focus deeper on challenges specifically experienced by law enforcement officers in enforcing the law against the practice of legislation-justified extortion. This future research must be conducted from the perspective of law enforcement officers.

Legislation-justified extortion is exercised at two levels: the first-order level and the second-order level. Those that exercise first-order-level have been formalised as business forums, and they operate in the open. They are also considered critical stakeholders by some sections of the industry. Therefore, it would be reasonable to engage them on the subject within the context of the South African construction industry. Accordingly, it would also be of value to the body of knowledge to solicit their voice as far as the practice of legislation- extortion is concerned. In this regard, understanding this practice of extortion from their perspective would also be another area to focus on for future research.

The fact that this practice of extortion in the sector has subsisted for a long time suggests that this may be a lucrative business. The extent of how lucrative this extortion business is has not been studied. Accordingly, this presents an opportunity for future research to explore the concept of extortion or criminality as a form of entrepreneurship.

Lastly, the study have made certain finding which implicated the community. Lipari and Andrighetto (2021) has argued that the corrective legal measures enacted by government did not yield much results because they neglected to incorporate the role of social norms. To incorporate this role appropriately would require a thorough understanding and rationale of the role that the community is currently playing in perpetuating the practice of legislation-justified extortion. Accordingly future research from the perspective of members of the committee is recommended.

## **7.10. Conclusions**

This study has explored the concept of extortion that is taking place in the South African construction sector, which it has termed legislation-justified extortion. It has been argued that this extortion takes place at two levels: first-order extortion and second-order extortion. First-order extortion is practised by a group called the business forum. This business forum primarily operates by misinterpreting the law to advance its extortion demands. On the other hand, second-order extortion is exercised by a group called the construction mafia. This group operated using the first group in order to demand a protection fee from formal construction businesses. They demand protection fees in exchange for protecting formal contractors against business forums.

It is also concluded that extortion in the South African construction sector is enabled by two types of enablers. These are founding enablers and subsistence enablers. Founding enablers are the contributing factors that are the root causes of the existence of extortion. These are poor implementation of and misinterpretation of the law in the form of preferential procurement regulations. The subsistence enablers are comprised of a lack of law enforcement, negative community engagement, control of territory, corrupt government officials, and collusion with local politicians. These conclusions were found to be supported by and aligned with the existing literature on the subject of extortion.

The findings of this study also concluded that businesses of different sizes are impacted differently by the practice of extortion. Major businesses are targeted the most while small businesses are the most impacted. These were in converse to what was advanced by literature (Balletta & Lavezzi, 2023; Estévez-Soto et al., 2021; Ranasinghe (2017). It is also argued that profitability is always affected by the practice of extortion, and as argued by (Székely et al., 2018), it always informs how businesses respond to extortion demands. The adverse impact of profitability is attributed to increased operating costs and financial losses.

The study has also presented a number of risks that the practice of extortion imposes on formal businesses. These are categorised into operational and sustainability risks. Operational risks are those experienced on a day-to-day basis in the course of running a construction business, while sustainability risks are accumulative risks that may contribute to the demise of the company in the long-term.

This study is important because it contributes to building the body of knowledge in the field of the rare concept of extortion (Brown et al., 2022; Dammert, 2021; Neu, 2019; Ornelas, 2018). This is done by uncovering new insights into the practice of extortion that are not mentioned in existing literature, including legislation-justified extortion. The study also offers a model that explains the practice of legislation-justified, which can be used by stakeholders in the South African construction sector or any sector that may have similar characteristics and are faced with similar contributing factors that the South African construction sector operates in.



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## **APPENDIX A1: INTERVIEW GUIDE**

### **Section 1 – Demographic Information**

#### **Group 1**

1. What is your role in the business?
2. What is the CIDB grading of your business?
3. How many years of experience do you have in the construction sector?
4. In which provinces does your company conduct business in?
5. Have you encountered construction business forums in the past 10 years?

#### **Group 2**

1. What government entity do you work in?
2. What is your position in the entity?
3. Do you manage or oversee construction projects?
4. How many years of experience do you have in government involved in construction business?
5. Have you encountered construction business forums in the past 10 years?

#### **Group 3**

1. What is the name of the organisation you work for?
2. What is your position in the organisation?
3. How many years of experience do you have in the construction sector?
4. Have you encountered construction business forums in the past 10 years?

### **Section 2 – Determinants and enablers**

1. May you reflect on your understanding of the operations of business forums?
2. May you tell me about your views on the legality of the business forums?
3. May you discuss the relationship between the law and business forums?
4. Would you tell me about the law enforcement agencies stance in relation to business forums?
5. Would you say there is any link between business forums and politicians? Explain
6. In your experience is there any role that members of the community play in enabling successful operation of business forums? How?

### **Section 3 – Effects:**

1. Tell me about the process that is followed by business forums in identifying construction sites and construction businesses?
2. Do you think business forums target and impact different sized businesses differently? Why?
3. May you share examples of instances when you encountered business forums and how you dealt with them?
4. Do you think business forums impact profitability of construction businesses?
5. Do you think there are any risks that business forums impose on construction businesses?

### **Section 4 – Closing**

1. Our interview has now officially come to an end, is there anything else you would like to add?

## APPENDIX A2

**Table A1: Summary of Thematic Analysis Outputs**

No	Open Codes	Categories	Themes	Theory (RQ1)		
16	Misinterpretation	Preferential Procurement Regulations	Founding Enablers	<b>Enablers of Extortion</b>		
17	Poor implementation					
1	Lack of Capacity	Lack of Law Enforcement				
2	Incompetence					
3	Fear					
4	Sympathy					
5	Benefit					
6	Collusion					
3	Fear					
7	Broken Trust					
8	No Accountability					
9	No Arrests					
10	Police Inaction					
11	No Prosecution					
5	Benefit					
6	Exploitation					
7	Greed					
8	Lack of Consultation				Negative Community Involvement	Subsistence Enablers
6	Collusion					
9	Socio-Economic Challenges					
7	Broken Trust					
11	Lack of Consultation					
3	Fear					
3	Fear					
12	Violence					
13	Taxi Industry	Territorial Control				
14	Area Demarcation					
15	Influence					
18	Political Aspirations					
19	Benefits	Local Politicians				
6	Collusion					
3	Fear					
20	Proxies	Corrupt Government Officials				
6	Collusion					
No	Open Codes	Categories	Themes	Theory (RQ2)		
21	Contract Value	Firm Size	Size Effects of Extortion			
22	Enough Resources					
23	Legitimising Criminality					
24	Heightened Security Measures					



21 Contract Value  
 25 Lack of Resources  
 26 Affected the Most

No	Open Codes	Categories	Themes	Theory (RQ3)
27	Additional Resources			
28	Financial Losses			
24	Heightened Security Measures			
29	Increased Operational Cost			
30	Inflated Rates Demanded	Profitability	Financial Effects of Extortion	<b>Effects</b>
31	Loss of Production Momentum			
32	Contract Enforcements			
33	Remedial Work			

No	Open Codes	Categories	Themes	Theory (RQ4)
34	Abandonment of Site			
35	Damage to Property			
36	Delays			
37	Updated Standard Contracts			
38	Safety	Operational Risks		
39	Poor Quality			
40	Human Capital Loss		Risks Effects of Extortion	<b>Effects</b>
41	Psychological Effects			
42	Termination			
43	Reputational Damage			
44	Loss of Human Capital	Sustainability and Brand Equity Risks		
45	Noncompetitive			
46	Business Closure			

No	Open Codes	Categories	Themes	Theory (Miscellaneous)
6	Exploitation			
47	Demand Work			
30	Inflated Rates Demanded			
48	Illegal	Business Forums		
49	Use the law to justify		Participant's understanding of Extortion	<b>Extortion</b>
50	Entitlement			
51	Politically Affiliated			
15	Influence			
52	No Intention to Participate	Construction Mafias		
53	Free Money			

54	Protection Fee
55	Undermine the Law
56	Ex-Convicts
57	Politically Connected
13	Taxi Industry
12	Violence
3	Fear
7	Greed

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