OFFENCE OF EXTORTION IN SOME JURISDICTIONS: A COMPARATIVE APPROACH*

Abstract
This paper studied the crime of extortion and briefly identified its distinctive features in some jurisdictions especially the United Kingdom, the United States of America, Nigeria and India. The paper examined the ingredients of extortion and the emerging challenges in identifying it as a distinctive crime different from theft and robbery. Proactive legislation and sensitization were recommended.

Keywords: Extortion, Crime, United Kingdom, United States of America, India, Nigeria

1.0 Introduction

The Black's Law English Dictionary defines extortion as 'the offence committed by a public official who illegally obtains property under the color of office, especially an official's collection of an unlawful fee. In this sense, it is also termed common-law extortion. It is 'the act or practice of obtaining something or compelling some action by illegal means, as by force or coercion'.[1] Extortion from popular usage is the act of obtaining money or property by threat to a victim's property or loved ones, intimidation, or false claim of a right. It is a felony in all states of the United States of America. It becomes a federal offence if the crime spans across states, except that a direct threat to harm the victim is usually treated as a crime of robbery[2]. Section 291 of the Penal Code defines extortion in these terms: 'Whoever intentionally puts any person in fear of any injury to that person or to any other and thereby dishonestly induces the person so put in fear to deliver to any person any property or document of title or anything signed or sealed which may be converted into a valuable security, commits extortion'.

2. Elements of the offence of Extortion

Under the Indian Penal Code (IPC) and in particular, Section 383, the ingredients of extortion are listed as follows:

1) Intentionally putting a person in fear of injury,
2) The purpose of which is to dishonesty induce the person put in fear,
3) To deliver property or valuable security.

From the definitions set out earlier in this paper and the position expressed in the Indian Penal Code, it is evident that key characteristics of extortion taken into consideration include the following factors:

Consent: Consent of the person or victim is wrongfully obtained by threat, the fear of injury or threat coercion. Consent of the victim is a primary ingredient albeit obtained by fraud, duress, diminished responsibility or entrapment.

Object – Extortion involves moveable or immoveable property to be delivered to the perpetrator. This may be expressed in signed undated documents like cheques, documents, title deeds etc. In some jurisdictions, proof of the threat either spoken or written is sufficient to secure a conviction. The property may not need to pass or move. In some other jurisdictions, the property will have to pass to prove extortion.

Perpetrators - Extortion can be perpetrated by one or more persons. It is sometimes seen as the operation of a syndicate. In some jurisdictions, particularly in the United Kingdom, extortion is seen as a form of blackmail. It is identified as a 'protection racket' and practised by what we may term organized crime.[3] In Nigeria and the United States, the role of public officials as primary perpetrators of organized crime is brought to the fore. In recent times, extortion which rings in particular sectors such as law enforcement and correctional facilities have

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[1] B A Garner (ed), *Black's Law Dictionary,* 7th Edition, West Group, St Paul, Minnesota, p. 605.

[2] Legal meaning of extortion accessed electronically from https://dictionary.law.com – legal Dictionary.law.com on 24th October 2019 at 11.21 am

[3] Indian Penal Code 1860, Section 383.

been brought to force. In the United States of America, 'Statutory extortion' is identified under Common Law and applies strictly to public officials who used their influence illegally to collect fees.[4]

It could well be derived from the perspectives set out above, that extortion is a cognizable offence and the parameters differ from region to region.

3. Extortion as a Cognizable Offence

Proof of extortion is primarily strictly on evidence either of a spoken or written threat with the latter garnering more weight. In Nigeria, the Penal Code (Northern States) Federal Provisions Act provides *inter alia* that 'any person who conspires with another by deceit or any fraudulent means to affect the market price of anything publicly sold, or to defraud the public, or any person, whether a particular person or not, or to *extort* (emphasis ours) any property from any person is guilty of a felony, and is liable to imprisonment for seven years'.[5] In the United Kingdom, extortion is considered to be a serious offence and is used interchangeably with blackmail but considered as extortion when not in writing and is punishable by fine, imprisonment or both. In India, the punishment for extortion shall be imprisonment of either description for a term which may extend to 3 (three years) or with fine, or with both[6]. In Australia, Victoria, offences relating to extortion are provided for in the Crimes Act and carry serious penalties and sentencing for extortion offences including for threat to inflict serious injury, threat to kill[7], blackmail.[8] In the United States of America, extortion under federal and state laws carries a 20-year prison sentence[9].

4. Distinguishing between Extortion, Theft and Robbery

Whilst examining the ingredients contained in the crime of extortion, scholars have submitted and submissions are rife that there is a thin line of difference in extortion, theft and robbery. It is evident that different jurisdictions perceive extortion in different lights. Whilst there are distinguishing characteristics between extortion, blackmail and or theft, there are also a few similarities. Below is a summarized distinction drawn by Debnath[10] in relation to theft, extortion, and robbery:

Theft	**Extortion**	**Robbery**
Movable property is taken away without owners consent in theft	Consent of the person is obtained wrongfully by coercion	The offender takes property without consent, Robbery being the aggravated form of theft or extortion
Theft is of movable property only	It may be movable or immovable properly	Robbery may be committed in respect of immovable property where it is
May be committed by more than one person[11]	Committed by one or more persons	Committed by one or more persons
There is no element of force or compulsion	Force or compulsion exists in extortion, the person being put in fear of injury to himself or to any other persons	Force may or may not be used
Element of fear is absent as victim is likely to be absent	Element of fear is present	Element of fear exists if robbery is a form of extortion.
Property by the victim	Property loss	Property in robbery if theft is committed in the course of robbery
Punished with imprisonment of either description for a term which may extend to	Punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both (Section 384) IPC	Punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine; and if the robbery be committed on the highway

[4] Y. Samaha, *Criminal Law, Crimes Against Property*, Chapter 11 page 448-449 New York 1
[5] Penal Code (Northern States) Federal Provisions Act, Laws of the Federation of Nigeria 2004.
[6] Section 384, Indian Penal Code, 1860
[7] Crimes Act
[8] 5 years imprisonment community correction orders, fine, adjourned undertaking, discharge, dismissal 10 years
[9] Imprisonment, community corrections orders, fine adjourned undertaking, discharge, dismissal
[10] D. Sukendar, Difference between Theft and Extortion –*Law Times Journal*, 28 May 2019 accessed electronically.
[11] Section 7 of the Nigerian Criminal Code as it relates to persons who fall into the category of offenders. The Supreme Court in the case of *Ishola v. The State* (1978) LPELR 8043 (SC) per Idigbe JSC held thus: '… According to section 7: '(a)' every person who actually does the act who does the act or makes the omission which constitutes the offence; (b) every person who does or omits to do any act for the purpose of enabling or aiding another person to commit the offence; (c) every person who aid another person in committing the offence; (d) every person who counsels or procures any other person to commit the offence is guilty of the offence…'(See section 7 of the Criminal Code, Cap C 38, Laws of the Federation of Nigeria 2004).

three years, or with fine or with both (Section 379) IPC		between sunset and sunrise it may be extended to fourteen years (Section 392) IPC

The above reflects the primary distinction in the said categories to distinguish extortion from some kindred felonies.

5. Recommendation

The following recommendations may be apposite. There should be more emphatic legislation concerning the crime of extortion. Sensitization on the distinction of extortion from other crimes like blackmail, theft and robbery should be carried out in the relevant sectors of the criminal justice sector. A re-evaluation of what constitutes extortion should be made to capture emerging trends. Extortion rings or sectors where extortion is eminent should be targeted for reforms. Legislative reforms to enforce the protection of victims of extortion should be made.