

## JOURNAL OF ANTI-CORRUPTION LAW

2025 Volume 9(1) Pages 80 – 107

### PROSECUTING ARMS PROCUREMENT FRAUD AND RELATED MONEY LAUNDERING OFFENCES IN NIGERIA: A LEGAL CUL-DE-SAC?

Aaron Olaniyi Salau\*

#### ABSTRACT

This article argues that without appropriate legislation and regulatory oversight tailored to the specific features of arms procurement, the prosecution of arms procurement fraud and related money laundering in Nigeria will continue to end in a legal impasse. A sizeable portion of public expenditure is committed to arms procurement to protect democratic institutions in both developed and developing countries. Unfortunately, arms procurement fraud constitutes the greatest corruption in public procurement, weakening public institutions and occasioning loss of lives. In Nigeria, the politics of arms procurement, lax legislative oversight, and the defence procurement exemption under the Public Procurement Act, 2007 enabled the “Dasukigate” scandal – the fraudulent diversion and laundering of over US\$2.1 billion in arms procurement funds by the Office of the National Security Adviser. This problem underscores the necessity for arms procurement to be subjected to a democratic oversight that acknowledges its sensitivity and balances the requirements of transparency with security. Using doctrinal and comparative interrogations of primary and academic sources, the article finds the criminal prosecutions to recover money laundered through arms procurement fraud to be highly challenging in Nigeria. The article therefore suggests that Nigeria adopts appropriate legal provisions, institutional reforms, and regulatory oversight to prevent arms procurement fraud and corruption.

**Keywords:** arms procurement exemption, arms procurement fraud, criminal prosecutions in Nigeria, “Dasukigate” scandal, money laundering, Public Procurement Act 2007 (Nigeria)

---

\* PhD (UCT, Cape Town), LL.M, LL.B (OAU, Ile Ife), Reader in Constitutional Law, Faculty of Law, Department of Jurisprudence & International Law, Olabisi Onabanjo University, Ago-Iwoye, Nigeria; email [aaron.salau@oouagoiwoye.edu.ng](mailto:aaron.salau@oouagoiwoye.edu.ng); Orcid: <https://orcid.org/0000-0002-6703-7794>.

## 1. INTRODUCTION

Good and accountable governance can be guaranteed to thrive when public procurement processes abide under the rule of law and effective institutions.<sup>1</sup> Effective governance should hold true for arms procurement<sup>2</sup> which requires vast percentages of national budgets, complex technologies, and secrecy, making it highly susceptible to corruption, fraud, and money laundering in developed and developing countries.<sup>3</sup> Arms procurement fraud occasions diminished security capability, loss of lives, and of scarce national resources.<sup>4</sup> In Nigeria, despite the adoption of international and domestic anti-corruption laws, procurement and contract fraud account for over 90 per cent of public sector corruption.<sup>5</sup> The Public Procurement Act, 2007, also exempts arms procurement from its purview. So, for lack of accountability, Sambo Dasuki, former National Security Adviser, allegedly diverted and laundered over US\$2.1 billion meant for weapons to fight insurgency in Northern Nigeria.<sup>6</sup> Yet, the prosecution of Dasuki and others indicted in the “Dasukigate” scandal has been a legal quagmire.<sup>7</sup> Beginning with this introduction, this article, therefore, urges that arms procurement in Nigeria be based on the principles of public sector procurement to the extent legitimately required.<sup>8</sup> Part 2 conceptualises the nexus between arms procurement fraud and money laundering, leading to part 3 which examines the

- 
- 1 See, Ogbonna H (2007) *Public Procurement Act, 2007: A Simplified Version* Public and Private Development Centre with Support from PACT Nigeria ADVANCE Program at 2.
  - 2 OECD & European Commission (2016) “Brief 23 Defence Procurement” at 2.
  - 3 Brooke-Holland L (2024a) “Defence Procurement: Challenges and Reform” House of Commons Library at 8 – 19.
  - 4 See Hepzibah P (2016) “\$2.1 Billion Arms Procurement Fraud in Nigeria: Its Impact on National Security, Peace and Sustainable Economic Development in Jonathan’s Administration 2011 – 2015” 9(2) *International Journal of Arts & Sciences* 225 – 248.
  - 5 Hepzibah (2016); Ozibo R (19 January 2025) “Procurement and Contract Fraud Account for Over 90% of Nigeria’s Public Sector Corruption – EFCC” *Nairametrics*, available at <http://nairametrics.com/2025/01/19/procurement-and-contract-fraud-account-for-over-90-of-nigerias-public-sector-corruption-efcc/> (accessed 19 January 2025).
  - 6 This was estimated to equal roughly Nigeria’s defence budget between 2007 and 2015, see Perlo-Freeman S (2017) “Nigeria’s Armsgate Scandal – Compendium of Arms Trade Corruption”, available at <https://sites.tufts.edu/corruptarmsdeals/nigerias-armsgate-scandal/> (accessed 10 August 2024).
  - 7 Perlo-Freeman (2017).
  - 8 See Omitoogun W & Hutchful E (eds) (2006) *Budgeting for The Military Sector in Africa: The Processes and Mechanisms of Control* Oxford: University Press at 28 – 40; South African Department of Defence (1998) *Defence in a Democracy: South African Defence Review* 1998.

adequacy of Nigeria's anti-money laundering laws *vis-à-vis* arms procurement fraud. Part 4 examines the intricacies of criminal prosecutions to recover laundered procurement funds. Part 5 concludes and recommends the way forward.

## **2. ARMS' PROCUREMENT, FRAUD AND MONEY LAUNDERING: CONCEPTUALISING THE NEXUS**

This part examines the nexus between arms procurement, fraud and money laundering and the extent to which public procurement principles can serve as safeguards against criminality in arms procurement. It is argued that these principles constitute the measure of integrity of public procurement decision-making and may only be limited to the extent legitimately required for arms procurement. The discussion begins by laying out the concept of public procurement and how the principles of good governance applicable thereto constitute the measure of integrity to safeguard against corruption, fraud and money laundering associated with arms procurement. It then proceeds to offer an analytical framework for balancing good governance and secrecy in the arms procurement exception.

### **2.1 Good Governance and Integrity in Public Procurement**

Public procurement is a process spanning several broad activities though three core phases identifiable in this process are the pre-tendering, the tendering and post-tendering phases during which corruption may occur.<sup>9</sup> Corruption, including fraud is understood as the abuse of public office for private gain and involves both the public and private sector organisations while money laundering is the process of integrating the proceeds of crime into legitimate stream of financial commerce to mask its origin, often involving a clandestine circular three-stage of placement, layering, and integration though not always.<sup>10</sup> Indeed, the link and mutually reinforcing

---

9 Mantzaris E (2014) "Public Procurement, Tendering and Corruption: Realities, Challenges and Tangible Solutions" 7(2) *African Journal of Public Affairs* 67 – 79 at 71.

10 See United Nations Office on Drugs and Crime "Money Laundering", available at <https://www.unodc.org/unodc/en/money-laundering/overview.html> (accessed 3 October 2024).

relationship between the prevalence of procurement fraud and money laundering is not far-fetched. Procurement fraud and money laundering are mutually reinforcing as the proceeds of procurement fraud are most likely to be laundered.<sup>11</sup> Accordingly, the nexus between effective public procurement and good governance dictates that transparency, accountability, competition, and value for money are part of the objective criteria in public procurement decision-making to deter procurement fraud.<sup>12</sup> According to the Financial Action Task Force (FATF), public office holders in bureaucratic or military echelons who enjoy a special status or are in a unique position to exercise powers over significant procurement awards have the propensity to engage in large-scale corruption and money laundering than other counterparts in other sectors.<sup>13</sup> According to Levi and Reuter, the relationship between procurement fraud and money laundering is symbiotic. Procurement fraud generates illicit capital that requires laundering, while money laundering provides the mechanisms to legitimise the proceeds.<sup>14</sup> In countries with high levels of defence spending, particularly those facing insurgency or terrorism threats (for example, Nigeria, Pakistan, and Venezuela), this relationship is heightened. In their analysis of procurement fraud in developing countries, Kaufmann and Vicente argue that arms procurement is particularly vulnerable to fraud due to the opacity of defence budgets and the use of national security concerns to justify the lack of oversight.<sup>15</sup> This lack of transparency makes it easier to inflate contracts, misappropriate funds, and later conceal these illicit activities through complex laundering schemes.

---

11 The Eastern and Southern Africa Anti-Money Laundering Group (2019) *Procurement Corruption in the Public Sector and Associated Money Laundering in the ESAAMLG Region* Dar es Salaam: ESAAMLG at 18.

12 Phillips W et al (2007) "Public Procurement: A Pillar of Good Governance?" in Knight L et al (eds) *Public Procurement: International Cases and Commentary* London: Routledge at 138; Bertók J (2005) "The Role of Transparency in Preventing Corruption in Public Procurement: Issues for Consideration" in Walker et al *Fighting Corruption and Promoting Integrity in Public Procurement* OECD at 89; Wayne AW (2005) "Linking Islands of Integrity to Promote Good Governance in Public Procurement: Issues for Consideration" in Walker et al *Fighting Corruption and Promoting Integrity in Public Procurement* OECD at 111; Søreide T (2005) "Grey Zones and Corruption in Public Procurement: Issues for Consideration" in Walker et al *Fighting Corruption and Promoting Integrity in Public Procurement* OECD at 52.

13 Financial Action Task Force (2012) "Specific Risk Factors in Laundering the Proceeds of Corruption: Assistance to Reporting Institution" Paris: FAFT.

14 Levi M & Reuter P (2006) "Money laundering" 34(1) *Crime and Justice* at 292.

15 Kaufmann D & Vicente PC (2011) "Legal Corruption" 23(2) *Economics & Politics* 289 – 375 at 201.

Efforts at domestic, regional and international levels to fight corruption have yielded to international anti-corruption norms which require states to establish anti-money laundering systems (AML systems) aside or in addition to extant anti-corruption systems, as part of the best practices and standards against procurement fraud. For instance, the United Nations Convention against Corruption (UNCAC)<sup>16</sup> and the African Union Convention on Preventing and Combating of Corruption and Related Offences (AUCPCC)<sup>17</sup> set parameters that establish the laundering of proceeds of corruption as an offence. International watchdog organisations and development partners also enjoin states to reform public procurement and establish independent, adequately resourced and professionalised AML agencies including legal mechanisms and monitoring frameworks to track, investigate and prosecute money laundering activities, and to recover stolen assets. For instance, FATF has spearheaded the establishment of Anti-Money Laundering and Combatting the Financing of Terrorism (AML/CFT) frameworks globally. FATF also recommended that Financial Institutions (FIs) and Designated Non-Financial Businesses and Professions (DNFBPs) should conduct ongoing due diligence on all business relationships including enhanced scrutiny of high-risk relationships, clients and jurisdictions. The requirements focus on detecting suspicious activities that might be related to corruption and reporting these to the relevant authorities. While anti-corruption protocols have been adopted by states many have not followed up with strong enforcement of extant procurement laws.

## 2.2 The Arms Procurement Exception

Arms procurement often deviates from the general standards of transparency and competitiveness, but allows for a wider use of discretion by contracting authorities, which unfortunately increases the risk of fraud and abuse.<sup>18</sup> Apart from the fact that the marketplace

---

16 United Nations, Treaty Series, Vol 2349, p 41 (Doc. A/58/422) (adopted 31 October 2003, entered into force 14 December 2005) arts 14, 23 & 24.

17 Adopted 1 July 2003, Entered into Force 5 August 2006, arts 4 & 6.

18 *Placprimer* (2019) "Promoting Good Governance & Citizens Access Defence Sector Reform & Oversight for Legislators and Legislative Staff" at 14.

for arms and defence procurement is monopolistic and oligopolistic, arms procurement planning does not fit neatly into yearly budgeting cycles because of its long-term nature involving development, testing, production and maintenance requirements, high costs, complex technologies, etc. Due to political sensitivity and strategic importance, the non-disclosure of technical and operational details of arms procurement may be necessary, but insufficient to justify the related risks of corruption and waste of scarce national resources. In Nigeria, the intricate nexus between corruption in the highest military and political echelons and the prolongation of the Boko Haram insurgency has been proven by scholars, thus providing context for the fallacy of the arms procurement exception.<sup>19</sup> However, the public interest in good governance will require that exceptions to disclosure be based on legitimate and explicitly recognised grounds of secrecy,<sup>20</sup> legislative oversight, and adherence to standards of integrity for defence sector contracting.<sup>21</sup>

### 3. GOVERNING ARMS PROCUREMENT AND MONEY LAUNDERING IN NIGERIA

The legislative powers of Nigeria's National Assembly (NASS), consisting of a Senate and a House of Representatives, under the amended Constitution of the Federal Republic of Nigeria, 1999 (CFRN 1999),<sup>22</sup> through which it exercises controls over public expenditure, should enable it to play a vital role in the public scrutiny of defence procurements even if not expressly mandated. Notwithstanding, the most significant corruption opportunities in Nigeria are those exploited through inflating and award of "phantom" defence contracts which are used to facilitate illicit

---

19 Adeyemo DD (2017) "Corruption in the Defence Sector and Armed Conflicts in Nigeria: Defining the Nexus" 7 *University of Ibadan Journal of Public and International Law* 332 – 355; Ojo JS et al (2020) "Enemy Within the State: The Pathology of Boko Haram Insurgency, Military Corruption, and Fallacy of Arms Procurement in Nigeria" 43(12) *International Journal of Public Administration* 1068 – 1082.

20 RP Singh (ed) (2000) *Arms Procurement Decision Making Volume II: Chile, Greece, Malaysia, Poland, South Africa and Taiwan* Oxford: Oxford University Press at 241 – 245.

21 Transparency International (2016) "Evaluation of the Functioning and Impact of the EU Defence and Security Public Procurement Directive (2009/81/EC) Across 20 EU States" TI Defence and Security Program, available at <http://tidefence.org/publications/evaluation-eu-defence-security-procurement-directive/> (accessed 23 November 2024); Eriksen S & Cardona F (2015) "Criteria for Good Governance in the Defence Sector: International Standards and Principles" Centre for Integrity in the Defence Sector.

22 Constitution of the Federal Republic of Nigeria (CFRN) 1999, sec 4(1), 4(2), 4(3) & 4(4)(a), (b).

flows via financial institutions to hidden properties and foreign countries.<sup>23</sup> This part examines Nigeria's public procurement and Anti-Money Laundering (AML) laws and their merits in combating arms procurement fraud. It exposes the failure to follow or put in place the appropriate controls necessary for transparent arms procurement governance, leading to monumental frauds.

### 3.1 Constitutional Governance

Nigeria is a constitutional democracy based on the rule of law and social justice,<sup>24</sup> it has yet to enact any specific legislation to regulate arms procurement and audit despite extant constitutional powers that support such legislative action. For instance, public expenditures must be authorised through an Appropriation Act<sup>25</sup> while public funds of the Federation cannot be taken from the treasury or expended except in a manner prescribed by NASS.<sup>26</sup> NASS possesses sufficient oversight powers over the expenditures and activities of public agencies requisite to enable it to expose corruption, inefficiency or waste in the administration of laws and public funds.<sup>27</sup> NASS, independently, and together with the executive, has constitutional function to undertake oversight of military, defence and national security institutions.<sup>28</sup> Ideally, NASS could regulate the arms procurement system by leveraging these powers both at plenary and through committees on Defence, National Security and Intelligence, Air Force, Army, and the Nigerian Navy, but has never done so.<sup>29</sup> Since NASS is authorised to domesticate Nigeria's

---

23 E Anderson & Page MT (eds) (2017) "Weaponising Transparency Defence Procurement Reform as a Counterterrorism Strategy in Nigeria" TI Defence and Security and CISLAC at 23.

24 CFRN 1999, sec 14(1).

25 CFRN 1999, sec 80(2).

26 CFRN 1999, sec 80(3).

27 Public and Private Development Centre Ltd by Guarantee (2012) "An Assessment of the Powers of the National Assembly and Implementation of the Public Procurement Act, 2007" Abuja: PPDC at 12.

28 CFRN 1999, secs 4(2), 5(5), 217(1) (2), 218 & 219.

29 See "Nigeria – Governance Defence Integrity Index" TI Defence and Security (2020), available at <https://ti-defence.org/gdi/countries/nigeria/> (accessed 14 October 2024).

international obligations to give them binding force,<sup>30</sup> an analysis of international procurement-related norms is now apposite.

### 3.2 Domestication of Nigeria's International Public Procurement/AML Obligations

Nigeria has ratified the UNCAC,<sup>31</sup> AUCPCC, and the Economic Community of West African States Protocol on the Fight against Corruption (ECOWAS Protocol), among others. The implementation of these international norms demands the State's prohibition of corruption within the context of public procurement. For instance, article 9 of UNCAC requires states parties to establish appropriate systems of procurement, based on transparency, competition and objective criteria in decision-making effective to prevent corruption.<sup>32</sup> Such systems must also address effective dissemination and access to information on the following: procurement planning; tendering rules; contract selection and award criteria; database of contractors, etc. In compliance thereof, Nigeria has enacted criminal laws and standards to prohibit, criminalise and monitor the commission, conspiracy to commit, aiding and abetting or the counselling of procurement-related fraud, money laundering, and other corrupt acts. These include the Public Procurement Act 2007 (PPA 2007), the Money Laundering (Prevention and Prohibition) Act 14 of 2022 (MLPPA 2022),<sup>33</sup> the Economic and Financial Crimes Commission (Establishment) Act 2004 (EFCC Act 2004),<sup>34</sup> the Independent Corrupt Practices Commission Act 2000 (ICPC Act 2000),<sup>35</sup> and the like.<sup>36</sup> Also, article 12 of UNCAC requires the establishment of a regulatory framework for preventing corruption in the private sector including banking and finance and enhancing accounting and auditing standards. In response thereto, public sector and specific industry

---

30 CFRN 1999, sec 10.

31 United Nations, Treaty Series, vol 2349, p 41 (Doc A/58/422) (adopted 31 October 2003, entered into force 14 December 2005), obligates states parties to undertake legislative measures to criminalise the conducts defined thereunder such as through new laws or legislative amendments.

32 See also AUCPCC, arts 7(4) and 11(3); ECOWAS Protocol, art 5(b).

33 MLPPA 2022, sec 2.

34 EFCC Act 2004, secs 11 & 15-17.

35 Secs 13, 15-17 and 18 thereof prescribe judicial, administrative and other sanctions including national civil, non-state actor and multilateral co-operation for its prevention, detection and prosecution of corrupt acts.

36 See also Miscellaneous Offences (Public Order and Nuisance) Act Cap 184 LFN 2004.



regulators have created mechanisms and codes for monitoring and sanctions. Such as the Securities and Exchange Commission (Capital Market Operators Anti-Money Laundering, Combating Terrorism Financing and Proliferation Financing) Regulations, 2022 (SEC-AML Regulations 2020),<sup>37</sup> the Nigerian Code of Corporate Governance 2018 made pursuant to its enabling Act,<sup>38</sup> and the Code of Conduct for Public Officers.<sup>39</sup> Despite these laudable efforts challenges remain in implementation and monitoring of compliance due to lack of political will and the sheer expanse of the informal sector.<sup>40</sup> These laws require further elucidation.

Nigeria's designated FIU<sup>41</sup> is responsible for coordinating and collaboration with other institutions involved in the fight against money laundering and the enforcement of all laws on economic, financial and related crimes including investigation and prosecution and recovering proceeds or assets therefrom.<sup>42</sup> Economic and financial crimes are "white-collar" criminality committed to gain wealth illegally, contrary to laws governing the economic activities of governments, including fraud, money laundering, embezzlement, bribery, looting, corrupt malpractices, and illegal arms dealings.<sup>43</sup> Such also involves the acquisition, possession, conversion, use, concealment, removal from jurisdiction, transfer to nominees, financing the commission, and retention of proceeds thereof, etc.<sup>44</sup> Under sections 6 and 19(5) of the EFCC Act, possession of pecuniary resources or property disproportionate to income which a person

---

37 Made pursuant to the Money Laundering (Prevention and Prohibition) Act 2022 and Terrorism (Prevention and Prohibition) Act 2022.

38 See Federal Republic of Nigeria Official Gazette 2019 Vol 106, available at <http://www.sec.gov.ng> (accessed 1 November 2024).

39 Adopted by the Code of Conduct Bureau established by the Code of Conduct Bureau and Tribunals Act Cap C15 Vol. 2 LFN 2004 (the Bureau receives and investigates complaints of corruption, breaches of the Code of Conduct, and abuse of office in compliance with art 8 of UNCAC, art 7 of AUCPCC, and art 5 of ECOWAS Protocol).

40 See United Nations Office on Drugs (UNODC) "Thematic Compilation of Relevant Information Submitted by Nigeria: Article 9, Paragraph 1 UNCAC, Nigeria (Sixth Meeting)" 9, available at <https://www.unodc.org> (accessed 2 October 2024).

41 Nigerian Financial Intelligence Unit Act 2018.

42 See EFCC Act 2004, secs 1(2)(c), 6, 13, 17, 32(1), 42 & 67(1). See also Proceeds of Crime (Recovery and Management) Act 16 of 2022 which permits the initiation of court proceedings abroad, based on mutual legal assistance to recover property ordered to be forfeited as the proceeds of money laundering from Nigeria.

43 EFCC Act 2004, sec 46.

44 EFCC Act 2004, secs 17 & 18.

cannot satisfactorily explain may be used in proof of any criminal charge before a court. The ICPC Act 2000 established the ICPC with effective powers to educate against, prevent, investigate and prosecute cases of corruption in public and private sectors.<sup>45</sup> Sections 8 and 9 of the Act criminalise the offences of accepting/giving or receiving directly or indirectly gratification/bribery, or an undue advantage in terms of article 15 of UNCAC which requires states parties to criminalise “bribery of public officials” that is, the intentional promise/offering/giving to or solicitation/acceptance by a public official of an undue advantage to make him or her act or refrain from acting in the exercise of official duties. Sections 19(d) and 22(5) of the Act respectively criminalise embezzlement and misappropriation and the diversion of public funds by public officers in terms of article 17 of UNCAC. Section 17 of the ICPC Act covers gratification through agents and generally encompasses the private sector.

Former President Muhammadu Buhari (PMB) (2015 – 2023) signed the MLPPA on 12 May 2022 to address the lethal effect of money laundering activities and related crimes.<sup>46</sup> The Act repealed an earlier statute to provide an expansive legal and institutional scope for the prevention and prohibition of money laundering in Nigeria and ensure compliance with international AML prescriptions. Money laundering is committed by any person who acquires, uses, retains or takes possession or control of any fund or property, intentionally, knowingly or when he reasonably ought to have known such to be, or forms part of the proceeds of an unlawful act.<sup>47</sup> The Act mandates the disclosure of transactions of certain financial thresholds by FIs and DNFBPs to a Special Control Unit Against Money Laundering (SCUML)<sup>48</sup> established to monitor and make disclosures to the competent authorities of financial information on suspected proceeds of crime and financing of terrorism.<sup>49</sup> It defines “unlawful act” expansively to include

---

<sup>45</sup> ICPC Act 2000, sec 52.

<sup>46</sup> Tairu LB (2022) “Assessing the propriety of the inclusion of legal practitioners in the meaning of Designated Non-Financial Business and Profession under the Money Laundering (Prevention and Prohibition) Act, 2022” at 1.

<sup>47</sup> MLPPA 2022, sec 18.

<sup>48</sup> MLPPA 2022, secs 2 – 7.

<sup>49</sup> MLPPA 2022, sec 17(1).

human trafficking, illicit drug and arms trafficking, corruption, bribery, fraud, etc, and any act which is a crime in Nigeria wherever committed.<sup>50</sup>

Furthermore, regulations and policies such as the SEC-AML Regulations 2022 also aim to implement international public procurement-related AML obligations. Part II thereof prescribes an AML and CFT/CPF institutional policy framework for financial institutions which relates to customer due diligence measures and red flags that pertain to money laundering. FIs and NFBs have mandatory financial and “suspicious transactions” disclosure obligations, know your customer (KYC) obligations to verify customers,<sup>51</sup> particularly “Politically Exposed Persons” (PEPs),<sup>52</sup> as beneficial owners of accounts, and must undertake customer due diligence. In view of the above, an analysis of the public procurement law and how such applies within the Nigerian Armed Forces – Army, Air Force and Navy – is essential.

### **3.2.1 Arms Procurement in the Nigerian Armed Forces**

Arms procurement decision-making for national defence is a complex endeavour involving the Ministry of Defence (MoD), a large entity consisting of two broad components: military – Army, Navy, Air Force, Defence Headquarters and other military institutions;<sup>53</sup> and civilian – administrative, including procurement departments.<sup>54</sup> MoD prepares security budgets and procurement proposals, but strategic military weapons are actually procured independently by the military though MoD has made efforts to assert itself since 2003.<sup>55</sup> Defence procurement is the preserve of the military hierarchy under the Chief of Defence Staff (CDS) in consultation with the civilian departments, which assist the executive arm in producing budget proposals.<sup>56</sup>

---

50 MLPPA 2022, sec 18(6).

51 MLPPA 2022, sec 4(1), 4(2).

52 MLPPA 2022, sec 4(8).

53 See Ministry of Defence “Our Structure”, available at <https://defence.gov.ng/our-structure/> (accessed 7 September 2024).

54 Ministry of Defence “Our Structure”.

55 See Tafida ML (2005) “A Critical Examination of the ‘Trinity’ of Civil-Military Relations in Nigeria’s Liberal-Democracy, 1999-2019” 6(1) *The Journal of Zaria Historical Research* 34 – 52 at 45.

56 Omitoogun W & Oduntan T (2006) “Nigeria” in W Omitoogun & E Hutchful (eds) *Budgeting for the Military Sector in Africa: The Processes and Mechanisms of Control* Oxford: Oxford University Press at 162 – 165.

However, there is no up-to-date national defence policy to guide arms procurement decision-making in Nigeria, while the larger defence budgetary process is underlined by extra-budgetary spending, weak parliamentary control, and non-involvement of civil society.<sup>57</sup> Unfortunately, between 2007–2015, ONSA, particularly under retired Colonel Sambo Dasuki as NSA, and with Presidential approval, gradually usurped some functions of MoD with respect to arms purchases and operational policy of the Armed Forces.<sup>58</sup> The “war” against Boko Haram in Northern Nigeria provided ready justification for phantom contracts. Contracts were signed and funds allocated without detailing tenders, competitions, proper accounting, or any actual acquisitions.<sup>59</sup>

### **3.2.2 Arms Procurement Exemption under PPA 2007**

Incidentally, PPA 2007 was enacted to eschew corrupt practices, achieve transparency and ensure value for money in procurements of goods, works and services sourced by the federal government and its agencies from the federal budget.<sup>60</sup> However, national security and defence-related procurements, that is, “special purpose goods” (armaments and equipment) are exempted except with the President’s approval.<sup>61</sup> The Bureau of Public Procurement (BPP) was established to monitor public procurement based on fundamental principles such as procurement planning backed by prior budgetary allocations, value for money, efficiency, according to laid down procedures, etc., and may classify special goods and services (for which no extant criteria exists).<sup>62</sup> Special goods means “any objects of armaments, ammunition, mechanical, electrical equipment or other thing as may be determined by the President needed by the Armed Forces or Police Force as well as the services incidental to the supply of these objects”.

---

57 Omitoogun & Oduntan (2006) 186.

58 Tafida (2005).

59 Perlo-Freeman (2017).

60 PPA 2007, sec 4.

61 PPA 2007, sec 15(2).

62 Onyekpere E (2009) “Insisting on Due Process (Public Procurement Monitoring Manual)” Abuja: Centre for Social Justice at 33 – 37, available at <https://csj-ng.org/wp-content/uploads/2022/03/Insisting-on-Due-Process.pdf> (accessed 7 August 2024).

Conversely, the United Kingdom's Procurement Act, 2023 (2023 Act), effective February 2025, guides public procurements and allows for the derogations and flexibility required for defence and security contracts. The 2023 Act exempts the Security Service, the Secret Intelligence Service, and the Government Communications Headquarters.<sup>63</sup> Schedule 2 thereof exempts certain contracts from public scrutiny, namely: "Government-to-Government"; if not "in the interests of national security"; based on intelligence activities; etc, and provides for debarment of contractors on national security and other grounds.<sup>64</sup> Though the Act provides for an expansive scope for reliance on the national security exemption, such must be properly justified by evidence.<sup>65</sup> The 2023 Act is tailored to UK requirements but its comprehensive provisions offer potential for several amendments to PPA 2007, now being sought to be made by NASS. Section 9(1)(b)(vii) of the Public Procurement Act (Amendment) Bill 2018 seeks to amend section 15 of PPA 2007 and extend its application to: "(1) ... all procurement of goods, works and services carried out by ... [T]he National Defence and National Security Agencies", and further that:

- (2) The national defence and national security agencies shall comply with the provisions of this Act subject to the following:
  - (a) The Ministers of Defence and Interior shall seek and obtain President's approval categorizing the goods, works and services to be procured into either open or special/restricted items;
  - (b) The national defence and national security agencies and the Council shall agree on the special and restricted procurement methods, including request for proposals and request for quotations, set out in this Act that shall be applied for the procurement of the restricted items accordingly; and

---

63 See Brooke-Holland L (2024b) "Defence Procurement: The Procurement Act 2023 and the Defence and Security Public Contract Regulations", available at <https://commonslibrary.parliament.uk/research-briefings/cbp-9666/> (accessed 4 December 2024).

64 Brooke-Holland (2024b).

65 See Pereira M, Head L, Rogers V & Beaman H (2024) "UK Defence Procurement: Navigating the Impact of the Procurement Act: Exclusions, Debarment, Termination and National Security", available at <https://www.dlapiper.com/en/insights/publications/2024/07/uk-defence-procurement-navigating-the-impact-of-the-procurement-act> (accessed 4 January 2025).

- (c) The national defence and national security agencies shall include the Armed Forces; the Nigeria Police Force and any other agency as may be approved by the President.

Such inclusion if accepted offers a ray of hope for the plausible reduction in arms procurement corruption provided the executive discretion in (a) and (c) above is subject to some legislative oversight of every justification for its exercise. The requirement of justification is apposite considering the broadness of the President's powers in paragraphs (a) to (c) and the recent misdirected use of such powers *vis-à-vis* the "Dasukigate" scandal.

#### 4. PROSECUTING ARMS PROCUREMENT-RELATED FRAUD

The "Dasukigate" arms scandal involved the theft and fraudulent diversion of over US\$2.1 billion between 2007 and 2015 by ONSA through phantom arms procurement contracts unearthed by the Presidential Committee on Audit of Defence Equipment Procurement (P-CADEP).<sup>66</sup> The Committee recommended several senior military and public officials implicated in the fraud for investigation and possible prosecution.<sup>67</sup> This part highlights the challenges in prosecuting the NSA and others indicted.

##### 4.1 P-CADEP's Reports of Investigations

P-CADEP was set up by President Mohammadu Buhari (2015 – 2023), on assumption of office, as part of his anti-corruption election manifesto, to review the process of arms and equipment procurement for the Nigerian Armed Forces to tackle the Boko Haram Insurgency between 2007 and 2015. The military hardware and equipment sourced included alpha jets, helicopters, bombs,

66 See, Centre for Democracy and Development (2021) "20 Years of Anti-Corruption Efforts In Nigeria: A Critical Look" 17, available at [www.20-Years-of-Anti-corruption-in-Nigeria\\_-CDD-Report.pdf](http://www.20-Years-of-Anti-corruption-in-Nigeria_-CDD-Report.pdf) (accessed 20 August 2024).

67 United Nations Office on Drugs and Crime (2017) "Knowledge tools for academics and professionals: UNODC Module Series on Anti-Corruption: Module 4 Public Sector Corruption" at 16; Williams-Elegbe S (2012) *Fighting Corruption in Public Procurement: A Comparative Analysis of Disqualification or Debarment Measures* Oxford: Hart Publishing at 50; Salisu M (2000) "Corruption in Nigeria" Lancaster University Management School, available at <http://eprints.lancs.ac.uk/48533/1/Document.pdf> (accessed 10 October 2024); Adeoye S (2016) "Unending Roll Call: The List of Actors and Players Linked to the \$2.1billion Arms Deal Scandal Continues to Grow. Who's next?" 5(8) *EFCCALERT!* at 3 – 5.

navy gunboats, armoured personnel carriers with spares, unmanned aerial vehicles, and non-military goods like ambulances. P-CADEP's first Interim Report was submitted on 16 August 2016. The Report alleged that between 2010 and 2015, "several billions of Naira were received by the Nigerian Army from the Federal Government for procurement of Military hard-wares and were discovered to have been misappropriated by Senior Army Officers".<sup>68</sup> According to the EFCC, an investigation conducted revealed numerous extra-budgetary allocations for the award of 513 contracts worth N643.8 billion to about 300 companies by ONSA in addition to almost \$2.2 billion allegedly disbursed to it. Details show *inter alia* that Dasuki (former NSA) not only ordered cash withdrawals in foreign currencies from the Central Bank of Nigeria (CBN) vault but also several undocumented bank transfers and cash deliveries in local and foreign currencies to subordinates and cronies. Funds were diverted to politicians in the then ruling People's Democratic Party (PDP) for the re-election bid of former President Goodluck Ebele Jonathan in 2015. Some recipients claimed either receiving money for innocuous purposes or denied knowing the fraudulent source.

Surprisingly, in early May 2016, the EFCC reported that the previously quoted figure of US\$2.1 billion related to just one transaction but a total of US\$15 billion had in fact disappeared.<sup>69</sup> P-CADEP's Third Interim Report thus contained an expanded list of persons indicted including 18 military officers, PEPs and Chief Executive Officers of private companies. These included a former Chief of Defence Staff (CDS), Air Chief Marshal Alex Badeh, two former CDS, two former Chief of Air Staff (CAS) namely, Air Marshal MD Umar and Air Marshal Adesola Amosu.<sup>70</sup> The Third Interim Report found several anomalies including excessive pricing, the procurement of unreliable equipment that reduced the capacity of the Army and resulted in avoidable loss of lives,<sup>71</sup> and contract awards by MoD without significant input from the end-user (for example, the Army) and

---

68 *Nairaland Forum* (14 July 2016) "Interim Report of Presidential Committee on the Audit of Defence Equipment - Politics – Nairaland", available at <https://www.nairaland.com/3227253/interim-report-presidential-committee-audit> (accessed 2 August 2024).

69 Perlo-Freeman (2017).

70 *Premium Times* (nd) "Press Release on the Third Interim Report of the Presidential Committee on Audit of Defence Equipment Procurement from 2007 to 2015" 7, available at <https://media.premiumtimesng.com/wp-content/files/2016/07/Draft-press-release-CADET-3rd-interim-report-watermarked.pdf> (accessed 2 August 2024).

71 *Premium Times* (nd) 5.

to vendors lacking any technical competence.<sup>72</sup> A notable fraud was the preferential contract awards involving huge monetary values to individuals related to the CAS without competitive bidding followed by non-delivery despite full payments made.<sup>73</sup> Another was ONSA's mandate to the CBN to release \$386 954 000 for "procurement of technical equipment" that was not linked to any particular items of procurement.<sup>74</sup> Interestingly, former President Jonathan under whose sole authority the NSA acted was never invited to provide answers to some nagging issues related to the exercise of powers or authorisations relied on by the NSA to commit such mind-boggling financial atrocities.

#### **4.2 The Sambo Dasuki Trial(s)**

Top on the list of ongoing prosecutions of high-ranking public officials and military elites for arms procurement fraud-related offences is retired Colonel Sambo Dasuki (NSA from 2010-2015). Dasuki has faced multiple charges since December 2015 relating to money laundering, fraud, and criminal breach of trust brought by EFCC. Dasuki was granted bail several times but was held in detention for over four years before being released in December 2019. Dasuki's trial is bedevilled by several legal complexities. He was first charged on a seven-count charge for criminal diversion and laundering of funds and illegal possession of arms on 1 September 2015.<sup>75</sup> Dasuki was arraigned with three others on a 19-count charge (later increased to 32) on 14 December 2015 for allegedly laundering N13 570 000 000 stemming from phantom arms contracts from ONSA.<sup>76</sup> On 18 December 2015, he was charged with five others at the Federal Capital Territory (FCT) High Court, Abuja, on a 22-count charge of misappropriation, conspiracy, abuse of office, diversion of

---

<sup>72</sup> *Premium Times* (nd) 1.

<sup>73</sup> *Premium Times* (nd) 2.

<sup>74</sup> *Premium Times* (nd) 4.

<sup>75</sup> Corruption Cases Database "FRN vs Col. Sambo Dasuki (Former National Security Adviser)", available at <https://corruptioncases.ng/cases/frn-vs-col-sambo-dasuki-former-nationa-2> (accessed 25 August 2024).

<sup>76</sup> See Corruption Cases Database "FRN vs Col. Sambo Dasuki (Former National Security Adviser) & 3 Others", available at <https://corruptioncases.ng/cases/frn-vs-col-sambo-dasuki-former-nationa-1> (accessed 2 September 2024).



funds and criminal breach of trust involving a similar amount.<sup>77</sup> On 30 January 2024, a prosecution witness testified that Attahiru Bafarawa, a former Governor and fourth defendant in the latter, used N4.6 billion of the security funds collected from Dasuki to offset his overseas mortgage and acquire expensive vehicles.<sup>78</sup>

However, accusations of high-handedness against trial judges by Dasuki had led to a recusal and re-assignment of cases. Sometimes, the defendant had to be re-arraigned, and trials recommenced due to transfer, promotion or elevation of a trial judge to a higher court.<sup>79</sup> The defendant's absence in court,<sup>80</sup> multiple interlocutory applications and appeals involving requests for stay of prosecution<sup>81</sup> and other technical objections,<sup>82</sup> have frustrated the trials. Furthermore, prosecution was discontinued against some accomplices to turn them to prosecution witnesses<sup>83</sup> while charges were withdrawn against others without reason.<sup>84</sup> Section 174 subsections (1)(a)(c) and (3) of CFRN 1999 empower the Attorney-General of the Federation

---

77 Corruption Cases Database "FRN vs Col. Sambo Dasuki (Former National Security Adviser) & 5 others", available at <https://corruptioncases.ng/cases/frn-vs-col-sambo-dasuki-former-nationa> (accessed 2 September 2024).

78 EFCC "How Bafarawa Diverted N4.6bn from ONSA – Witness", available at <https://www.efcc.gov.ng/efcc/news-and-information/news-release/9724-how-bafarawa-diverted-n4-6bn-from-onsa-witness> (accessed 2 September 2024).

79 Akinkuotu E (24 May 2022) "N23.3bn fraud: Dasuki's case begins afresh after seven years" *Punch*, available at <https://punchng.com/n23-3bn-fraud-dasukis-case-begins-afresh-after-seven-years/> (accessed 2 September 2024).

80 Ebuzor C (7 December 2016) "Dasuki: Absence of 2nd Defendant Stalls Proceeding, Adjourned Until Jan. 25" *The Nation* (visited 7 December 2016), available at <https://thenationonline.net/dasuki-absence-2nd-defendant-stalls-proceeding-adjourned-jan-25/> (accessed 7 December 2024).

81 See "Col. Mohammed Sambo Dasuki (Rtd.) V Federal Republic of Nigeria", available at [https://www.funmiquadronline.com/search/COL.%20MOHAMMED%20SAMBO%20DASUKI%20\(RTD.\)%20V%20FEDERAL%20REPUBLIC%20OF%20NIGERIA.html#](https://www.funmiquadronline.com/search/COL.%20MOHAMMED%20SAMBO%20DASUKI%20(RTD.)%20V%20FEDERAL%20REPUBLIC%20OF%20NIGERIA.html#) (accessed 23 November 2024).

82 EFCC "ONSA Arms Deal: N4.6b was Traced to Bafarawa's Son-Witness Tells Court", available at <https://www.efcc.gov.ng/efcc/news-and-information/news-release/10008-onsa-arms-deal-n4-6bwas-traced-to-bafarawas-son-witness-tells-court> (accessed 12 October 2024).

83 Omonobi K (18 April 2021) "EFCC Prosecuting Witness Owns Kaduna Hotel Linked to Dasuki – Investigation" *Vanguard News*, available at <https://www.vanguardngr.com/2021/04/efcc-prosecuting-witness-owns-kaduna-hotel-linked-to-dasuki-investigation/> (accessed 12 October 2024).

84 Olabimtan B (3 May 2023) "Malami Terminates 'N1.8bn Fraud' Suit Against Dasuki's Ex-Aide After Taking Over Case From EFCC" *The Cable*, available at <https://www.thecable.ng/malami-terminates-n1-8bn-fraud-suit-against-dasukis-ex-aide-after-taking-over-case-from-efcc/> (accessed 12 December 2024); Blankson E (4 May 2023) "FG withdraws N1.8bn Fraud Case Against Dasuki's Ex-Aide" *Punch*, available at <https://punchng.com/fg-withdraws-n1-8bn-fraud-case-against-dasukis-ex-aide/> (accessed 12 December 2024).

(AGF), who “shall have regard to the public interest, the interest of justice and the need to prevent abuse of legal process” to institute, undertake and discontinue any criminal proceedings against any person regarding any offence in any Act of NASS. Despite arguments to the contrary, the judicial opinion in Nigeria is that any exercise of such powers by the AGF, who is deemed to be unfettered in these regards, is not subject to judicial review even if the decision could be considered an abuse of power.<sup>85</sup>

#### 4.3 Other Prosecutions

Few convictions have been recorded, but out-of-court settlements are common while several prosecutions have been stuck in a legal quicksand. Air Vice Marshal (AVM) Adesola Amosu (former Chief of Air Staff) and others, for instance, were first arraigned on 29 June 2016 for N22.8 billion fraud, conspiracy, stealing, money laundering, and converting funds belonging to NAF to their personal use. The amount included money paid into NAF Operations account by ONSA, N3 billion maritime security support paid to NAF by NIMASA and N18.2 billion moved out of NAF’s accounts into the defendants’ crony companies. They were also accused of concealing the proceeds of crime. Amosu and two others were later re-arraigned on 13 November 2018 at the Federal High Court (FHC), Lagos, on an amended 13-count charge bordering on money laundering to the tune of N21 billion to which they pleaded not guilty.<sup>86</sup> One of the counts reads:<sup>87</sup>

That you, Air Marshal Adesola Amosun Nunayon (RTD) Air Vice Marshal Jacob Bola Adigun and Air Commodore Gbadebo Owodunni Olugbenga, on or about the 5th day of March, 2014 in Lagos, within the jurisdiction of this Honorable court conspired amongst yourselves to convert the total sum of N21,467,634,707.43

85 See *Col Halilu Akilu v Chief Gani Fawehinmi* (1989) LPELR-20424, 8-9 (CA). See further *Ndi Okereke Onyuike v The People of Lagos State* (2013) LPELR-24809 (CA); *Fawehinmi v Akilu* [1987] 4 NWLR (Pt 67) 797, 829; *Attorney-General of Kaduna State v Mallam Umaru Hassan* (1985) LPELR-61726 (SC); *State v Ilori* [1983] 1 SCNLR 94 (SC).

86 EFCC (13 November 2018) “EFCC Re-arraigns Ex-Air Chief, Amosu, Others for N21bn Fraud”, available at <https://www.efcc.gov.ng/efcc/news-and-information/news-release/3427-efcc-re-arraigns-ex-air-chief-amosu-others-for-n21bn-fraud> (accessed 12 December 2024).

87 See EFCC (8 March 2023) “Court Adjourns Ex-Air Chief, Amosu, Others’ Alleged N21bn Fraud Trial Till June 7”, available at <https://www.efcc.gov.ng/efcc/news-and-information/news-release/8950-court-adjourns-ex-air-chief-amosu-others-alleged-n21bn-fraud-trial-till-june-7> (accessed 20 December 2024).

(Twenty One Billion, Four Hundred and Sixty Seven Million, Six Hundred and Thirty Four Thousand, Seven Hundred and Seven Naira, Forty Three Kobo), property of the Nigerian Air Force which sum you reasonably ought to have known forms part of proceeds of your unlawful activities to wit: criminal breach of trust, and hereby Committed an offence contrary to section 18(a) of the Money Laundering (Prohibition) Act, 2011 (as amended) and punishable under section 15(3) of the same Act.

Meanwhile, on 16 January 2019, the EFCC obtained a court order forfeiting N2.2 billion allegedly recovered from Amosu to the federal government in addition to N101 million recovered from Solomon Enterprises, a company linked to Amosu. The defendants filed a preliminary objection challenging the EFCC's and court's jurisdiction to investigate and try them being serving military officers subject only to a court-martial by virtue of section 114 of the Armed Forces Act, 2004.<sup>88</sup> Consequently, the Court struck out the N22.8 billion fraud charge.<sup>89</sup> In a discordant twist, Lieutenant-General Azubuike Ihejirika, was named, investigated, and about to be charged for diversion of N13 billion meant for arms during his tenure as Chief of Army Staff, but obtained a court order preventing any formal charge against him.<sup>90</sup> Similarly, Lieutenant-General Kenneth Minimah, Ihejirika's successor, when about to be charged with other senior military officers for diverting the self-same N13 billion, also obtained an *ex parte* order restraining the EFCC from prosecuting them being persons subject only to the Armed Forces Act.<sup>91</sup>

However, few trials have been completed.<sup>92</sup> AVM Rufus Adeniyi Ojuawo was arraigned in 2016 for corruptly receiving N40 million and a Range Rover sports car from Societe D' Equipments

88 Igbintade W (7 February 2024) "Respite for Amosu, Others, Court Quashes N21.5 Billion Money Laundering Charge" *Thisday Newspaper*, available at <https://www.thisdaylive.com/index.php/2024/02/07/respites-for-amosu-others-court-quashes-n21-5-billion-money-laundering-charge/> (accessed 20 December 2024).

89 Soyele S (6 February 2024) "Court Strikes Out N22.8bn Fraud Charge Against Ex-Chief of Air Staff", available at <https://www.channelstv.com/2024/02/06/court-strikes-out-n22-8bn-fraud-charge-against-ex-chief-of-air-staff/> (accessed 20 January 2025).

90 Olorok F (13 December 2021) "Court stops trial of ex-Army chief, others over N13.8bn fraud" *Punch*, available at <https://punchng.com/court-stops-trial-of-ex-army-chief-others-over-n13-8bn-fraud/> (accessed 26 September 2024).

91 Ejike S (23 February 2022) "Court Threatens to Strike Out Lt. Gen. Minimah's Suit Against AGF, EFCC" *Nigerian Tribune*, available at <https://tribuneonline.ng.com/court-threatens-to-strike-out-lt-gen-minimahs-suit-against-agf-efcc/> (accessed 5 September 2024).

92 Chief Olisa Metuh, PDP spokesman, was tried for receiving NGN 400 million, convicted of money-laundering and criminal diversion of funds he allegedly received fraudulently from the NSA office ahead of the 2015

Internationaux (SEI) Nigeria Limited in the course of duty. After the trial, the court dismissed the charge and acquitted the defendant for the prosecution's failure to proof any "corrupt" receiving.<sup>93</sup> Similarly, AVM Omenyi (retired) was prosecuted with his company, Huzee Nigeria Limited, on an amended three-count charge on abuse of office and money laundering.<sup>94</sup> Contrary to his defence, the court found that the N136 million plus transferred to Huzee were not reimbursements for expenses purportedly expended on a NAF contractor's behalf but kickbacks.<sup>95</sup> He was sentenced to seven years' imprisonment for abuse of office and money laundering. He was arraigned on 11 November 2016 and convicted on 28 February 2019.<sup>96</sup> In Charge No FCT/HC/CR/182/2016 *FRN v AVM Alkali Mohammed Mamu*,<sup>97</sup> the defendant was arraigned on 21 June 2016 before the FCT High Court, Abuja, and tried on an emended four count charge of bribery. Count 2 reads:

That you, AVM Alkali Mohammed Mamu whilst serving as the Group Managing Director (GMD) NAF Holding Company and Air Officer Commanding Training Command and charged with responsibility to supervise/oversee NAF Procurement through the Office of the National Security Adviser for certain military supplies by Societe D' Equipments Internationaux Nigeria [SEI] Limited on or about 11<sup>th</sup> September 2014, at Abuja within the Jurisdiction of this Honourable Court did corruptly accept a gift in the sum of five million nine hundred thousand (N5,900,000.00) from Societe D' Equipments Internationaux Nigeria Limited, a contractor with the Nigerian Air Force in performance of your official act and you

---

presidential elections and sentenced to seven years' imprisonment, a judgment later upheld by the Supreme Court. Bala James Ngillari, former Governor of Adamawa state, was convicted by the High Court for receiving NGN 450 million but acquitted on appeal. Waripamowei Dudafa, former special advisor to former President Goodluck Jonathan, was convicted of sharing in NGN 10 billion taken from ONSA and given to PDP candidates.

93 Mboho J (11 November 2022) "Why Court Set Aside Conviction of EFCC Boss", available at <https://nairametrics.com/2022/11/11/why-court-set-aside-conviction-of-efcc-boss/> (accessed 14 November 2024).

94 See VI "FRN vs AVM Tony Omenyi & 1 Other", available at <https://v1.corruptioncases.ng/export/frn-vs-avm-tony-omenyi> (accessed 5 September 2024).

95 See EFCC (28 February 2019) "Armstrong: Court Sentences AVM Omenyi to 21 Years in Prison", available at <https://www.efcc.gov.ng/efcc/news-and-information/news-release/3821-armstrong-court-sentences-avm-omenyi-to-21-years-in-prison> (accessed 21 December 2024).

96 EFCC (28 February 2019).

97 See EFCC (21 June 2016) "EFCC Docks AVM Mamu for N5.9m Bribe", available at <https://www.efcc.gov.ng/efcc/news-and-information/news-release/1988-efcc-docks-avm-mamu-for-n5-9m-bribe> (accessed 12 December 2024).

thereby committed an offence contrary to Section 17(a) of the Independent Corrupt Practices and other Related Offences Act, 2000 and punishable under Section 17(c) of the same Act.

Counts 1, 3 and 4 alleged corruptly accepting gifts of N5 900 000 (Five Million Nine Hundred Thousand Naira), a Jaguar XF Saloon Car valued at N12 500 000 (Twelve Million Five Hundred Thousand Naira) and a Ford Expedition SUV valued at N15 000 000 (Fifteen Million Naira) respectively from the same SEI Nigeria Limited in related circumstances. On 29 June 2018, the defendant was discharged and acquitted by the trial court which had refused to admit his confessional statement as evidence albeit on technicalities.<sup>98</sup> However, he had returned the cars, N59 Million and the Naira equivalent of US \$300 million during investigation though he withheld “protected information” the disclosure of which he claimed “will be injurious to ... Nigeria”.<sup>99</sup> On appeal by the EFCC, the Court of Appeal upturned the acquittal, convicted and sentenced Mamu to 2 year jail term with N500 000 option of fine on count 2 but acquitted him on counts 1, 3 and 4. The Court noted the lack of proof beyond reasonable doubt of “corruptly receiving” gifts because the purported giver was not called to testify.<sup>100</sup>

However, not all completed cases were on the merits. For instance, Jafaru Isa, a close ally of PMB and former military governor, was accused of receiving over ₦170 million from the diverted arms funds. Isa returned part of the money he received. His prosecution did not proceed after his repayment, leading to public criticism of selective prosecution. Patrick Akpobolokemi, former Director General (DG) of the Nigerian Maritime Administration and Safety Agency (NIMASA), though not directly related to military arms procurement, Akpobolokemi was involved in the diversion of funds for maritime security. He faced multiple trials for fraud and money laundering.

---

98 *PRNigeria* (29 June 2018) “Victory at Last: Court Acquits Ex-NAF chief, AVM Mamu... Dismisses EFCC Bribery Charges”, available at <https://prnigeria.com/2018/06/29/court-acquits-avm-mamu-naf/> (accessed 10 August 2024).

99 Cleen Foundation “Federal Republic of Nigeria – Complainant and A.V.M. Alkali Mohammed Mamu” 10 – 11, 15 – 16, available at <https://cleen.uwazi.io/en/entity/u6dmryzcs4?page=10> (accessed 11 November 2024).

100 EFCC (29 July 2020) “Court Jails Ex-Air Force Chief, AVM Mamu Over Corruption” *Vanguard News*, available at <https://www.vanguardngr.com/2020/07/corruption-charge-appeal-court-jails-ex-air-force-chief-avm-mamu/> (accessed 4 September 2024); Cleen Foundation “Federal Republic of Nigeria – Complainant and A.V.M. Alkali Mohammed Mamu” at 52 – 54.

He was acquitted in some cases but still faces other charges. Among the “completed” prosecutions is that of AVM Alex Badeh, who was charged with diverting ₦3.97 billion meant for arms procurement during his tenure as CDS. The funds were allegedly used for personal enrichment, including the purchase of choice properties in Abuja. He was first arraigned in 2015 on a ten-count charge bordering on criminal breach of trust and abuse of office later amended on 4 July 2018 to a 14-count charge bordering on money laundering. One of the charges read:

That you, AIR CHIEF MARSHAL ALEX S. BADEH (RTD) and IYALIKAM NIGERIA LIMITED on or about 24th February 2016 in Abuja within the jurisdiction of this Honourable Court, did retain possession of the sum of \$1,000,000.00 (One Million Dollar) only which you kept at No.6 Ogun River Street, Off Danube Street, Maitama, Abuja which funds you reasonably ought to have known formed part of the proceed of your unlawful activity to wit: theft, criminal breach of trust or corruption and you thereby committed on offence contrary to Section 15 (2) (d) of the Money Laundering (Prohibition) Act 2011 as amended in 2012 and punishable under Section 15 (3) of the same Act.

After calling 21 witnesses, the prosecution closed its case. Badeh’s counsel informed the court he would be making a no-case submission, noting that the prosecution had failed to establish the essential ingredients of the offence. While the trial was ongoing, Badeh was assassinated in December 2018. The trial of MD Umar, among the *dramatis persone* in the arms procurement saga, had a bizarre twist. Umar was accused of laundering money received from Dasuki and receiving bribes from contractors involved in arms procurement for NAF. Umar, who was first arraigned in 2016 had, in February 2021, secured the judge’s dismissal of six out of the seven charges filed against him following a no case submission. Umar subsequently battled the remaining one-count charge of money laundering involving N66 million allegedly stolen from the account of NAF during his time as the CAF between 2010 and 2012. Ultimately, the FHC, Abuja, discharged and acquitted Umar of the offence.<sup>101</sup> Justice Dimgba held that the prosecution failed to provide any evidence that Umar gave the instruction for the transfer of the funds for the

---

101 Ejekwonyilo A (17 March 2022) “Court Acquits Ex-Air Force Chief, Mohammed Umar, of N66 Million Fraud” *Premium Times*, available at <https://www.premiumtimesng.com/news/top-news/517804-just-in-court-acquits-ex-air-force-chief-mohammed-umar-of-n66-million-fraud.html> (accessed 2 January 2025).

renovation of his private property in Abuja. The judge said it would be dangerous to speculate on a wild assumption that Umar must be aware of every financial transaction from NAF bank account. However, the judge ordered Umar to refund N57 million to NAF within seven working days. The money was the actual amount used in refurbishing Umar's private property at Asokoro District, Abuja. The judge's held there were "considerable doubts, cloud of mystery, and general contradictions and discrepancies" in the prosecution's case including the unresolved questions on how EFCC arrived at the N4.8 billion allegedly converted fraudulently by Umar. The Prosecution Witness 1 (PW1), retired Air Commodore Yushau and former NAF's Director of Finance, testified about the monthly delivery by him of the dollar equivalent of N558.2 million to Umar at his residence for a period of 24 months for "upkeep" of the CAS' office, a claim corroborated by PW9, the EFCC investigator. Hence, as the judge found, there was a serious discrepancy between the sum allegedly collected and subsequently converted by the defendant. Justice Dimgba also recalled that Umar's successor, late Alex Badeh, was also standing trial on similar charges until his death in 2019. On 4 August 2022, the Court of Appeal, Abuja Division, set aside the judgment of the FHC, in a unanimous judgment and ordered that the defendant continue with his defence on counts 1,2,3,5 and 6.<sup>102</sup>

Interestingly, the proposed arraignments of some military elites did not see the light of the day. For instance, Lieutenant-General Minimah, and serving Army officers, Major General Adebayo and Brigadier General Odi, filed an originating summons at the FHC, Abuja, to challenge their planned trial for their alleged complicity in the diversion of public funds estimated at N13.8 billion.<sup>103</sup> The issues were whether in view of relevant provisions of the CFRN 1999<sup>104</sup> and Armed

102 EFCC (5 August 2022) "Fraud: Appeal Court Sets Aside Acquittal of Ex- Air Chief, Umar", available at <https://www.efcc.gov.ng/efcc/news-and-information/news-release/8362-fraud-appeal-court-sets-aside-acquittal-of-ex-air-chief-umar> (accessed 12 December 2024).

103 Chioma U (31 December 2021) "General Minimah (Rtd) and Alleged N13bn Arms Fraud: Notes for The Attorney-General of the Federation and EFCC" *Punch*, available at <https://thenigerialawyer.com/general-minimah-rtd-and-alleged-n13bn-arms-fraud-notes-for-the-attorney-general-of-the-federation-and-efcc/> (accessed 23 December 2024).

104 CFRN 1999, secs 6(3), (5) (a), 240 & 318.



Forces Act,<sup>105</sup> they could be prosecuted only by a Court Martial to the exclusion of any other Court and whether the EFCC or any other prosecuting agency could lawfully investigate and/or prosecute them.

Also, some other cases have been ongoing since 2016. Haliru Bello, former PDP Chairman and Defence Minister, was first arraigned on 5 January 2016 with his son, Bello Abba Mohammed and their company, Bam Projects and Properties Limited, for laundering N3 billion meant for the procurement of arms through Sambo Dasuki.<sup>106</sup> Also, AVM Kayode-Beckley was arraigned before the FCT High Court, Abuja, On 29 June 2016, on a charge of allegedly collecting N10 million bribe from a contractor while serving as NAF Director of Armament, to which the defendant pleaded not guilty, thus:<sup>107</sup>

That you, AVM John Adeniyi Kayode-Beckley whilst serving as Director of Armament, Nigerian Air Force, sometime in 2015 at Abuja within the jurisdiction of this Honourable Court did accept a gift in the sum of Ten Million Naira (N10,000,000) from one Mr. Hima Abubakar of Societe D' Equipments Internationaux Nig Ltd, a contractor with the Nigerian Air Force in performance of your official act and you thereby committed an offence contrary to Section 17(a) of the Independent Corrupt Practices and Other Related Offences Act, 2000 and punishable under Section 17(c) of the same Act.

AVM Olutayo Tade Oguntinyinbo was arraigned before the FCT High Court, Abuja, on one count charge of bribery of N166 million allegedly collected as gratification from SEI limited, a NAF contractor, while being the Chief of Training and Operations of the Nigerian Air force contrary to Section 17(a) of the ICPC Act 2000 and punishable under section 17(c) thereof. The charge reads:<sup>108</sup>

---

105 Cap A20 LFN 2004, sec 270.

106 Corruption Cases Database "FRN vs Halliru Bello (Former Minister of Defence) & 2 Others", available at <https://corruptioncases.ng/cases/frn-vs-halliru-bello-former-minister-of> (accessed 12 October 2024).

107 EFCC (229 June 2016) "EFCC Docks AVM Kayode-Beckley for N10m Bribe", available at <https://www.efcc.gov.ng/efcc/news-and-information/news-release/2007-efcc-docks-avm-kayode-beckley-for-n10m-bribe> (accessed 8 October 2024).

108 EFCC (2 June 2016) "EFCC Docks AVM Oguntinyinbo for N166m Bribe", available at <https://www.efcc.gov.ng/efcc/news-and-information/news-release/1939-efcc-docks-avm-oguntinyinbo-for-n166m-bribe> (accessed 11 August 2024).



That you, AVM Olutayo Tade Oguntinyinbo whilst serving as Chief of Training and Operations, Nigerian Air force and the CEO/Managing Director as well as the sole signatory to the account of Spaceweb Integrated Services Limited with Wema Bank, on or about the 11th July, 2014 at Abuja within the jurisdiction of this Honourable Court did accept a gift in the sum of One hundred and Sixty Six Million Naira (N166,000,000) from Societe D' Equipments Internationaux Nigeria Limited, a contractor with the Nigerian Air force in performance of your official act and you thereby committed an offence contrary to Section 17(a) of the Independent Corrupt Practices and Other Related Offences Act, 2000 and punishable under Section 17(c) of the same Act.

Furthermore, as part of arms funds allegedly diverted by Dasuki, a few political elites had their day in court. In *EFCC v Fayose*, former Ekiti State Governor Fayose was first arraigned in 2018 and re-arraigned in 2019 after the case was withdrawn from the former trial judge following EFCC's petition. Fayose was arraigned alongside his company, Spotless Investment Limited on 11 counts of alleged N6.9 billion fraud and laundering involving funds received from ONSA through former Minister for Defence, Senator Obanikoro, for election campaign. Fayose allegedly collected US\$ 5 million cash without going through any financial institution<sup>109</sup> and other sums "which he reasonably ought to have known formed part of crime proceeds" contrary to sections 15(1), 15 (2), 15 (3), 16(2)(b), 16(d), and 18(c) of the Money Laundering Prohibition Act 2011.<sup>110</sup> The trial is still ongoing.

On 8 December 2015, Chief Dokpesi, a PDP chieftain, was arraigned before the FCT High Court, Abuja, on six counts of money laundering and other financial crimes. The prosecutor maintained that the transfer of a total sum of ₦2.1 billion between October 2014 and March 2015 from ONSA breached section 58(4)(b) of PPA 2007 and is punishable under sections 58(6) and (7) of the same Act as well as under section 17(b) of the EFCC Act, 2004. The EFCC re-

109 Igbintade W (2 February 2023) "Alleged N4.6bn Fraud: EFCC Cleared Me of Fraud After 21 Days in Detention, Obanikoro Tells Court", available at [https://www.thisdaylive.com/index.php/2023/02/02/alleged-n4-6bn-fraud-efcc-cleared-me-of-fraud-after-21-days-in-detention-obanikoro-tells-court/#google\\_vignette](https://www.thisdaylive.com/index.php/2023/02/02/alleged-n4-6bn-fraud-efcc-cleared-me-of-fraud-after-21-days-in-detention-obanikoro-tells-court/#google_vignette) (accessed 21 December 2024).

110 *Vanguard News* (1 July 2024) "EFCC's 13th Witness Concludes Evidence in Trial of Fayose", available at <https://www.vanguardngr.com/2024/07/efccs-13th-witness-concludes-evidence-in-trial-of-fayose/> (accessed 3 January 2025).

arraigned Chief Raymond Dokpesi, on 17 February 2016 before the FHC, Abuja, on a six-count charge bordering on alleged procurement fraud and breach of public trust to the tune of N2.1 billion. His re-arraignment followed the reassignment of the case file to the new judge. Dokpesi was arraigned alongside his firm, DAAR Investment and Holdings Ltd, owners of African Independent Television (AIT) and Raypower, and alleged to have received N2.1billion from ONSA between October 2014 and March 2015, which was used for the PDP's presidential media campaign, an offence in breach of PPA 2007, the Money Laundering (Prohibition) Act, and the EFCC Act. One of the counts reads:

That you Dr. Raymond Dokpesi and Daar Investment and Holding Company Limited between October 2014 and March 19, 2015 in Abuja, conducted procurement fraud by means of fraudulent and corrupt act, to wit: receipt of payment into the account of Daar Investment and Holding Company Limited with First Bank of Nigeria Plc of public funds in the sum of N2,120,000,000 from the account of the office of National Security Adviser (NSA) with the Central Bank of Nigeria for the funding of media activities for the 2015 presidential election campaign for the Peoples Democratic Party (PDP) and you thereby committed an offence contrary to section 58 (4) (b) of the Public Procurement Act, 2007 and punishable under Section 58 (6) & (7) of the same Act.<sup>111</sup>

The EFCC closed its case after calling 14 prosecution witnesses, but the defendants filed a no-case submission, urging the court to dismiss the case on the grounds that the essential ingredients of the alleged offences were not proved. However, the trial judge dismissed the no-case submission on 21 November 2018. Dissatisfied with the ruling, the defendants appealed. The Court of Appeal upheld the appeal and quashed the N2.1 billion money laundering charges, acquitted and discharged the Appellants,<sup>112</sup> holding that EFCC failed to prove the ingredients of the charges. The court upheld the argument that the money laundering charges were not proved

111 EFCC (17 February 2016) "EFCC Re-arraigns Dokpesi for N2.1bn Fraud", available at <https://www.efcc.gov.ng/efcc/news-and-information/news-release/1731-efcc-re-arraigns-dokpesi-for-n2-1bn-fraud> (accessed 2 September 2024).

112 *Premium Times* (1 April 2021) "Arms Deal: Appeal Court quashes N2.1 Billion Money Laundering Charges Against Media Mogul, Dokpesi", available at <https://www.premiumtimesng.com/news/top-news/452671-arms-deal-appeal-court-quashes-n2-1-billion-money-laundering-charges-against-media-mogul-dokpesi.html> (accessed 14 October 2024).

as the prosecution failed to establish the alleged breach of trust committed by the defendants in relation to the N2.1 billion deal. The lead judgment held:<sup>113</sup>

I am of the view that irrespective of the ingredients stated earlier, and those by the appellant and first respondent respectively, prior proof or establishment of the primary offences in count 1,2,3 and 4 of the amended charge is sine qua non to the proof of the offences of money laundering specified in the said counts.

Indeed, an analysis of the “Dasukigate” trials show that opportunities for outright stealing of funds, award of phantom contracts, bid rigging, contract splitting, abandonment and non-completion of contracts, etc, drive arms procurement fraud in Nigeria not so much the need for confidentiality. The pattern of abuse also reveals the lack of appropriate controls necessary to transparency and good governance in these cases, making it possible to commit those monumental procurement frauds. Most of these cases have dragged on for years due to dilatory tactics of defence lawyers and other challenges of the Nigerian justice sector. These cases exemplify the complexities of money laundering and challenges of prosecuting PEPs and military elites in Nigeria.

## 5. CONCLUSION

The procurement of military hardware in countries portrays a mixed spectrum of opacity and openness,<sup>114</sup> but democratic countries must operate on a right to know basis to the extent legitimately required considering the high human and governance costs at stake.<sup>115</sup> In Nigeria, corruption in the defence and security sector poses one of the main threats to the Nigerian security. The lack of any publicly promulgated regulatory framework has encouraged endless opportunities for corruption and fraudulent practices in arms and defence procurements. Recent happenings and scandals around arms procurement have also revealed how millions of dollars

---

113 *Premium Times* (1 April 2021).

114 Singh RP (ed) (1998) *Arms Procurement Decision Making Vol. 1: China, India, Israel, Japan, South Korea and Thailand* Oxford: Oxford University Press 78.

115 Makumbe JM “Fighting Corruption in the SADC and Sub-Saharan Africa” 9, available at <http://www.transparency.org.kw.au-ti.org/upload/books/344.pdf> (accessed 10 December 2024).

meant to purchase arms and military equipment to fight insecurity ended up in the pockets of senior defence officials. In addition, most prosecutions for the fraud, though commendable, were hindered by porous investigation, the difficulty of tracing laundered money, and shoddy prosecution. A transparent and accountable military procurement process must be enthroned.

First, amendments to PPA 2007 regarding defence procurement are overdue. Guidelines for classification of information on arms and sensitive military equipment should be established under PPA 2007 to enable civil society to track budgetary and extra-budgetary provisions on arms procurements even where some technical details of weapons programmes must remain secret. A legal framework must, however, ensure that relevant NASS committees have access to such information. In addition, political altruism and dexterity on the part of NASS leadership in handling the underlying dynamics of passing such legislation would be of utmost necessity. Also, the provision of such law may require a vetting process to ensure their reliability to manage such information.<sup>116</sup> The strengthening of oversight bodies will ensure that those in defence institutions are held accountable to NASS and give voice to the citizens in defence and security governance which are imperative for accountability. A positive legal regulation on annual reporting must be established for arms and defence procurement as safeguard against wasteful, duplicitous and non-operationally relevant weaponry acquisitions. The place of legislative hearings as part of oversight, even if confidential, should also be considered.

---

<sup>116</sup> *PLACPrimer* (2019) at 17.