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ORGANIZED CRIME

EXTORTION OR TRANSFORMATION?

The construction mafia
in South Africa



JENNI IRISH-QHOBOSHEANE

JUNE 2022

The background features several thick, light-colored lines that intersect to form abstract geometric shapes, including a large circle and various triangles and quadrilaterals. The lines are a muted beige or light brown color.

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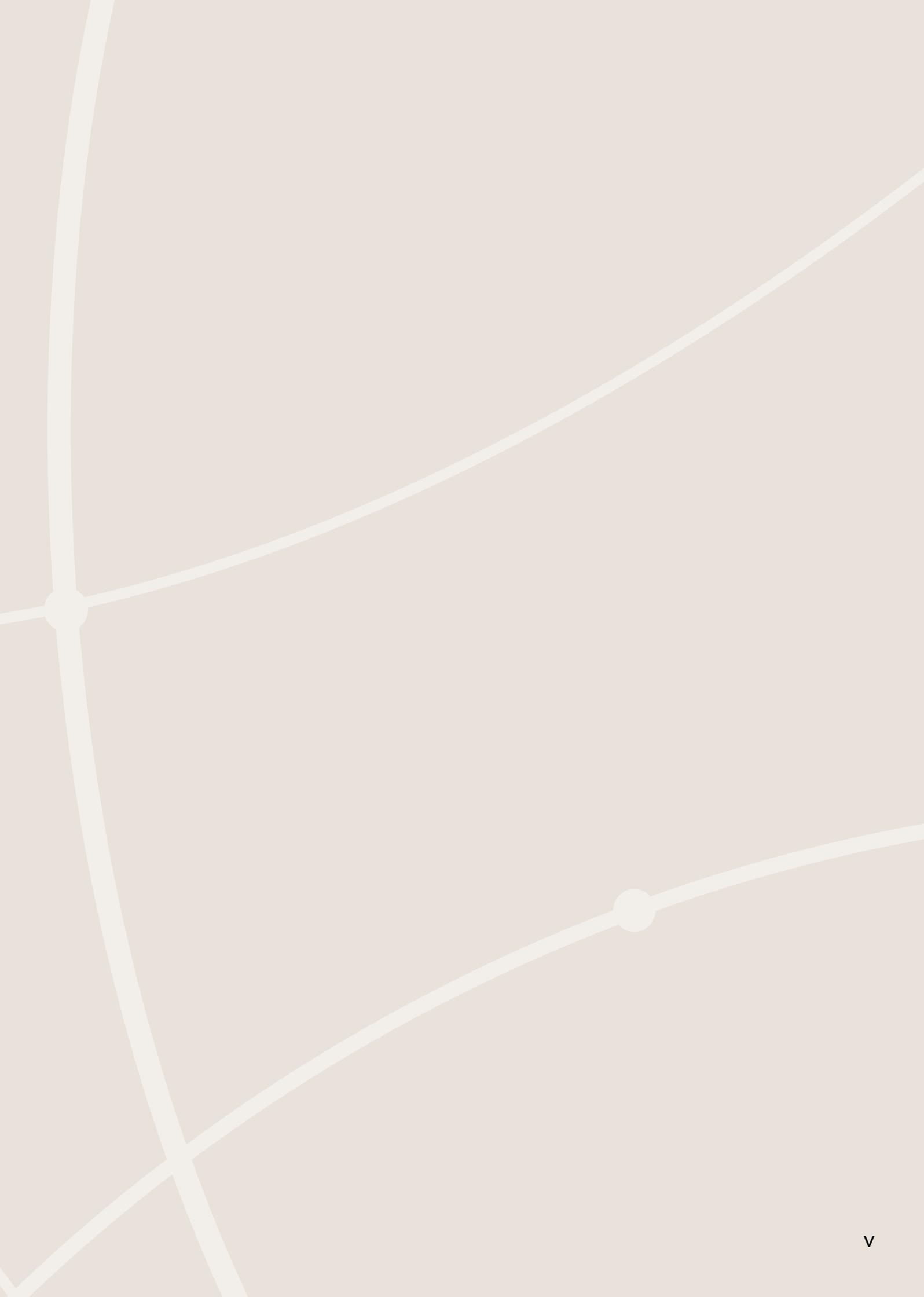
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ACRONYMS

ANC	African National Congress
BBCBE	Black Business Council in the Built Environment
BBF	Black Business Federation
DPCI	Directorate for Priority Crime Investigations
FFRET	Federation for Radical Economic Transformation
MBSA	Master Builders South Africa
MEC	Member of the Executive Council
MFMA	Municipal Finance Management Act
SAFCEC	South African Forum of Civil Engineering Contractors
SAFE	South African Forum for Civil Engineering
SAPOA	South African Property Owners' Association





EXECUTIVE SUMMARY

Construction workers on a building project in Cape Town. © REU Stock Photo/Alamy

Since 2015, South Africa has witnessed the emergence of a new kind of criminality in the form of organized groups targeting the construction sector under the banner of 'radical economic transformation'. Dubbed the 'construction mafia' in the media,¹ these people have organized themselves into groups known as 'local business forums' and invaded construction sites across the country, demanding money or a stake in development projects in what can arguably be described as systemic extortion.²

While no country is immune to systemic extortion from criminal groups, the extent and impact of the activity depend on the abilities of state governance to address extortion economies as they arise.³ In South Africa, the activities of the so-called construction mafia have been fuelled by the weak response from the state, allowing them to expand their activities. In 2019, at least 183 infrastructure and construction projects worth more than R63 billion had been affected by these disruptions across the country.⁴ Since then, invasions have continued at construction sites across South Africa.

In this context, this report by the GI-TOC focuses on understanding how these groups, widely referred to as the construction mafia, operate, their involvement in systemic extortion, and the long-term implications for the construction industry in South Africa and the country as a whole.

Background

The South African construction mafia has its roots in the townships of Umlazi and KwaMashu in KwaZulu-Natal province, where two distinct groups emerged in 2014/15: Delangokubona Business Forum and KwaMashu Youth in Action Movement. After targeting projects in their respective local townships, the two groups came together to form the Federation for Radical Economic Transformation (FFRET). In 2016, heavily armed 'local business forums' linked to Delangokubona Business Forum, and subsequently FFRET, began invading construction sites throughout KwaZulu-Natal, demanding a percentage of the contract value and the employment of their forum members. Between 2016 and 2019, almost all construction sites within the province had been affected by invasions linked to local business forums.

From 2018 onward, the construction mafia's influence began to spread across the country, with groups emulating the activities of the local business forums in other provinces. Most business forums demand 30% of the contract value of the project, a rate that seems to derive from misuse of a National Treasury regulation that seeks to encourage local involvement in all project procurements. A common characteristic of these groups, widely referred to as business forums, is their willingness and ability to use violence during the invasion of construction sites to ensure their demands are met. Although actual incidents of violence have declined since 2019, the threat remains ever-present.

While the construction sector has been the main target of local business forums, those linked to Delangokubona and FFRET have also disrupted internal governmental processes at the provincial and local levels in KwaZulu-Natal. On at least one occasion they invaded a private-sector company outside the construction sector.

Methodology

This report, which tracks the evolution of the South African construction mafia, is based on research conducted by the Global Initiative Against Transnational Organized Crime (GI-TOC). During the course of this research, unstructured interviews were conducted with various role players within the industry, including business associations and

Findings

Clear links exist between some of the business forum groups and certain political players, with business forums being accused of acting as surrogates for certain politicians. Similarly, there are emerging links between some of these business forums and elements within the mass transit taxi industry, with some in the taxi industry being used to enforce internal disciplinary measures within the forums.

Many businesses and operators in the construction sector have sought to curb the activities of the construction mafia by turning to the courts; there

Although apartheid officially ended in 1994 and measures have been introduced to address the social consequences of the system, many areas of the economy remain relatively untransformed. Weak economic growth has led to rising unemployment and growing income inequality, while many people living in communities where poverty is pervasive remain on the margins of the mainstream economy. In these communities, a growing sense of exclusion and alienation has resulted in disillusionment, anger and impatience for change, leading to calls by some groups for radical economic transformation. The lack of economic transformation coupled with poor economic growth has created fertile ground for criminal elements who exploit these conditions to justify their actions. This is the context of the so-called business forums, who claim that by invading construction sites they are only implementing the principles of a form of economic transformation they believe is justified.

organizations, individuals involved in the construction sector and members of local business forums. While several members of the business forums participated openly in the research, there were others who were more reticent, fearing possible reprisal if they participated. As a result, some of these individuals agreed to participate on condition of anonymity.

have been more than 51 court interdicts granted against businesses forums to prevent them from further intimidation and disruption of construction sites. Overall, these interdicts have not had the desired effect and have done little to deter business forums. Business federations and organizations have also made a series of appeals to government to act decisively in addressing the construction mafia, with limited success.

Many businesses and groupings within the construction sector have opted to engage with business

forum representatives. While there are mixed feelings within the construction sector about the success of such engagements, they have resulted in key players in the business forums developing a strong foothold within the sector and acquiring a veneer of legitimacy.

As the activities of local business forums have evolved, many businesses have also opted to cooperate with their demands rather than face the consequences of resisting. This has resulted in the normalization of extortion practices within the construction sector.

A key factor in the success of business forums and their ability to gain a foothold in the sector has been the weak response from the state. Although national and provincial level government has condemned the actions of business forums, this has not translated into significant action against forums who have invaded construction sites and used violence or the threat of violence to achieve their demands. This has created a climate of impunity that has allowed the construction mafia to flourish.

As the activities of business forums have developed, some of the key actors have sought to become legitimate players and interest groups within the sector, often by attempting to distance themselves from their mafia-style tactics. As part of this transition, the FFRET rebranded itself as the Black Business Federation (BBF) in 2020. This new federation, comprised mainly of the people involved in the site invasions, has stated that they will move away from the previous tactics of the FFRET and become more professional role players within the industry. In spite of this commitment, there are reports of BBF members continuing to use familiar strongarm tactics to capture procurement opportunities. In one instance, BBF members marshalled a disruption of the Umgeni Water projects in 2021 until an agreement was finally brokered in their favour.

The activities of business forums have had a significant impact on the South African construction sector, which was already facing serious economic

constraints prior to the emergence of the construction mafia. The damage caused by the business forums has not only resulted in delays in the delivery of a number of important infrastructure projects, but also contributed to the demise of a number of businesses. Worst affected have been small enterprises within the sector that have lost opportunities for subcontracts as they lack the resources of larger companies to deal with the construction mafia.

Disrupting the construction extortion economy, particularly in areas where it has taken root, will not be an easy task. However, not addressing it will have dire consequences not just for the construction sector but for the entire country. Failure to deal with this type of extortion is also likely to result in the spread of such practices to other sectors of the economy. Recommendations for the government, businesses and communities are as follows:

- The state needs to develop a more comprehensive strategy to deal with the problem of systemic corruption, one that includes a more proactive response from within the criminal justice sector.
- An environment needs to be created that will encourage victims of extortion to feel safe enough to report extortion.
- Strong partnerships need to be developed between government, business and communities.
- Partnerships and strategies need to address the issue of normalization of extortion within the construction sector.
- The state must address the issue of members of the construction mafia accessing and using illegal firearms.
- Local government needs to be involved in partnerships and strategies developed to address extortion in the construction sector.
- Early-warning systems need to be developed to detect and prevent extortion as it arises.
- Dealing with extortion in the construction sector will require responses that address a comprehensive and equitable approach to infrastructure development.



INTRODUCTION

Fire guts a large store in Durban during riots and looting during July 2021 thought to be instigated by anti-government radicals. © *Stringer/AFP via Getty Images*



Exortion is generally defined as a crime in which one person forces another to do something against their will (generally to give money or property, or to provide a service), under the threat of violence, or damage to property or person. Extortion involves the victim's consent to the crime, but this consent is obtained illegally. There are two types of extortion: casual extortion, which occurs as a sporadic or one-off event, and systemic extortion, where the extortionist practice is continual. Where extortion is systemic, a criminal group engages in the practice on a routine basis and the extortion is well rooted in the group's operations.⁵ Extortion is not defined in legislation in the South African legal system, although a definition of extortion as a common law crime has developed through case law and historical legal influences.

Extortion racketeering among organized criminal groups is not a new phenomenon in South Africa. Back in the 1940s, groups like the Ama-Rashea gang (operating out of Newclare in Johannesburg) and the Msomi gang (in the Alexandra township in Johannesburg) were involved in the extortion of residents.⁶ More recently, extortionist practices have emerged in other sectors and areas. In Cape Town, for example, nightclub and restaurant owners in the city centre have been pressured to pay monthly 'protection fees' in the face of a direct or indirect threat to disrupt normal operations. Similarly, the minibus taxi industry is subject to a taxi mafia that extorts money from operators through association and rank fees, as well as protection rackets. The taxi mafia makes use of henchmen to enforce compliance and silence opposition. The construction mafia, however, has become one of the more prominent examples of systemic extortion taking place across the country.

The construction mafia distinguishes itself from other extortionist groups in two ways. First, their operations revolve entirely around extortionist practices in one industry. Second, they have adopted a political narrative – the implementation of radical economic transformation – to 'legitimize' and justify their extortionist practices.

Over the last seven years, the activities of local business forums linked to the construction mafia have become so prominent that it would not be unreasonable to draw parallels to the United States in the 1920s, where the Cosa Nostra was able to achieve a monopolistic position within the construction sector by means of corruption and extortion, entrenching itself so deeply in the construction

industry that it is now considered part of the cost of doing business.⁷ Today, even those who resent the Cosa Nostra's presence in the industry often believe the government is powerless to remove their influence from the industry.⁸ Since around 2015, the South African construction mafia has been increasingly entrenching itself in the construction sector in a similar manner.

The emergence of the construction mafia

Work done by the GI-TOC indicates that systemic extortion generally requires a perpetrating group of people that is recognizable, sustainable and easily identifiable.⁹ This often starts with a smaller group of people with a specific identity, and who are capable of inflicting violence, from which a 'broader group identity may emerge, serving to band disparate agents into a recognizable network that ensures their loyalty'.¹⁰ This is precisely what occurred during the emergence of the South African construction mafia.

Local business forums in KwaZulu-Natal

In 2014, a group of people based mainly in Umlazi, a township south-west of Durban, came together to form the Delangokubona Business Forum, with Nathi Mnyandu elected as the forum's chairperson.

Mnyandu later told the media that the forum was made up of different branches and included in these branches were ex-convicts who had committed Schedule 6 offences – the most serious violent crimes – including murder, rape and cash-in-transit heists.¹¹

In December 2015, contractors in Umlazi suspended refuse removal in the township, saying they were underpaid. The contractors, claiming to be members of the Delangokubona Business Forum, shut down municipal refuse depots and threatened violence if their demand for a pay increase was not met.¹² In January 2016, Delangokubona members laid siege to the municipality's electricity depots, threatening to kill workers, and targeted road repair crews, storm water depots and maintenance teams. Senior municipal managers received death threats, and municipal depots were shut down using violence



Delangokubona Business Forum chairperson Nathi Mnyandu. © African News Agency/ANA

and intimidation. The group gave the eThekweni Municipality an ultimatum to grant them tenders without a bidding process – otherwise they would plunge the city into chaos.¹³ In response, the municipality went to court to interdict the group and prevent Delangokubona members from interfering with, intimidating and threatening municipal workers. In February 2016, the siege at the depots ended following the intervention of city leaders from the African National Congress (ANC).¹⁴

The following year, in 2016, local business forums linked to Delangokubona began invading construction sites in KwaZulu-Natal, demanding not only a percentage of the construction contract but also that construction companies employ certain people on their sites. More often than not, the business forums that invaded the sites were heavily armed – carrying machetes, handguns, and automatic and semi-automatic assault rifles – and used intimidation tactics to ensure their demands were met.

Parallel to the formation of Delangokubona in 2015, the Youth in Action movement was formed in KwaMashu, a township north of Durban, under the leadership of Malusi Zondi. At its inaugural conference, the organization resolved to move towards radical economic transformation. In 2016, members of this organization shut down construction of the Bridge City Mall in KwaMashu, demanding participation in the project. Members also shut down the site of a new court building and a R1.9-billion hospital project in the same area.¹⁵

The rise of the FFRET

The action of the KwaMashu youth appears to have brought them into direct conflict with Delangokubona, who wanted the jobs secured by the KwaMashu youth for their own members.¹⁶ The two organizations reportedly armed themselves for a confrontation, but did not engage when they realized that they shared family ties and a common interest.¹⁷ Shortly after this, the group leaders formed the Federation for Radical Economic Transformation (FFRET), with Malusi Zondi as president and Nathi Mnyandu as vice president.

According to one construction consultant, between 2016 and 2019, the activities of local business forums



Federation for Radical Economic Transformation president Malusi Zondi. Photo: *Black Business Federation Facebook page*

associated with Delangokubona and FFRET were so extensive that few, if any, construction sites in the province had not been targeted. The consultant described how during this period, construction sites were closed down, workers were assaulted or intimidated, and managers were threatened with death if they refused to comply.¹⁸

Shortly after this mafia emerged in 2016, KwaZulu-Natal Premier Senzo Mchunu expressed concern that local business forum members were boasting about being 'hardcore criminals' who 'were not scared of being arrested'. Mchunu issued a statement saying that the provincial cabinet had held several meetings with members of the forums, which wanted to be granted government tenders without following supply chain management processes, as required by the provisions of the Municipal Finance Management Act.¹⁹

In February 2017, the activities of the construction mafia were also raised at the provincial cabinet *lekgotla*,²⁰ with the new premier of KwaZulu-Natal, Willies Mchunu, stating that groups like the Delangokubona Business Forum were making violence in the province worse and wreaking havoc.²¹ In response to these concerns, in 2018, the KwaZulu-Natal provincial legislature passed a motion acknowledging the disruptive actions of organized groups and calling on government not to allow 'mafia-like tactics', including 'blackmail, intimidation, and extortion for the enrichment of a few'.²²

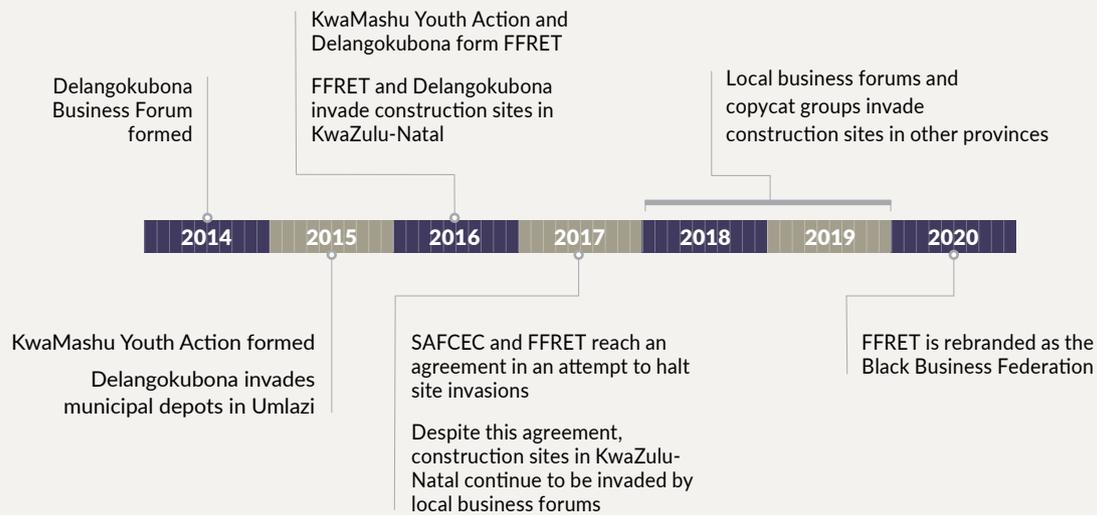


FIGURE 1 Evolution of the construction mafia in South Africa and key incidents.

Diversifying beyond construction

Although dubbed the ‘construction mafia’, the activities of local business forums in KwaZulu-Natal have not been confined to the construction sector.

In May 2017, companies forming the country’s leading soft-drink manufacturer, Coca-Cola Beverages South Africa (CCBSA), went to court to interdict Delangokubona from disrupting their business activities. Vikki Rodger, risk manager for CCBSA member ABI Bottling, said in a paper filed before the Durban High Court that forum members threatened that they operated ‘with war’ and would force a nationwide shutdown of Coca-Cola unless granted a meeting with ABI’s managing director.²³

Subsequently, in March 2018, the disciplinary hearing of the deputy head of supply chain management for eThekweni Municipality, Zandile Sithole, was disrupted by both FFRET and Delangokubona members. Sithole was facing accusations of accepting bribes worth more than R2 million from companies contracted to the municipality. In an audio clip of these disruptions, the FFRET members can be heard telling the presiding officer of the hearings to ‘voetsek’, or get out, and saying they were there to represent radical economic transformation, of which Sithole was a ‘champion’. Other members, who were allegedly carrying weapons, demanded that Sithole be reinstated.²⁴

Also in 2018, FFRET and Delangokubona were involved in the disruption of a meeting at the provincial treasury building in Pietermaritzburg between the provincial treasury’s ‘intervention team’ and the KZN health department. Provincial authorities had deployed the intervention team to address a serious breach of the Public Finance Management Act in the provincial health department. The meeting was allegedly disrupted by a group of 40 FFRET and Delangokubona members who ‘stormed into a boardroom’ while the meeting was in session, demanding tenders and the reinstatement of a suspended supply chain management official.²⁵ In a subsequent affidavit filed in court by the MEC for finance for KwaZulu-Natal, Belinda Scott, she referred to members of FFRET who ‘screamed, banged tables and climbed on top of the boardroom table’.²⁶ FFRET members also allegedly threatened that they would render the province’s health department ‘ungovernable’ if the intervention team returned to the health department or removed employees in the supply chain management.²⁷ At the time, FFRET vigorously denied Scott’s versions of events, accusing her of lying in court. A FFRET spokesperson also said that a video of the incident that was circulating on social media had been ‘doctored’ to portray FFRET in a bad light.²⁸

Construction mafia's influence spreads

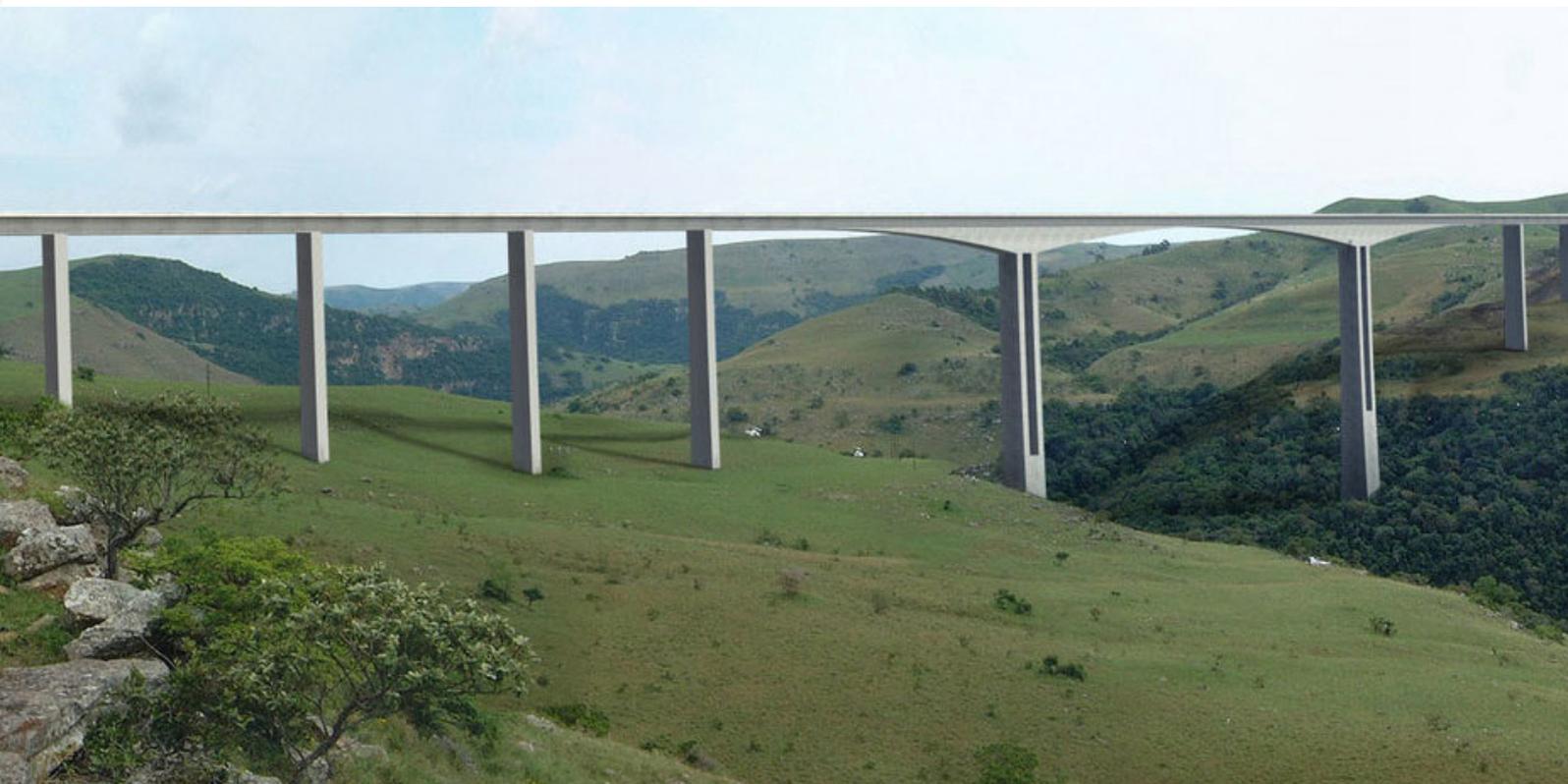
The expansion of the construction mafia has followed a similar trajectory to many other international groups involved in extortion activities. While the construction mafia was initially centred in KwaZulu-Natal, it has since spread to other parts of the country. Growth has also been influenced by the emergence of copycat groups who started to emulate the tactics of the FFRET in other parts of the country. The CEO of the South African Forum of Civil Engineering Contractors (SAFCEC),²⁹ Webster Mfebe described the pattern of growth across the country: 'Violence begets violence. When people have seen that extortion methods yield results, they mimic the same tactics and strategies'.³⁰

In Gauteng province, in 2018, construction mafia activities started to surface in the Pretoria area, with at least two business forums invading sites in the eastern suburbs of Arcadia, Menlo Park and Brooklyn. From there, business forum activities spread to other parts of the province, including some of the townships. According to one Gauteng

developer, by the end of 2018, dealing with the construction mafia had become a widespread problem facing developers throughout the province.³¹

Another developer told a journalist that a group of 10 to 12 people had come his building site twice, intimidated workers and demanded work for certain people in the local community. Subsequently, he was approached by a group from a different forum demanding that the contractor use one of their community leaders and pay him R10 000 a month. The second group also demanded to submit quotes for the supply of building materials, which they did at highly inflated rates.³²

At the same time, similar groupings began emerging in the Eastern Cape. In early 2019, construction company Aveng and its joint venture partner, the Germany-based Strabag International, terminated a R1.5-billion project for the Mtentu Bridge in the Eastern Cape. The termination occurred after gun-wielding business forum members threatened staff and made the site inaccessible for 84 days.



A computer-generated illustration of the proposed Mtentu Bridge. The project was abandoned after armed business forum members threatened staff at the site. © Wikipedia



Webster Mfebe of SAFCEC said the WBHO Saldanha Bay oil storage site was a 'war zone'. © safcec.org

Aveng CEO Sean Flanagan told the media, 'Our German partners said they have worked in 80 countries, including Afghanistan and Iraq, but have never experienced anything like this.'³³ The Mtentu Bridge project, which fell under the South African Road Agency (SANRAL), was not the only SANRAL project affected by the activities of the construction mafia. By April 2019, more than 60 SANRAL projects had been affected to varying extents by the activities of local business forums across the country.³⁴

Similarly, in the Western Cape province in March 2019, a R2.4-billion German oil storage investment under construction by Wilson Bayly Holmes-Ovcon at Saldanha Bay was halted after an armed gang invaded the site. Webster Mfebe of SAFCEC said the site resembled a 'war zone' and images of the project revealed a scorched landscape

with rows of vehicles engulfed in flames and torched buildings.³⁵ Since this incident, several other housing and infrastructure projects in the Western Cape have been stalled due to similar activities. In February 2020, the implementation of Cape Town's Beacon Valley housing project was delayed for more than a year owing to site invasion.

By the end of 2019, invasions of construction sites by different groups calling themselves local business forums had spread to almost all parts of the country, including smaller provinces such as Limpopo and Mpumalanga.



FIGURE 2 Trajectory of violence in the construction mafia.



The 2021 unrest

Some groups involved in the invasions of construction sites have been making use of any new opportunity to expand their activities. In July 2021, a period of unrest and looting broke out in KwaZulu-Natal and Gauteng following the incarceration of former president Jacob Zuma. The subsequent efforts to rebuild properties affected by the unrest were disrupted by business forums. At the time, the chairperson of the ANC in KwaZulu-Natal said the party was investigating allegations that certain local business forums in KwaMashu and Umlazi had demanded money from companies before they allowed them to resume business.³⁶

The SA Property Owners Association (SAPOA) and the Black Business Council for the Built Environment (BBCBE) raised concerns about the efforts of business forums to disrupt the rebuilding efforts.³⁷ According to SAPOA CEO Neil Gopal, 'Whether it's the "construction mafia" or development forums, there are groups out there that are disrupting the rebuild effort after the unrest... It's not on all the sites, but there is a definite sense we are getting that they [the groups] are trying to extort money from mall owners... They are stopping certain [small,] cleaning companies from the communities themselves, for example, from doing any work until the mall owners negotiate or have a meeting with these groupings.'

SAPOA and the BBCBE appealed to their members to resist the intimidation and violent tactics, and to increase the presence of private security around construction sites. SAPOA and the BBCBE stressed that there is a fundamental difference between genuine, hard-working entrepreneurs looking to be part of the construction supply chain and the 'construction mafia' saying, 'People who invade sites illegally, armed to the teeth, threaten law-abiding citizens with violence, intimidation and in some cases result in murder, are syndicates whose primary objective is to use violence as a means to an end'.³⁸

A police officer fires rubber bullets to disperse a crowd looting a warehouse, Durban, 16 July 2021.
© Guillem Sartorio via Getty Images



'GIVE US THIRTY PER CENT'

Delangokubona had allegedly threatened to shutdown this construction site at Springfield Park, Durban.

© African News Agency/ANA



Business forums commonly invade sites and demand 30% of the contract value be allocated to the business forum members. This 30% demand appears to be linked to the Preferential Procurement Policy Framework Act,³⁹ which was issued by the National Treasury in 2017 and states that 30% of public procurement contracts should be contracted to designated groups, as provided for in the Preferential Procurement Regulations.⁴⁰ The regulation, which aims to encourage local involvement in all procurement, states that if the project is over R50 million, 30% must be allocated local 'content', as the regulation puts it. Although this regulation applies only to tenders for government contracts, business forums have used it when dealing with both governmental and private construction companies.⁴¹

In some cases, business forums have demanded that companies allocate 30% to subcontractors identified by the forums and in other cases they will demand the percentage be paid directly to them. There are also examples of business forums demanding more than 30%.⁴² Equally, there are cases where forums have invaded sites asking for smaller amounts to be paid out in cash.⁴³

Speaking about the demands of the business forums, Mfebe said,

No one can discount the desire of communities to be part of the main-stream economy, but these construction mafia gangs use extortion methods to demand to be included in the contract. We've explained to them that the local subcontractors do not have to be members of their group. It depends on the requirements of the contractor and competence of those wanting to be subcontractors.

Mfebe also said that the construction sector is already largely compliant with the Preferential Procurement Policy Framework Act.⁴⁴

The chairperson of Master Builders South Africa, Roy Mnisi, said, 'Normally a business forum will arrive on a site to demand a thirty percent stake in a project and in some instances, they may represent legitimate local emerging contractors offering legitimate services to a project.' However, according to Mnisi, in many cases the forums demand 'protection fees', demanding 30% of the total contract value in cash to prevent further invasions at the site. Mnisi says that often a main contractor already has subcontracted thirty percent of the work, sometimes more, to an emerging black contractor in the area, but that the business forums are only interested in securing contracts for themselves. 'The manner in which this has been allowed to happen is purely criminal,' said Mnisi.⁴⁵

National Treasury enters the fray on the 30% demand

In August 2018, the National Treasury made its voice heard regarding government-funded projects and the 30% demands from business forums. In a statement issued on 7 August, the National Treasury stated that they had received complaints about the abuse of public procurement contract requirements in certain provinces and municipalities. The statement goes further, saying, 'It is alleged that some people are now demanding that they, instead, be paid in cash 30% of the value of each contract awarded in these provinces or municipalities. If their demands are not met, they threaten contractors, interrupt, or stop the implementation of projects'.

The statement goes on to explain that such practices are not only illegal, but defeat the government objective of transforming the South African economy through equal opportunities for all and the advancement of historically disadvantaged individuals and small, medium and micro enterprises (SMMEs). Section 217 of the Constitution of the Republic of South Africa demands that when an organ of state in the national, provincial, or local sphere of government procures goods and services it must do so in accordance with a system that is fair, equitable, transparent, competitive and cost-effective. Demanding that one be paid in cash 30% of the value of every contract runs counter to this constitutional requirement.

Government has determined that public procurement can help to drive transformation, including the empowerment of designated groups and SMMEs through subcontracting and prequalification for preferential procurement. Public procurement can also be used to promote industrial development. However, these public policy objectives must be achieved in accordance with Section 217 of the Constitution.

The statement calls on provincial treasuries to ensure that organs of state abide by the Preferential Procurement Regulations and that any interruptions to public projects based on the 30% subcontracting requirement be reported to law enforcement agencies.⁴⁶

Capacity to extort

At the heart of the construction mafia's success has been the capacity and readiness of this mafia to exert violence or the threat of violence to ensure their demands are met. Referring to how some of these local businesses operate, one construction manager described how men from a business forum would storm a construction site and demand to see the 'boss':

Each of the men have their own Pty [company] and tell you that you must employ four skilled and four unskilled workers from them. On top of that you must give each of them R5000 a fortnight to ensure there are no disruptions. That money is nothing but protection fees ... At one construction site a group of men gave the owner of the company an AK-47 bullet and said, 'This bullet was worth R17. That is the cost of your life if you do not comply with us.'⁴⁷

Local business forums that have invaded construction sites have generally been heavily armed, with business forum members even carrying automatic or semi-automatic assault rifles. The message this sends to their intended targets is clear, as one construction developer explained: 'I have experienced the business forum guys arriving on sites and demanding a meeting with managers and supervisors. Then when we agree to meet with them, they put their guns openly on the table and say

they want to negotiate. I am not stupid, the message they are sending is obvious'.⁴⁸ The same developer also reported that because of their experiences with local business forums in KwaZulu-Natal, some managers and supervisors at construction sites have started to carry firearms on their sites. However, he said the handguns of managers are not helpful compared to the assault rifles of criminals.⁴⁹

A FFRET official explained why some of their members arrive on construction sites heavily armed, saying that within the federation there are members who are ex-convicts or taxi operators, and they carried these firearms for their own protection.⁵⁰ While this argument may be true, it raises three important questions.

Firstly, are these members licensed to possess these guns, or are they carrying firearms illegally? The Firearms Control Act (Act 60 of 2000) precludes persons with a criminal conviction from possessing a licensed firearm.

The act is also clear on the type of weapons permitted for self-defence purposes and excludes semi-automatic and automatic firearms. According to media reports and GI-TOC interviews, some of the weapons carried by business forum members are semi-automatic and automatic firearms. This raises the second question: how is it possible for the forum members to carry such weapons for 'self-defence purposes' when this is expressly prohibited under the act?

Finally, it is not clear how forum members are making the case for self-defence. How are the targets of local business forums able to distinguish between firearms carried for self-defence and those carried to intimidate? The lines seem to have become extremely blurred.

The violence of many local business forums has led to both property damage and injury of persons working on the sites. In KwaZulu-Natal in 2016, a construction contractor was killed when he refused to comply with the demands of a local business forum.⁵¹ More recently, in July 2021, two people were seriously injured during construction site invasions in Cape Town.

The chairperson of Delangokubona, Nathi Mnyandu has denied that Delangokubona members have threatened construction bosses. However, when asked

what would happen to those who refused to comply during an interview with a journalist, Mnyandu said: 'If they do not stop, they will get in trouble. We will give them direction and show them the constitution that we are using. If they still do not comply, ay, my friend, I cannot tell you over the phone what we will do'.⁵² Mnyandu was also caught on video in 2017 intimidating an eThekweni deputy city manager, saying, 'We don't have time to play. We are not scared to get arrested. We didn't hand over all the guns, we still have some of the guns. Phillip Sithole [deputy city manager, economic development, and planning] don't mess around with us. You've been promising us money and we want results'.⁵³

Violence involving members of local business forums appears to have been at its worst between 2016 and 2019, when many of the forums were establishing themselves. Since then, incidents of violence, which was particularly strong in provinces like KwaZulu-Natal, seem to be less prevalent.

International research into extortion highlights that the reduction in levels of violence is not unique to the construction mafia nor should it be taken to mean that their involvement in extortion activities has decreased. Often as an extorting group becomes more established, individual instances of violence lessen as the overarching threat of retribution becomes powerful enough to ensure compliance with the demands of groups involved in extortion.⁵⁴ Explaining how extortion changes over time, the GI-TOC manual on extortion points out, 'Continual extortion makes victims accustomed to it over time. As this step in the cycle unfolds, levels of violence often go down and interactions with organized crime and violent actors become normalized'.⁵⁵

A similar trend can be seen with the construction mafia; as the construction industry has become accustomed to living and working under this form of criminal governance, people involved in this industry have become more accommodating to the existence of extortion. The understanding that business forum members are capable of violent disruptions of construction sites has resulted in some people within the sector complying with the demands of business forums without their having to use violence to ensure compliance.



Mpho Moropane, owner of Phoroza Trading & Projects, was awarded a R6 million contract for the construction of 50 houses in Soshanguve, shown here. Soon after the contract had been awarded, a group arrived demanding 50% of the budget.

© Paul Henriques/Flickr

Transformation or extortion?

After 1994, the nascent democracy in South Africa resulted in the repeal of the apartheid laws and the introduction of measures to address many of the social consequences of apartheid. Although there has been significant growth in the black middle class and provision of housing and services to millions of South Africans, the structure of the economy in many sectors has not been fully transformed. Relatively weak economic growth has led to rising unemployment and worsening income inequality. There has also been growing impatience from many communities where poverty is pervasive and residents remain on the margins of the mainstream economy. In these communities, a growing sense of exclusion and alienation has resulted in general disillusionment and anger.

Lack of transformation and the need for greater economic inclusion have created fertile ground for criminal elements to exploit these conditions and justify their criminal actions. Business forums involved in the invasion of construction sites have argued that they are only implementing the principals of radical economic transformation. SAFCEC CEO Webster Mfebe acknowledges that contractors do not always properly engage with local

communities, who feel shut out, and that there were genuine concerns of communities who wanted to be included in projects.⁵⁶ This view appears to be supported by several other bodies within the sector.

However, SAFCEC and most other people in the sector feel it is important to distinguish between legitimate efforts by people or groups to participate in major development projects in their area, and criminal groups who are using the issue of radical economic transformation to engage in systemic extortion for their own narrow benefit. Genuine concerns of local communities need to be separated from criminal thuggery. Referring to the elements involved, Mfebe said, 'While a lot of it happens under the mantra of radical economic transformation, extortionist behaviour has affected both black- and white-owned companies, which tells you it is all about the money. We are teaching our children that they don't have to work. They just have to carry the biggest gun.'⁵⁷

Historically, the construction sector has been regarded as a white enclave that has excluded black people. After 1994, this resulted in several initiatives being taken by the construction industry,

in partnership with government, to transform the sector. According to Mfebe, these initiatives have resulted in the construction sector becoming one of the most transformed in the country, with 80% black ownership of non-listed companies.⁵⁸ Some other bodies and role players in the sector acknowledge the inroads made in transforming the sector, but argue that there is still a long way to go before the sector can call itself truly transformed.⁵⁹

While there may be some differences of opinion within sector bodies regarding the pace of transformation, one thing most seem to agree on is that certain criminal elements are using the concept of radical economic transformation to hide and justify their involvement in criminal behaviour. In March 2019, Mnisi said:

Let me indicate, first and foremost, that these forums masquerade as people, a formation fighting against economic exclusion in the construction sector. But they are not. If you look at their modus operandi, they attack all sites, including sites with local contractors, many of whom are SMMEs, and companies owned by [...] previously disadvantaged individuals. They intimidate contractors everywhere. They burn equipment on sites, they even go to the extent of killing.⁶⁰

Mfebe also pointed to situations where it is not only white construction companies that have been targeted by business forums companies, saying that black companies have also been targeted by these forums. According to Mfebe, there are almost 100 000 construction businesses in the sector, 87% of which are entry-level businesses.⁶¹ The business forums involved in mafia-style activities not only target large construction firms and developers, but several SMME and entry-level businesses have also become targets.

One small contractor, who survives on work subcontracted to her by larger contractors, said, 'I recently

receive a good-sized contract based on my previous work record. I was so excited. Now I am terrified and don't know if I can continue. I am being extorted by people who say they want a cut. I have children, you know, and what will happen to them if I die?⁶²

Similarly, Mpho Moropane, founder of Phoroza Trading & Projects, was awarded a R6-million contract for the construction of 50 houses in Soshanguve, north of Pretoria, by the Gauteng Department of Housing. Shortly after the contract was awarded, a group arrived on site to demand their take, 50% of the entire budget. The group also went further, proposing that they take over the entire budget and source materials for the project, leaving Moropane with little, if anything, other than an obligation to deliver the houses to the client.⁶³

Clearly, business forums involved in invasions, intimidation and extortion who use radical economic transformation to justify their activities do not seem to care whether their targets are black-owned construction companies or SMME subcontractors. Even where construction sites already include local contractors, these sites have still been targeted by business forums.

In addition, many of the business forums involved in site invasions target not only the managers and supervisors of these sites, but also workers on site, some of whom have also been assaulted and intimidated.

A major concern raised by Mfebe is that the mafia-like behaviour of business forums in the sector is following a similar trajectory to the taxi mafia. According to Mfebe, what is emerging is an environment where competition is rife and operators can get ahead either by engaging in widespread economic corruption or economic 'capture' using structures like business forums. He said, 'Common to both strategies is criminality and the building blocks towards creating a mafia state.'⁶⁴



POLITICAL AND OTHER LINKS

There are close links between business forums and some operators in the notoriously violent taxi industry.

© Shaun Swingler



The reach of organized criminal elements involved in the construction mafia is extensive. Elements within local business forums and FFRET have been able to establish links with other powerful actors, such as taxi bosses, as well as political actors.

Political links

Complicating the situation with business forums and their involvement in extortion is the blurring of lines between certain political actors and these business forums. Mfebe said he believes that some of the business forums are being used as mobilizing instruments for certain political figures at local, provincial and national levels.⁶⁵ He said, 'Political figures drive some of the business forums to retain influence and power, and these forums act as a paramilitary wing for these political figures.'⁶⁶

In 2018, an eThekweni procurement officer said, 'The group [referring to a certain business forum] operates with impunity and targets SCM [supply chain management] sections of the municipality. They tell you the mayor is "our person" and a champion of radical economic transformation.'⁶⁷ The then mayor, Zandile Gumede, strongly denied this allegation. However, in March 2021, when Gumede was indicted on 2 786 counts of fraud and corruption, the state alleged that Gumede had instructed that Delangokubona receive contracts without following proper processes.

The political links to extortionists in the construction sector go beyond the eThekweni mayor. In April 2018, Delangokubona, together with the National Funeral Practitioners Association of SA, hosted a gala dinner in honour of former president Jacob Zuma. At the dinner, the former president was given an achievement and bravery award. Delangokubona is also said to be part of a black caucus involving the National Funeral Practitioners Association of SA, Black First Land First, and the National Taxi Alliance, which were attempting to rally people behind Zuma. Ntsiki Ncayiyana, deputy president of Delangokubona, made a call for members of the public to make donations to a fund to transport supporters to the court to support Zuma in his corruption case. The call was for donations to be paid into the Jacob Zuma Trust account, despite the fact that this account was set up to provide scholarships to disadvantaged students enrolled in tertiary education institutions. When

questioned why this trust account was being used, Ncayiyana said, 'We asked to use the trust fund for donations because we wanted an account that had all the paperwork done, so that whoever is in charge of it will be liable for every cent that comes in.'⁶⁸

According to a 2021 research study, many business forums claim to be part of the radical economic transformation faction of the ANC party, which has been implicated in widespread corruption and which is closely associated with Zuma.⁶⁹

Internationally, some groups involved in extortion go beyond just the corruption of local officials and become involved in national politics and electoral processes, using their power and influence to ensure their chosen candidate wins the election. A comparable situation has arisen with the construction mafia where business forums have expected ward councillors to give them access to municipal government contracts while others joined local branches of a governing political party and tried to capture ward councillors using bribery or threats. Ward councillors who do not cooperate can be intimidated, hurt or killed.⁷⁰ Some of these activities have been linked to the killing of councillors in the Tshwane area.

The indictment of Zandile Gumede

According to the Directorate for Priority Crime Investigation's (DPCI) indictment, former eThekweni mayor Zandile Gumede and her co-accused, former councillor Mondli Mthembu, told councillors to go to their wards and find 'between four and five' community-based contractors. Of these, one from each ward was to be 'used as a vehicle through which the respective ward councillors could benefit from the payments that would accrue from the main contractors...'. Gumede and Mthembu also instructed that the remaining contractors 'be appointed for the benefit of the other structures of the ANC and business forums like Delangokubona Business Forum'.⁷¹ These meetings took place between September and December 2017, when Delangokubona was actively involved in the invasion of construction sites.

The indictment was the result of a three-year investigation by the DPCI. When the DPCI investigation was first confirmed, FFRET vowed to defend Gumede against what it said was an onslaught from enemies of radical economic transformation.⁷²



Former eThekweni mayor Zandile Gumede at the Durban High Court in June 2021 facing charges of fraud, racketeering and money laundering during her tenure as mayor.

© Darren Stewart via Gallo Images



Residents demand justice following the murder of ward councillor Tshupo Motaung. His murder is believed by some to be linked to the construction mafia. © Africa News Agency/ANA

Construction mafia linked to the death of a Tshwane councillor

Tshupo Motaung, a ward 22 councillor in Mabopane, was shot at least 20 times by unknown hitmen on 24 September 2021. Motaung's attackers were allegedly in two cars and had followed him as he was on his way home from a meeting.⁷³ The killing was believed to be linked to the ANC party's councillor candidate-selection

process whereby Motaung had been selected to represent the ward. People close to the situation interviewed by the Institute for Security Studies also linked the motive to the need to ensure the selection of a candidate more open to the 30% allocation of local construction projects.⁷⁴

In 2021, Malusi Zondi, former FFRET president and current president of the rebranded Black Business Federation (BFF), described the relationship

between local business forums and local government councillors, saying, 'Most of the people who are within our streams are now councillors'.⁷⁵

Taxi links

Since the formation of the business forums in 2015, there have been strong links between some operators in the taxi industry and business forums. When tensions arose between Delangokubona and the KwaMashu Youth Action Movement prior to the formation of FFRET, the latter group was allegedly supported with AK-47 and 9mm firearms by the local taxi industry.⁷⁶

After the formation of FFRET, when the federation was trying to manage what Zondi referred to as 'opportunistic' business forums, FFRET used taxi bosses to manage them. According to Zondi, this was effective because 'these guys [referring to taxi bosses] go peacefully [to sites], but everybody knows they have guns'.⁷⁷ There are also some business forums that are led by taxi bosses and operators who have broken away from FFRET and who are now driving some of the mafia-like behaviour that has proved so successful in the extortion of the construction sector.⁷⁸

The involvement of the taxi industry in the activities of the construction mafia and local business forums raises several issues. While it is true that many taxi owners have diversified their business interests and established side businesses outside the taxi industry, as is their right, their involvement and links to business forums involved in extortion is concerning. The taxi industry is rife with certain elements, often described as the 'taxi mafia', who use violence and intimidation to further their own business interests. This raises the question whether the rise of the construction mafia is the expansion of the mafia-style tactics from the taxi industry into other sectors. In addition, violence and 'taxi wars' associated with disputes within the taxi industry have claimed the lives of thousands of people, including both operators and members of public. Now, the presence of taxi 'strongmen' within FFRET and in breakaway forums the construction sector may be seeing similar forms of violence.



‘WE ARE NOT MARTYRS’: RESPONSES

Businesses affected by the construction mafia have appealed to government to act decisively against business forum members who resort to criminal tactics; others have sought court interdicts.

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Several businesses that have been affected by the construction mafia have sought to prevent further disruption of their construction sites by obtaining court interdicts against local business forums. Between 2016 and 2019, more than 51 court interdicts were granted against business forums and their members. However, these interdicts seem not to have deterred business forums involved in mafia-style activities. One construction executive told a journalist that although his company won an interdict against a business forum, it proved difficult to serve on the individuals involved. 'So, although we won the interdict, this did not stop them. Many of the people who were intimidating us were not even local.'⁷⁹

Another construction manager said that even where they were able to serve the interdicts on the business forum members cited, the business forums simply ignored the order. The manager cited a water project for eThekweni Municipality that has also been repeatedly disrupted by business forum members, even though an interdict had been awarded to the contractors.⁸⁰ Dominic Collett, chairman of the KwaZulu-Natal Business Chambers Council, told the GI-TOC that companies would get court interdicts against certain forum members only to have other forum members not mentioned in the order arrive on the site later.⁸¹

Businesses affected by the construction mafia have also engaged government at the local, provincial, and national level, appealing to them to act decisively against business forum members involved in criminal behaviour. However, the consensus in the industry is that government has been slow to respond to the threat. One developer said that because of the lack of an adequate response from government, developers and contractors have taken their own initiatives to address the problem of business forums. In some cases, this has meant hiring additional private security, which has obviously increased costs for these businesses.⁸² Others like Collett raised problems with this approach: 'You need a safety and security response, because we can't outgun the forums. Where do you stop, by creating your own private armies to protect against the threat?'⁸³

Internationally, businesses facing extortion often attempt to address the threat by accommodating groups involved. When it comes to the South African construction sector, the situation is no different. In December 2017, SAFCEC started to engage FFRET and eventually the two bodies agreed to work together to find a solution. According to SAFCEC CEO Webster Mfebe, immediately following these engagements FFRET made attempts to prevent its members from disrupting sites, and there

was a decline in the number of site disruptions. However, subsequently, splinter groups who were not associated with FFRET emerged and engaged in the same mafia-style tactics.⁸⁴

Other people in the industry have a less positive view regarding the success of the deal with FFRET. These people say that despite the deal, business forums like Delangokubona have continued to engage in site disruption. For some in the industry, it is also becoming increasingly difficult to separate the legitimate from the unlawful. Ronnie Siphika, an academic and chief executive of the Construction Management Foundation, raised concerns about FFRET's ability to manage its membership: 'There is no system in place to determine exactly who their members are. It is very difficult to understand how their forums are formed and the informal nature of what they do. This contributes to why they are spreading so quickly.'⁸⁵

In reality, as extortion practices of business forums have evolved, many construction companies have chosen to accommodate demands. As Collett said:

Some guys relented and just employed forum members or acceded to their demands. You can't ignore these guys so what are your options. Call the cops? Businesses were in a predicament, so they tried to formalise engagement with the forums. Eventually, the amounts businesses are paying forums becomes a line item in their budgets. What are businesses supposed to do? If there is a choice between paying a bribe or taking a bullet, most people will pay the bribe. Businessmen aren't martyrs.⁸⁶

While Collett explained why many businesses in the construction sector have chosen to accommodate extortionists, he is also keenly aware of the implications of this approach. 'Negotiating with them means recognizing them, which means legitimizing them. This is like slowly boiling a frog. Eventually, it will explode, and business will disappear because of it. Businesses can't afford to part with 30%, especially if they aren't getting any value.'⁸⁷

Adding to Collett's concerns, in some instances even when a construction business has agreed to the demands of a business forum, the approach is not always fully successful. One developer explained that sometimes, it emboldens the people invading sites to make additional demands. There are also occasions where, after reaching an agreement with a business forum, the site is invaded by a different group or business forum.⁸⁸

Despite all these problems, one thing seems clear: an increasing number of construction companies and developers are now taking the option of accommodating business forums rather than face the consequences of refusing to cooperate.

Talk is cheap: State response

At a government level, both the KwaZulu-Natal provincial government (through the provincial treasury) and the eThekweni local government have obtained interdicts against business forums. However, like those obtained by private developers and contractors, court interdicts have not necessarily prevented further invasions and intimidation. A case in point relates to the water project of the eThekweni



During his 2020 'state of the nation' speech, President Ramaphosa announced he would prioritize 'the problem of criminal groups that extort money from construction and other businesses'. © Brenton Geach via Gallo Images

Municipality, which was repeatedly disrupted by business forum members, despite an interdict being awarded against the forum.

The government has made its stance relatively clear and in 2020, both the president, and the minister of finance referred to the need to address the activities of the construction mafia. During his 'state of the nation' speech, President Cyril Ramaphosa announced he would be 'prioritising the problem of criminal groups that extort money from construction and other businesses', saying this would be done through specialized units drawn from the police and the National Prosecuting Authority to tackle these 'crimes of economic disruption'.⁸⁹ In his budget speech, Finance Minister Tito Mboweni stated, 'The disruptive actions of those who storm construction sites or mines harm growth and lead to job losses. Communities should expose such people to allow Ministers Cele and Lamola to ensure that the law takes its course. I hope all South Africans join me in condemning this.'⁹⁰

However, even given the position of government, role players within the construction sector say these statements have not necessarily resulted in concrete action to deal with the problem.

A common industry complaint has been the failure of law enforcement and government agencies to deal with the people involved in site invasions and intimidation. There have been a few instances where members of business forums have been arrested, such as the case in February 2022 of business forum members who forced their way into the Durban High Court construction site.⁹¹ However, overall, many of these business forums have been able to operate with impunity. This impunity has been a major contributing factor to the spread of mafia-like behaviour and there are numerous examples where police have failed to act during site invasions.

Mfebe cites two examples of the police's failure to act. In the first case, people terrorizing Aveng staff at the Mtentu Bridge project were arrested and then released, only to return with assault rifles to continue intimidating staff. The police did nothing to re-arrest them. The second example occurred during the March 2019 invasion of the R2.4-billion oil storage project site in Saldanha Bay. The police were called in when the site was first invaded, but, according to Mfebe, the police said they could not deal with the problem and needed to wait for the

Public Order Police (POP) unit to arrive. 'The POP unit took three hours to arrive and the police on the site just stood by and watched while the invaders burnt and looted the site. By the time the POP unit arrived there was not much left of the site.'⁹²

Developers and contractors have also reported cases where the police arrive at a site being invaded and end up 'hugging and shaking hands' with the invaders. Mfebe also referred to the lack of progress made by the police in the investigation into the murder of a black construction company owner killed in 2016 after he refused to meet the demands of a local business forum.⁹³

Some in the construction sector believe the government's apparent lack of action against business forums during site invasions is linked to their inability to effectively deal with protests over social and service delivery failures. However, others like Mfebe believe the reasons have more to do with the fact that some of the business forums have been used as mobilizing instruments for certain political figures at local, provincial and national level: 'Political figures drive some of the business forums to retain influence and power and these forums act as a paramilitary wing for these political figures.'⁹⁴

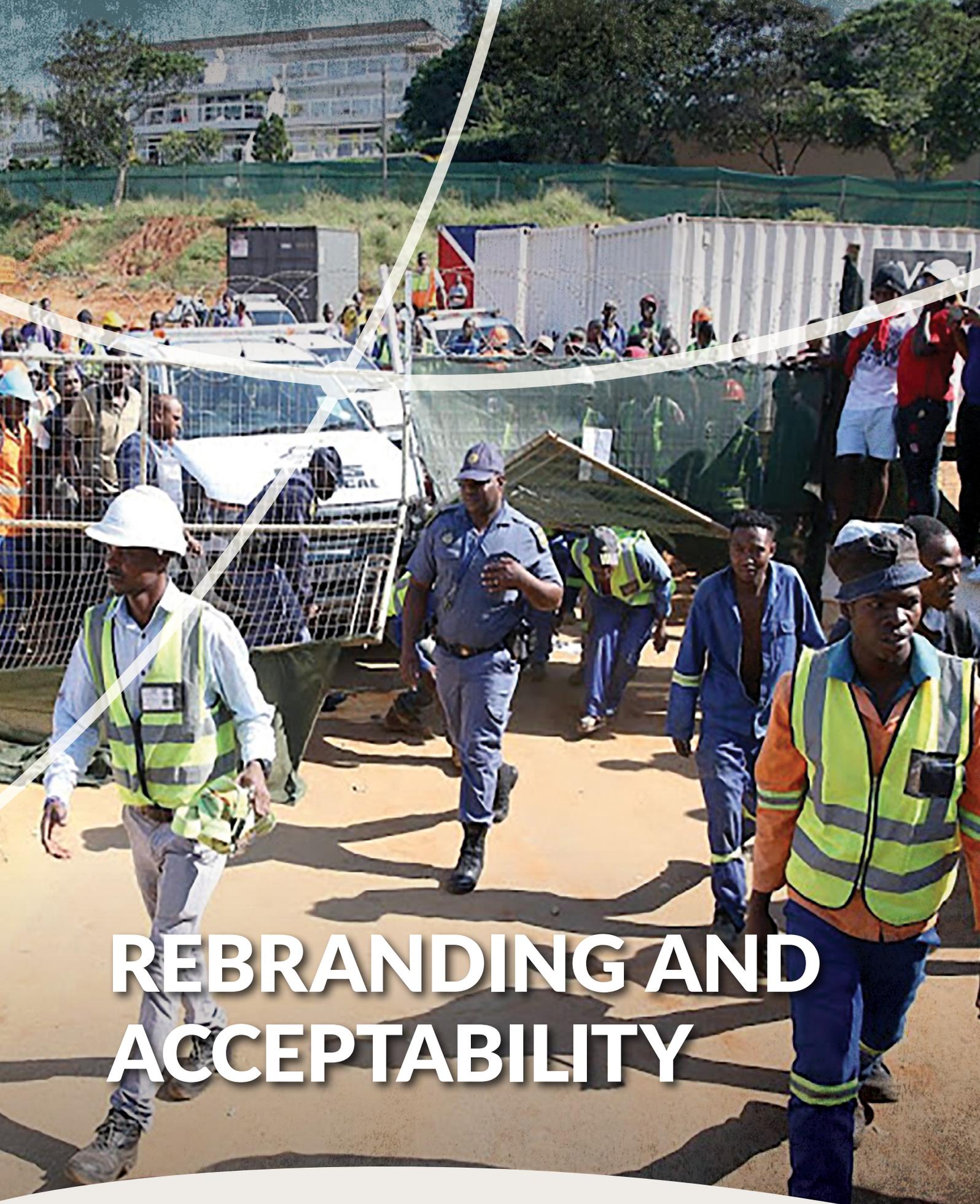
In relation to the more than 51 court interdicts issued by the courts (many of which have specifically cited intimidation and other criminal behaviour), there has been little, if any, action taken against forum leaders even when named by the courts. Highlighting the impact this has, one prominent member of a KwaZulu-Natal business forum, who has been involved in the violent invasion of construction sites, said, 'I don't deny we have invaded sites and some of us have been armed but if we are criminals or have been involved in criminal activities why haven't we been arrested?'⁹⁵

Another member of Delangokubona said, 'Construction companies don't reflect exactly what happened on the ground. They say there were guns or bullets on the table during talks. They say things that didn't happen, that aren't true. Delangokubona members have never been convicted of assault. If there is even one case of this, I will agree we intimidate.'⁹⁶

In March 2020, Mfebe told the media that, despite the statements made by both the president and minister of finance, 'ten meetings with the national police commissioner to discuss tackling the construction mafia in SA have been cancelled in the past four months.'⁹⁷ Finally, in April 2020, the national commissioner of police met with the South African Forum for Civil Engineering (SAFE).⁹⁸ In this meeting, the police commissioner confirmed that the matter would be dealt with urgently and that it would be monitored from a national perspective through a partnership with SAFE.⁹⁹

However, even after the commitments made in that April 2020 meeting, several role players in the construction sector continue to complain that they have not seen enough concrete action being taken against people involved in extortion. Dominic Collett explained: 'Few if any people from the forums have been arrested and there have been instances of concrete proof of extortion. Often businesses don't trust authorities to intervene because they might be in cahoots with the forums.'¹⁰⁰

In September 2021, the government's own Public Service Commission urged the government to act decisively against construction syndicates. Referring to the involvement of this mafia in disrupting construction sites, the Public Service Commission said, 'Six years later, the proliferation of these gangs could trigger more violent unrest similar to the July [2021] looting and violence in KwaZulu-Natal and Gauteng.'¹⁰¹



REBRANDING AND ACCEPTABILITY

Construction workers leave a building site in Umhlanga after members of the Delangokubona Business Forum halted work at the luxury development. © Thuli Dlamini via TimesLive



The GI-TOC handbook on extortion explains that often, groups involved in extortion will seek to find a balance between their extortion activities and achieving some degree of acceptability. Groups that have successfully exerted extortion over certain areas of the economy can also transition their activities into the legitimate sphere. 'Once there, they can continue the process of normalization further, sealing their criminal-regulatory role in a formalized context, as they are recognized as official political parties, interest groups or economic actors.'¹⁰² At certain points, should the need arise, groups involved in extortion can also dissolve, reform, or rebrand themselves as part of the process of garnering legitimacy.¹⁰³ In the construction sector, some local business forums have been able to gain a degree of legitimacy through a mixture of engagement with different government and private sector role players, and rebranding.

When it comes to the government, Delangokubona and FFRET's relationship has always been somewhat contradictory, with different government structures, particularly when it comes to local government. On the one hand these two structures have been involved in engagements with local and provincial government. In 2018, FFRET and the eThekweni municipality jointly hosted a Radical Economic Transformation Conference and Expo. On the other hand, both provincial and local government have interdicted Delangokubona and FFRET to prevent them from engaging in intimidation and violence.

Statements issued by both national and provincial government also indicate a level of concern and frustration with the way the two bodies and many local business forums have operated.

In the construction sector itself, engagement between FFRET and SAFCEC that began in 2017 resulted in a deal that provided FFRET with an important opportunity to gain a foothold in the construction sector. Engagements with key players in the construction sector also allowed FFRET to project itself as a legitimate interest group within the sector while also continuing to ensure that their members were able to access lucrative deals. In 2018, FFRET president Malusi Zondi said that FFRET members 'collectively earn revenue of about R50 million a month from the project participation that it has secured'.¹⁰⁴

Multiple court interdicts obtained by both government and construction companies name Delangokubona and FFRET and their leaders as being involved in violence and intimidation during site invasions. Despite this, the leader of both bodies have always denied they are part of a construction mafia, refuting claims of their involvement in violence. Zondi has admitted some of its members have been involved in shutting down sites but says that members shut down construction sites because they were robbed of their 'fair share' by contractors. He says they are no longer involved in these activities.¹⁰⁵ Zondi has also admitted that the unintended consequence of the growth of FFRET was that

business forums started sprouting up outside of the federation, enforcing their demand for participation in construction contracts by any means. According to Zondi, 'We created mafias.'¹⁰⁶

Over time, FFRET has attempted to transform itself from being seen as a group of thugs that invades construction sites into a legitimate role player within the construction sector. However, one problem it has faced in this attempt has been its relationship to Delangokubona. In February 2017, FFRET told the *Sunday Times* that Delangokubona had been expelled from the federation over disagreements with their modus operandi.¹⁰⁷ However, during a GI-TOC interview with a FFRET official more than two years later, he made it clear that this was not the case and relations between FFRET and Delangokubona had never been broken. Delangokubona's president, Nathi Mnyandu, also remained the deputy chair of FFRET.

In December 2020, FFRET was disbanded and rebranded as the Black Business Federation (BBF) at the Durban International Convention Centre. The leadership of the new BBF remained largely unchanged, with Zondi continuing as president. As with FFRET, Delangokubona was again drawn into the rebranded BFF. Speaking to the media about the rebranding Zondi said:

We decided to rebrand because we were moving away from [thuggery] and a way of doing things in a manner that would eliminate investor confidence. We wanted to attract more professionals and businesspeople, ... We were called mafia; we didn't want to be associated with that anymore. We also started being seen as being political, but we are not that, we are a lobby group for better opportunities and monitoring of policies that are in place, but which need to be implemented and are not.¹⁰⁸

During an interview with a Delangokubona official, he explained the name change slightly differently, saying, 'I think the name change was because they didn't want to be perceived as aligned to the ANC [radical economic transformation] RET faction identified with Jacob Zuma'.¹⁰⁹

Some people have welcomed the rebranding as a positive move, with the KwaZulu-Natal MEC for economic



Attendees at a Radical Economic Transformation conference jointly hosted by eThekweni municipality and FFRET. © risingsunoverport.co.za

development, Ravi Pillay, delivering a message of support from the podium at the launch. Referring to the MEC's address at this launch, spokesperson Bheki Mbanjwa told the *Daily Maverick* that when FFRET rebranded, 'it did so with the promise that it wanted to be a proper business federation that is not associated with any activity that may be considered criminal, and we took it in good faith that this was a genuine effort from the organization to become a formal business structure that engages with all stakeholders. It was for these reasons that the MEC saw it fit to honour the invitation [to BBF's launch].'¹¹⁰ Mbanjwa did, however, also say that Pillay's department was closely watching the conduct of the rebranded BBF and if there was evidence of their involvement in criminal activities this would be dealt with by law enforcement.¹¹¹

Other people are more sceptical about the rebranding with one prominent business leader saying, 'The rebranding doesn't mean much, the leadership is still the same.'¹¹² It would seem this view is supported by at least some people in the eThekweni municipality, where, according to city officials, they have had to hide potential new projects until they are ready for public release because they fear local business forums will invade these projects.¹¹³ These fears appear to be justifiable because even Zondi himself has admitted there are still business forums that operate as thugs and invade sites, but says this is because they have not yet 'come to the same realization that the BBF had'.¹¹⁴



MEASURING THE COSTS

The South African construction industry's decline has been compounded by invasions of construction sites.
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In 2020, the construction sector accounted for approximately 2.7% of the country's GDP.¹¹⁵ It employed over 1.3 million people, providing 8.3% of the total employment in South African economy.¹¹⁶ Over the last few years, the industry has experienced decline, due in part to a reduction in government spending on infrastructure. This decline was also compounded by the hard lockdown imposed after the COVID-19 pandemic in 2020, contributing to a 6.4% decline in economic activity in the sector during that year.

The invasion of sites by groups involved in the construction mafia has often led to the closure of construction sites, sometimes for considerable periods of time. In early 2019, SAFCEC reported that at least 183 infrastructure and construction projects worth more than R63 billion had been affected by these disruptions nationally. Companies involved in sites that have been disrupted and where work has been halted have often been forced to pay standing fees and for those involved in public sector projects, penalties for project delays have also been incurred.¹¹⁷ In January 2020, SAFCEC estimated losses due to these disruptions amounted to R40.7 billion nationally.¹¹⁸ It is not surprising then that some have attributed the activities of the construction mafia to accelerating the demise of certain companies and driving others to the brink of bankruptcy.¹¹⁹ According to Mfebe, while some of the larger construction companies have been able to survive by seeking work outside South Africa's borders, many of the smaller companies have been forced to close down.¹²⁰

There are almost 100 000 construction businesses in the sector, 87% of which are entry-level businesses.¹²¹ Local business forums involved in extortion have not only targeted large construction companies, but also these entry-level businesses, which lack the resources of the larger companies to accommodate extortionists. They have therefore suffered worst at the hands of the construction mafia. In addition, the

activities of the construction mafia have denied many legitimate small businesses the opportunities to benefit from subcontracts.¹²²

Sites have also been damaged and vandalized during some of these invasions, adding to costs. This has resulted in increasing overheads for infrastructure projects and delays in the delivery of critical infrastructure projects, both of which undermine service delivery and economic development. In 2018, the South African National Road Agency (SANRAL) engineering executive Louw Kannemeyer reported that many of its projects had been disrupted, some for months. As a result, in August 2017 SANRAL delayed the rollout of new projects due to the high risk posed to staff and property.¹²³

While the economic impacts may be clear, more difficult to measure is the impact of the construction mafia's behaviour on people's feelings of security and the long-term damage caused. Both SAFCEC and the Association of South African Quantity Surveyors have cited the activities of the construction mafia as a contributing factor in the decision of more than 110 engineers and other highly skilled technical personnel to leave the country. As Mfebe said, 'Once we lose that capacity, it will take years to rebuild.'¹²⁴

For those non-professionals who work in the sector and who do not possess the ability to simply 'pack and go', they are forced to now work in an environment where armed gangs may arrive at their workplace at any time and shut down the site. They face the constant insecurity that they could be physically hurt or retrenched as a result of violent site disruptions.



DEALING WITH THE CONSTRUCTION MAFIA



Whereas many South Africans have focused their attention on the shocking revelations that emerged from the high-profile Zondo Commission of Inquiry into state capture, fewer have paid attention to the role of other organized crime groups and their extortion of entire sectors of the economy. Referring to these criminal actors in the construction sector, SAFCEC CEO Webster Mfebe said, 'They have used violence and got what they wanted. What will stop them now?'¹²⁵ Mfebe's comments indicate the frustration many feel over the lack of response to this serious issue.

International examples of extortion economies indicate that once extortion groups take root, they are extremely difficult to combat. Referring to the construction mafia, Roy Mnisi believes that this type of crime should have been dealt with a long time ago when it was first reported to authorities. He said, 'Had we been able to deal with it as and when it started, I think we would've been in a position to control it to a certain extent. What is happening now is as if almost everywhere, people are aware that there are those opportunities, more especially criminals and thugs. They can see it happening in other places and they realise there are no repercussions.'¹²⁶

The state response to the extortion by the construction mafia has also exposed the contradiction and faultlines affecting the state's ability to deal with systemic corruption. While on the one hand the president and cabinet have acknowledged the activities carried out by the construction mafia as requiring state intervention, in practice, there has been little action taken against those involved.

This lack of action can be attributed to divisions within the state and ruling party, and the political links between certain elements of the business forums and political actors. Equally, weaknesses in the police and criminal justice system have also hampered the ability of the state to respond effectively to the rise of the construction mafia.

While the state and criminal justice system have an important role to play in dealing with the systemic extortion being carried out by the construction mafia, business and communities also have a role to play. These different groups need to work together to build an effective strategy for dealing with systemic extortion in the construction sector.

In dealing with this type of extortion, it is also important to acknowledge that there are socioeconomic and political dimensions to the construction mafia. Economically excluded and depressed communities not only provide fertile ground for recruitment

into mafia-type organizations like the construction mafia, but also the conditions to 'justify' extortion activities from local business forums. Dealing with extortion in the South African construction sector therefore also requires a holistic response to address the conditions giving rise to this type of extortion.

Disrupting the construction extortion economy, particularly in areas where it has taken root, is not an easy task. However, the outcomes of not dealing with this will have dire consequences not just for the construction sector but for the entire country. Failure to deal with construction mafia is also likely to result in the spread of extortion practices in other sectors. The following section sets out a pathway, with actionable responses for government, business and communities, to help avoid such a scenario.

Recommendations

A state response

In order for the state to address systemic extortion in the construction, it must first address the contradictions in its approach to this form of extortion and provide a more comprehensive strategy for dealing with systemic extortion. A critical component of this strategy is the role the criminal justice sector must play in addressing extortion.

At a policing level, a systemic approach is required that includes intelligence-led strategies to combat groups involved in extortion while also establishing common standards for investigations of cases involving extortion.¹²⁷ Linked to this approach, there should be a mechanism for monitoring and assessing the police's approach to dealing with systemic extortion, including both the police responses to incidents of systemic extortion on the ground, as well as their follow-up on criminal cases linked to extortion.

Creating a safe reporting environment

Globally, the need to create an enabling environment for people affected by extortion to report these matters to the authorities is seen as an important step in addressing extortion. In this context, there is a need for the South African state, supported by businesses, to create a safe and effective means by which victims of the construction mafia can report extortion.

Internationally, there are several examples where permanent hotlines have been established to report extortion and these hotlines have been used not only to provide support to victims, but also to collect data for use in police investigations.

Building partnerships

Dealing with the extortion by the construction mafia will require strong solidarity between government, business and communities. A coalition of private sector organizations, local communities, civil society organizations and state actors must be built and mobilized. One of the obstacles to developing partnerships aimed at addressing extortion will be the lack of trust that exists between these different actors. It will

therefore be critical to rebuild trust among the different actors. Equally important is for all actors involved in the coalition to have confidence in the state's ability to address systemic extortion and the mafia-style tactics used.

Dealing with the normalization of extortion

A major problem facing the country is the normalization of extortion practices within the construction sector. Successful campaigns against the normalization of extortion in other countries indicates that these campaigns have been most effective when they have focused on combating not only the different groups involved in extortion but also breaking down the complicity of businesses and communities.

One example of a particularly successful initiative was a 2004 campaign run by the NGO AddioPizzo (which loosely translates as 'farewell extortion') in Italy. The core of this strategy was to change the incentive structures, and to build a community of citizens who are ideologically opposed to the mafia and extortion culture, thereby creating a united front against extortion. While its mission was to encourage opposition to extortion among businesses and consumers, it also provided legal support and economic alternatives to businesses by promoting ethical consumerism to counter extortion.¹²⁸

Addressing the capacity for violence

Currently, many of the groups involved in extortion openly carry firearms, many of which are automatic and semi-automatic weapons. There is a need for the police to not only disarm such groups under the Firearms Control Act, but also to conduct a serious investigation into how these actors are able to access such weapons in the first place.

Involvement of local government

Local governments have a critical role to play in addressing extortion in the construction sector for two reasons. Firstly, many of the local business forums involved in extortion are based in local towns controlled by municipal governments. Secondly, municipalities are often responsible for the implementation of some projects that have been affected by the construction mafia. It is also clear that in places like KwaZulu-Natal, the construction mafia has had strong political ties within the municipality. Based on this, it is essential that local municipalities develop clear and effective strategies to address extortion by the construction mafia, and form partnerships to fight systemic extortion in the construction sector.

Early-warning systems

Most researchers and investigators agree that it is easier to prevent extortion economies from developing than to eradicate them once they are established. It is therefore important that the country develop early-warning and preventative systems to detect signs that an extortion economy is developing.

A socio-economic approach

Extortion within the construction sector needs to be seen partly as a manifestation of a social phenomenon with deep roots in the local political economy. Therefore, dealing with this type of extortion will require a set of responses that take into consideration the need to address a comprehensive and equitable approach to infrastructure development.

NOTES

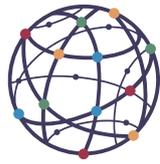
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