

WEAPONISING TRANSPARENCY

**DEFENCE PROCUREMENT REFORM
AS A COUNTERTERRORISM
STRATEGY IN NIGERIA**



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Authors: Eva Anderson, Matthew T. Page

Contributor: Tom Keatinge

Editors: Katherine Dixon, Andrew Watson and Gavin Raymond

Design: Philip Jones

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Weaponising Transparency:

Defence Procurement Reform as a Counterterrorism
Strategy in Nigeria

Table of contents

Executive summary	1
Recommendations	2
Introduction	5
1. The context for defence sector corruption	7
Political patronage.....	7
Kleptocratic capture of the defence sector	9
Excessive secrecy	10
Military exceptionalism.....	11
The acquiescence of international partners	12
Disrupting financial crime	12
2. The consequences of defence sector corruption.....	13
Hampering counterterrorism operations	13
Empowering Boko Haram	14
3. Opportunities for defence sector corruption.....	15
Inflated procurement and ‘Phantom Contracts’	15
‘Security votes’ and other budgetary black holes	17
Loopholes in the current regulatory framework:	
The Public Procurement and Freedom of Information Acts ...	18

Executive summary

Defence sector corruption is a major threat to Nigeria's internal security and political stability. Largely unaddressed, it has weakened Nigerian counterterrorism capacity whilst strengthening Boko Haram.

Nigeria's corrupt elites have profited from conflict; with oil prices at a record low, defence has provided new and lucrative opportunities for the country's corrupt kleptocrats. Former military chiefs have stolen as much as US \$15 billion – a sum equivalent to half of Nigeria's foreign currency reserves – through fraudulent arms procurement deals. Defence sector corruption in Nigeria has enabled the political elite to accumulate and distribute political patronage. Longstanding military exceptionalism meanwhile, has justified weak and compromised oversight of security-related spending and excessive secrecy.

By far the most significant corruption opportunities are those exploited through inflating procurement contract values and creating "phantom" defence contracts. Such contracts are used as a vehicle for money laundering: facilitated via weak or corrupted Nigerian banks, illicit financial flows are often hidden in property in the UK, United States, South Africa and Dubai.

President Buhari's government has taken significant steps to identify and prosecute individuals involved in security sector corruption. And the campaign to focus international attention on returning stolen assets has been powerful. But however effective these efforts are, they will not be enough to win the long fight against corruption. The reality is that Nigeria's attempt to secure the repatriation of large quantities of illicitly laundered assets from places like the UK makes a better media headline than it does anti-corruption strategy.

With the President's first term ending in 2019, the window of opportunity for far reaching change is closing rapidly. Only a holistic reform agenda can deliver the deep, systemic changes and improvements in transparency and accountability needed to prevent the next US \$15 billion quietly leaving Nigeria through the back door.

Recommendations

1. Develop a unified anti-corruption strategy for the defence sector

Consideration should be given to engaging all levels of staff and grounding anti-corruption efforts in an analysis of the main opportunities, causes and enablers of corruption, such as the *'five common themes in Nigerian defence fraud'* listed in this report. Armed with this intelligence, targeted reforms capable of increasing anti-corruption controls could be developed into a practical action plan tailored to address these challenges.

Establishing a high level leadership steering committee, or "Reform Board", responsible for setting direction would help ensure the reform process develops momentum.

This Reform Board could be comprised of senior leadership of the Ministry of Defence (MoD), the Office of the National Security Advisor (ONSA), senior military officials, and key functional personnel who have an important role in ensuring integrity in the ministry. President Buhari could signal endorsement by inviting expert international and domestic technical experts to contribute.

2. Extend public access to defence and security information

Recent amendments to the Public Procurement Act are an important advance in the fight against defence corruption, but they will have limited impact without corresponding amendments to the Freedom of Information Act.

Guidelines for separating confidential from non-confidential information, such as the Global Principles on National Security and the Right to Information – The Tshwane Principles – would help limit abuses by setting out what information on budgets and procurements could be disclosed. This would help create meaningful transparency in defence budgets and allow for more effective oversight by the organisations mandated to perform this role.

It is vital that the Ministry of Defence provide the Senate and the public with timely, detailed and comprehensive information on the MOD and the ONSA budgets, including how much is allocated to secret spending.

3. Monitor confidential procurements

For genuinely confidential procurements, a separate legal procedure could be designed allowing for monitoring by a confidential senate committee and a unit with suitable security clearance within the Bureau for Public Procurement (BPP). If it is so important for national security that a proportion of the procurement budget remains secret, then it should be equally important that this portion of the budget is spent effectively. The only way to ensure this, is to put in place effective oversight structures. There is no need to wait for a legislative amendment; military service chiefs and the Attorney General have sufficient legal powers to issue clarifying interim guidelines.

Establishing a procedure for confidential procurements and thereby protecting national security would enable Nigeria to extend the commitments made by President Buhari at the 2016 London Anti-corruption Summit to the defence sector. These commitments included 'ensuring transparency of ownership in public contracting; implementing Open Contracting Principles and preventing corrupt bidders from winning contracts'¹. Prohibiting the award of contracts to companies that do not fully disclose their beneficial ownership could be a positive move towards tackling 'briefcase companies' - shell companies that only exist on paper - and cleaning up defence contracting.

Civil society and the media are powerful monitors, and the Procurement Act empowers both to monitor tender awards. Guidelines for non-classification would enable civil society to extend its monitoring to the defence sector, thereby realising a function originally envisaged in the legislation.

4. Regulate secretive security votes

There is no oversight of 'security vote' spending. Widely perceived as one of the most durable forms of corruption in Nigeria today, security votes should be abolished or strictly regulated. The President, state level governors or the Attorney General could work with civil society and the National Assembly to publish guidelines that allow for proper scrutiny of how such funds are budgeted, spent and monitored. Declassifying how the security vote funds have been spent, after a two year information embargo, could also enable citizen oversight.

5. Extend whistle-blower protection

Implemented just a few months ago, the whistle-blower policy is already positively contributing to law enforcement efforts. More whistle-blowers would be encouraged to come forward with evidence of defence sector corruption with the enactment of a whistle-blower protection law that includes citizens and private sector employees.² Alternatively the Attorney General could issue guidelines clarifying that the Freedom of Information Act 2011 protections for whistle-blowers also apply to defence and security sector whistle-blowers.

6. Sharpen international focus on fighting corruption in Nigeria

International actors need to prioritise anti-corruption in their military and diplomatic engagement strategies with Nigeria. States should actively deny visas to officials implicated in corruption. Governments repatriating recovered assets to Nigeria should set up independent monitoring arrangements, and include transparency and accountability standards as principles for repatriation.

International partners including the US and UK should make training, major equipment transfers, repatriation of recovered illicit funds, and high-level meetings contingent on tangible efforts by the Nigerian military to make security spending more transparent, accountable, and subject to independent oversight.

¹ Country statement from Nigeria – London Anti-Corruption Summit May 2016
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/523799/NIGERIA-FINAL_COUNTRY_STATEMENT-UK_SUMMIT.pdf

² PPLAAF, Country Profile: Nigeria, <https://pplAAF.org/nigeria.html>

Leading members of the international community should increase efforts to identify and shut down networks that facilitate illicit financial flows from places like Nigeria. Such government-to-government discussions would be useful for sharing information and improving coordination between policymakers, law enforcement, and intelligence officers in Washington, London, Brussels, and beyond. Better communication at the working level could facilitate stronger vetting of individuals and entities and reduce the potential for insulated, biased, or uncoordinated decision-making.

United States, European and UK law enforcement should establish permanent and dedicated anti-corruption liaison positions in Abuja to facilitate seamless information sharing with Nigerian investigators and prosecutors. They could also encourage the EFCC to field senior liaisons at the Nigerian Embassies in Washington, Brussels and London, to enhance information sharing. By doing so, Washington, London and Europe would send a clear signal that they are upping their anti-corruption commitments to Nigeria.

7. Close off banks' money laundering loopholes

Banks facilitating money laundering should be sanctioned or shut-down by the Nigerian Central Bank. FATF's recommendations for Nigeria should be fully implemented and additional resources devoted to improving investigative capacity amongst Nigerian financial investigators and prosecutors. An active compliance culture in banks should be encouraged by mandating a powerful office for the Chief Compliance Officer. Building partnerships with international offshore financial centres that see a high rate of money laundering by Nigerian defence officials such as London, New York and Dubai will assist information sharing, as will leveraging private sector financial intelligence.

Introduction

Violent extremism thrives as a result of exploitative governing structures and state predation. Terrorist groups motivated by radical political and religious ideologies have destabilized Syria, Afghanistan, Libya, Iraq, Somalia, Nigeria, and other weak or misgoverned states. These groups have been able to co-opt disaffected populations by leveraging popular antipathy toward corrupt governments, often by presenting their own radical agenda as having greater moral value and popular legitimacy than the secular governments they seek to destroy. Predation by these regimes – whether it takes the form of elite corruption, security force abuses, or ethno-religious chauvinism – serves to validate extremist narratives about the immorality of secular governance.

The Boko Haram insurgency is now entering its fifteenth year, fed by the notorious levels of public sector corruption that have eroded the Nigerian state's legitimacy. Politicians compete for private control of national coffers, rather than delivering public goods based on the growing needs of Nigeria's booming population - on track to be the third largest in the world by 2050.³ Yet for the vast majority, corruption remains endemic and systemic, warping the social contract between the government and citizens. Patronage - not performance - is the ticket to advancement.

Securing a prosperous future for nearly 180 million people will be tough. The continent's largest economy has, since 1970, suffered from the largest per annum illicit financial outflow on the continent as corrupt actors seek to exploit banking loopholes to launder and hide their unlawful assets. An estimated US \$217.7bn was illegally transferred out of Nigeria between 1970 and 2008. The same study estimated that illegal transfers from the African continent have tripled since 2001.⁴

Across the board, public sector corruption is undermining the state's ability to address Nigeria's many challenges: socioeconomic underdevelopment, unemployment and insecurity. Nowhere is the failure of governance more evident than in the northeast, a region that was already impoverished even before it was devastated by Boko Haram. The conflict has displaced over 2.6 million people and killed as many as 50,000 since May 2011.⁵

Corruption has been particularly destructive in the defence and security sector. Overlooked in peacetime, defence sector corruption has devastating real world consequences when conflict flares. With lower oil prices, corrupt elites have increasingly exploited alternative illicit revenue streams. The secret nature of defence and security budgets has made them the easiest and most lucrative opportunity to exploit. While Boko Haram has constructed a conflict economy geared around pillage, racketeering, and kidnapping; senior players in the Nigerian security sector have also profited from the insurgency.

³ "World population projected to reach 9.7 billion by 2050", United Nations Department of Economic and Social Affairs (UN DESA), 29 July 2015, <http://www.un.org/en/development/desa/news/population/2015-report.html>

⁴ Report of the High Level Panel on Illicit Financial Flows from Africa, Commissioned by the AU/ECA Conference of Ministers of Finance, Planning and Economic Development and the UN Economic Commission for Africa (UNECA), <http://www.uneca.org/publications/illicit-financial-flows>

⁵ Council on Foreign Relations, Nigeria Security Tracker, <http://www.cfr.org/nigeria/nigeria-security-tracker/p29483>

⁶ UN Office for the Coordination of Humanitarian Affairs, Lake Chad Basin Crisis Update No. 9, 1 November 2016, <http://reliefweb.int/sites/reliefweb.int/files/resources/Lake%20Chad%20Basin%20Crisis%20Update%20%20No.%209.pdf>

Extra-budgetary spending on counterterrorism has dramatically increased throughout 2014 and into 2015, and with it the scale and scope of corrupt opportunities in the defence sector. Corruption has hollowed out the Nigerian Army, the largest in West Africa, and compromised the integrity of the country's Navy, which has been implicated in the theft of millions of barrels of crude oil in recent years.⁷ The result has been a corrupt war economy that incentivises high-ranking officials and security personnel to perpetuate conflict for personal gain. War has been a boon to Nigeria's corrupt.

Since coming to power in May 2015, President Buhari has taken some bold action in tackling defence sector corruption. Central to his approach have been two *ad hoc*, temporary audit committees: one investigating spending by the Office of the National Security Adviser and one investigating defence arms and equipment procurement. Taking on the defence establishment was a significant move: the evidence uncovered by these probes revealed that several of the country's former military chiefs, using dozens of companies, together stole as much as US \$15 billion.⁸

President Buhari's anti-corruption drive is a rare example of senior Nigerian defence and security officials being exposed to criminal investigation. By signalling that military impunity is not without limit, it is undoubtedly a positive step forward.

The approach has been coupled with a determined attempt to see the return of Nigeria's stolen wealth. During the London Anti-corruption Summit in May 2016, President Buhari demanded the return of illicitly laundered assets from the UK. The point was powerfully made, but sadly, the chances of success are slim. Asset recovery is a lengthy and resource heavy procedure. The UK performs relatively well compared to international peers, but even at the highest estimate, asset freezing and repatriation are tiny in relation to the vast scale of theft.

Over the past 12 years, UK enforcement agencies have prosecuted just a handful of cases – three state governors – and repatriated only a few million pounds to Nigeria.⁹ This is a fraction of what has surely been stolen. The extent of misappropriation of public funds by former General Sani Abacha is notorious. Listed as one of the top four most corrupt world leaders, during five years in office Abacha is estimated to have embezzled between US \$2 and 5 billion. Despite unprecedented cooperation between UK, USA, Swiss and Nigerian authorities to return these stolen assets, the case is on-going 19 years after Abacha's death.

Abacha and these three governors all plundered defence and security budgets. Nigeria suffers from the continent's highest illicit financial flows because it offers the most opportunities for corruption. **To stop today's assets being misappropriated, defence sector reform must be an equal priority to enforcement and repatriation, or Nigeria's leaders will always be chasing the past.** Since independence, every civilian and military administration has come to power promising to root out corruption. Without progressing its approach to anti-corruption reform, Nigeria's current and future governments will at best be destined to the same media headlines as its predecessors.

⁷ "Thriving oil theft: Why no end in sight", Vanguard, 27 October 2015, <http://www.vanguardngr.com/2015/10/thriving-oil-theft-why-no-end-in-sight/>

⁸ "Nigeria's vice president says \$15 billion stolen in arms procurement fraud", Reuters, 3 May 2016, <http://in.reuters.com/article/nigeria-corruption-idINKCN0XT1UK>

⁹ Diepreye Alamiyeseigha (GBP 117,000 seized cash), Joshua Chibi Dariye (GBP 1 million seized cash) and James Ibori, along with their associates. It is unclear how much of Ibori's stolen wealth has been returned to Nigeria. Despite pleading guilty in 2012 to money laundering and fraud, Ibori's assets are yet to be confiscated by UK authorities. The CPS of England and Wales are seeking to confiscate £89.78 million of Ibori's ill-gotten assets. In August 2007, the Metropolitan Police obtained a freezing order from Southwark Crown Court for Ibori's worldwide assets. The BBC reported at the time that the freezing order covered only £17 million worth of assets.

1. The context for defence sector corruption

“Corruption in Nigeria is not mindless . . . it is calculated and systematic.”

former Central Bank Governor Lamido Sanusi

Political patronage

With evidence uncovered by the two *ad hoc* audit committees established by President Buhari, the Economic and Financial Crimes Commission (EFCC), Nigeria’s main anti-corruption agency, has indicted over 300 individuals and companies for defence sector procurement theft and misappropriation.

Fifty-five people, including former government ministers, military chiefs, state governors, and bankers were reported by the committees to have stolen 1.34 trillion naira (\$6.8 billion) over a seven-year period in the shape of arms equipment deals. A further \$2 billion was allegedly stolen from the National Security Budget under the watch of National Security Advisor, Colonel Sambo Dasuki.¹⁰ What these investigations illustrate is a system of kickbacks, where billions of dollars were diverted from procurement spending, through the use of ‘briefcase’ companies, in order to fund the ruling party’s supporters and ensure electoral success for the People’s Democratic Party (PDP) in the 2015 general elections.¹¹

The amounts stolen are shockingly bold. Yet the misappropriation of budgets to buy political support is not new. Successive Nigerian leaders, both civilian and military, have built governmental power structures around the country’s main income stream: oil. And until recently oil revenues have typically accounted for up to 70 per cent of government revenues - feeding powerful patronage networks. Obasanjo did not even appoint an oil minister, preferring to supervise the ministry directly himself. Successive administrations have maintained the same structure: former PDP president Goodluck Jonathan, a civilian, appointed his close ally Diezani Alison-Madueke as Oil Minister. Madueke – who has recently been charged with money laundering – was described by one Nigerian Extractive Industries Transparency Initiative (NEITI) official as, “the oil institution.”

¹⁰ “Nigeria’s Dasuki arrested over \$2bn arms fraud”, BBC News, 1 December 2015, <http://www.bbc.co.uk/news/world-africa-34973872>

¹¹ “Dasukigate: Here is a breakdown of the alleged misappropriation of \$2.1 billion by Dasuki and others”, Ventures Africa, 14 December 2015, <https://venturesafrica.com/dasukigate-here-is-a-breakdown-of-the-misappropriation-of-2-1-bn-meant-for-arms-deal-by-dasuki-and-others/> and “EFCC publishes names of military officers on trial” News24, 4 July 2016, <http://www.news24.com.ng/National/News/efcc-publishes-names-of-military-officers-on-trial-20160704>

The drop in Nigeria's state oil revenues has hit oil sector rents hard, and this has led Nigeria's corrupt elites to raid defence and security sector budgets to maintain their power bases. With defence budgets forming close to 20 per cent of total government spending in 2017, the sector offers lucrative rewards to Nigeria's corrupt elite.¹² Much of this has been hidden through large value contracts. **According to the former Head of the Bureau for Public Procurement (BPP) – the agency established to monitor, oversee and set standards for government procurement spending – 90 per cent of bribes in Nigeria occur through procurement.** Both the size and opacity of the defence sector has made it an attractive veil for fake corporate activity.

While some of this money is stolen for individual profit, a great deal is dispersed through complex patronage networks. As former Central Bank Governor Lamido Sanusi phrased it, "corruption in Nigeria is not mindless...it is calculated and systematic." Sustaining political patronage is a system, a system that was previously predominantly funded by the oil sector but is now increasingly relying on plundering of the defence and security budget. Former President Goodluck Jonathan expended unprecedented amounts of patronage, even beyond historical norms, to improve his electoral chances. One former adviser observed that President Jonathan and his allies acted "with a siege mentality" within an unstable PDP.¹³ The oil and defence sectors were exploited to record levels in order to sure up an extensive patronage network and safeguard President Jonathan's political future. These kleptocratic networks have yet to be disabled.

¹² The opacity of defence and security budgets precludes an exact calculation. Economists from BudgIT note that N1.12trn Naira is the 2017 defence and security budget, (not including security votes) equating to 15.36% of government spending. Their estimates and ours are that approximately N210 billion is allocated to security votes at the state level and N180 billion at the federal level Naira, making total defence and security around N1.51 trillion, equating to approximately 20 per cent of total government spending in 2017, see twitter discussion at <https://twitter.com/StanVito/status/844204987018305536/photo/1>

¹³ The Successes and Failures of Economic Reform in Nigeria's Post-Military Political Settlement, Zainab Usman, page 36, GEG Working Paper, March 2015

Kleptocratic capture of the defence sector

What is overwhelmingly clear from the results of the *ad hoc* audit committee investigations is the extent of unmonitored, systemic control over the defence sector by senior government elites. The lack of clear separation between the executive and the military is a long running problem. Despite the formal end of military rule in 1999, the military has played a significant role in political life. With control of the armed forces and a monopoly on access to arms, military generals have the power to protect access to resource rents and ensure their place within the ruling elite.

Kleptocratic capture of the defence sector rests on three pillars: capture of defence budgets and income, capture of defence spending and procurement, and capture of senior military posts.¹⁴ Facilitating this capture are powerful senior figures – godfathers – who select and appoint personnel to defence sector positions, in order to operationalise systemic control over security finances. The system facilitates control from the highest levels of the political party to the lowest levels of the military.¹⁵

Appointments can also be used as political bargaining chips: former President Jonathan cemented a pre-election political alliance with former head of state Ibrahim Babangida by appointing Aliyu Mohammed – a long-time Babangida loyalist, ex-Army chief, and NSA to two presidents – as minister. As one Nigerian Army officer put it, the "selection of officials [both civilian and military] is done politically and based on who is who. Even when personnel are picked to oversee certain aspects that involve anything in procurement, it is done based on the gain expected or to be reaped by the 'godfather' who does the selection."¹⁶

Among the rank-and-file, chronic pay shortfalls, inadequate training, and dilapidated facilities create powerful incentives for corruption by undercutting the overall professionalism and morale of the military. As the military's *esprit de corps* has eroded, so too has its sense of purpose and focus on its core missions. Over time individual officers and soldiers have come to prioritise their own personal wellbeing - or even their mere subsistence - over the needs of the service. Perceiving themselves to be victims of corrupt behaviour, such as the skimming of allowances or embezzlement of essential operational funds, many have lost faith in the legitimacy of the system and the patrimonial guarantees made to them when they joined it.¹⁷

¹⁴ State capture is a type of systemic political corruption in which private interests significantly influence a state's decision-making processes to their own advantage.

¹⁵ "Presidency 2015: War of the godfathers", National Daily, 16 February 2015, <http://nationaldailyng.com/test/index.php/news/latest-news/2736-presidency-2015-war-of-godfathers>

¹⁶ Question 17, 37 and 41, Nigeria 2016 assessment, Government Defence Anti-Corruption Index, Transparency International http://government.defenceindex.org/generate-report.php?country_id=6322

¹⁷ This slide toward desperation and deficiency began under military heads of state Babangida (1985-1993) and Abacha (1993-1998). During this period, military officers - some relatively junior - became ministers, military administrators, and agency heads in control of multi-million dollar budgets. "Nigerian Army: In the Shadow of Corruption", Huhu Online, 14 January 2010, <https://www.modernghana.com/news/259133/1/nigerian-army-in-the-shadow-of-corruption.html>. In this context, contract fraud, embezzlement, and nepotism blossomed and, over time, as these officers cross-pollinated back into military roles, so did their modus operandi. "Corruption Flourished In Abacha's Regime", Washington Post, 9 June 1998, <http://www.washingtonpost.com/wp-srv/inatl/longterm/nigeria/stories/corrupt060998.htm>

By the time of the 1999 civilian transition, many junior and mid-level military officers had grown used to the corrupt practices they honed during the late 1980s and 1990s and continued to engage in them as they were promoted by successive civilian administrations. "U.S. to Help Nigeria Revamp Its Armed Forces", Washington Post, 29 April 2000, <https://www.washingtonpost.com/archive/politics/2000/04/29/us-to-help-nigeria-revamp-its-armed-forces/eab2413a-3264-4812-8375-ca1c54fa6d29/>

Excessive secrecy

In any country, a proportion of spending must remain confidential for security reasons; typically 15 per cent, including among states in conflict.¹⁸ Yet Nigeria classifies nearly all defence contracts and budgets, and considers any broadly-defined security-related matter 'secret' by definition.

Even according to the Nigerian government, the Ministry of Defence (MOD) ranks among the agencies least compliant with the 2011 Freedom of Information (FOI) Act.¹⁹ Civil society, meanwhile, ranks the Office of the National Security Adviser (ONSA) among those security agencies most resistant to disclosing information in response to FOI requests.²⁰ These opaque habits are cultural remnants of the decades Nigeria spent under military rule that have been preserved by contemporary military and civilian leaders keen to forestall outside scrutiny of their activities.²¹ As a result, Nigeria ranks among those countries at the highest risk of corruption due to the over-classification of budget data and weak oversight of secret budgets.²²

This culture of secrecy is often openly hostile or vengeful towards journalists and civil society. In December 2015, soldiers reportedly perpetrated gross human rights violations during two separate military crackdowns in Zaria and Onitsha. In response to these allegations the Nigerian Army has labelled its critics as "unscrupulous and unpatriotic".²³ Meanwhile President Buhari's government has failed to take any action to hold the military to account for incidents such as the deaths of several thousand detainees – due to starvation, torture, and disease – at the Giwa Barracks military prison between 2011 and 2014.²⁴

Similarly, in June 2016 Nigeria's Minister of Defence condemned media reports about the Chief of Army Staff's links to high-end property in Dubai describing them as "disgruntled and unpatriotic elements" and warning the media that they should show more "professionalism [when reporting on] security and defence related matters".²⁵ In September 2016, military soldiers and officers of the State Security Services allegedly stripped and beat ten journalists and media workers with barbed wire before arresting them.²⁶

The Nigerian military's hostile response to scrutiny reinforces the perception that it is distinct from other state institutions and can play by a different set of rules. Moreover, there has been a long standing culture among senior officers that rank has its privileges and that promotion to top echelons comes with the prerogative to use one's position for personal gain.²⁷ This heavily undermines public trust.

¹⁸ Transparency International (Defence & Security), Watchdogs? The quality of legislative oversight of defence in 82 countries, September 2013, <http://ti-defence.org/wp-content/uploads/2016/03/Watchdogs-low.pdf>

¹⁹ Ministry of Justice, Federal Republic of Nigeria, <http://www.foia.justice.gov.ng/>

²⁰ "2016 Freedom of Information Compliance Rankings for 12 Security Organisations", September 2016, Procurement Monitor, <http://procurementmonitor.org/ppdc2016/2016-security/>

²¹ Maria-Gabriela Manea and Jürgen Rüländ, "Taking Stock of Military Reform in Nigeria" in Rüländ, Manea, and Born eds. *The Politics of Military Reform: Experiences from Indonesia and Nigeria*, (Berlin: Springer, 2012), 70.

²² Transparency International (DS), Watchdogs? The quality of legislative oversight of defence in 82 countries, September 2013, <http://ti-defence.org/wp-content/uploads/2016/03/Watchdogs-low.pdf>

²³ "Dubai houses: FG defends Buratai; blames 'unpatriotic' elements", The Scoop (Nigeria), 27 June 2016, <http://www.thescoopng.com/2016/06/27/dubai-houses-fg-defends-buratai-blames-unpatriotic-elements/>

²⁴ "If you see it you will cry: Life and Death in Giwa Barracks", Amnesty International, 2016 www.amnesty.org.uk/files/if_you_see_it_you_will_cry_0.pdf

²⁵ "Dubai houses: FG defends Buratai; blames 'unpatriotic' elements", The Scoop (Nigeria), 27 June 2016, <http://www.thescoopng.com/2016/06/27/dubai-houses-fg-defends-buratai-blames-unpatriotic-elements/>

²⁶ "Nigeria detains 13 journalists, bloggers and media workers", Committee to Protect Journalists, 29 September 2016 <https://cpj.org/2016/09/nigeria-detains-13-journalists-bloggers-and-media.php#more>

²⁷ This elitism dates back decades. In his 1971 article "Officers and Gentlemen of the Nigerian Army", anthropologist Robin Luckham detailed how, the era of military rule, the officer corps was "more vulnerable to corruption and political pressure"

Military exceptionalism

Despite Nigeria's 1999 return to democratic rule, the oversight exercised by civilian officials and other watchdogs over the military and security agencies remains very weak. Weak accountability has enabled powerholders along the entire defence spending chain to misappropriate state funds, from the Presidency down to unit commanders at ground level.

Although the Senate and the House of Representatives have several security committees (National Security and Intelligence, Defence, Army, Navy, Air Force, and Police Affairs), members of these panels rarely undertake in-depth oversight activities.²⁸ With defence sector spending shrouded in secrecy, entities such as civil society groups, media organisations, the Bureau of Public Procurement (BPP), the Auditor General of the Federation, and National Assembly committees are similarly unable to marshal sufficient information to play watchdog, even if they have the formal legal authority to do so.

By establishing two *ad hoc* investigatory committees to audit the ONSA and past defence procurement, President Buhari has attempted to sidestep existing undeveloped or ineffective oversight institutions. Official announcements from the Presidency declared the probe would investigate contracts entered into from 2007 to 2015, but critics claim that current ruling party members implicated in fraud have been allowed to pay to evade charges, while opposition supporters have been held without bail and charged.²⁹ Whether or not accusations over political manipulations are true, the reality is that these *ad hoc* bodies lack the legitimacy and credibility to be a successful long-term solution.

than ever before and how "a high-ranking officer anywhere in Nigeria is now constantly visited by persons seeking small favours and his goodwill sought with unsolicited gifts." Luckham goes on to explain how officers' privileged role in society fed their appetites for "the high life" and cultivated an "ethos of conspicuous consumption" among many. Luckham, Robin. "Officers and Gentlemen of the Nigerian Army." *Transition*, no. 39, 1971, pp. 38–55. www.jstor.org/stable/2934643

²⁸ "What is "juicy" in National Assembly committees?", PM News, 27 July 2016, <http://www.pmnewsnigeria.com/2016/07/27/what-is-juicy-in-national-assembly-committees/>

²⁹ "Detained Air Force Chief Alleges EFCC is Demanding N40m for His Freedom", This Day Live, 20 June 2016, <http://www.thisdaylive.com/index.php/2016/06/20/detained-air-force-chief-alleges-efcc-is-demanding-n40m-for-his-freedom/>

The acquiescence of international partners

International military partners have a part to play and have done precious little to disincentivise Nigerian security-sector corruption. By failing to integrate effective anti-corruption measures into their security engagement policies, partners are inadvertently diminishing the impact of their military assistance. US military and police aid to Nigeria, totalled US \$45.4 million from 2010 to 2014, but was just a small fraction of the more than US \$2 billion in security funds that was allegedly stolen by Nigeria's previous National Security Advisor – who for three decades enjoyed a close relationship with Washington.

Key international suppliers of Nigerian military hardware are facilitating fraud by agreeing to uncompetitive or unorthodox contracts. In 2013, Nigeria officials reportedly skimmed US \$20 million from an internet surveillance contract directly awarded to an Israeli company in defiance of public procurement competition rules. Likewise, a former air-force chief admitted embezzling millions via seven arms contracts directly awarded to a Ukrainian company.

International partners are missing opportunities to encourage reform. The United States' efforts to sell 12 A-29 Super Tucano light attack aircraft to the Nigerian Air Force – whose last three chiefs, along with other senior officers, are currently on trial for embezzlement and procurement fraud – looks like business as usual. Contracts such as this are opportunities to prompt change, yet it is not at all clear that the Nigerian Air Force has become more transparent about its finances and procurement; and the senior air force officer invited to Washington in July 2015 to discuss the Super Tucano sale, has since been charged with corruption.

The widespread use of both international and Nigerian agents to facilitate such deals also increases opportunities for inflating contracts and paying bribes, as illustrated by the recent investigation into Rolls-Royce. Although this case is a good example of how strong, coordinated international enforcement efforts can make businesses accountable for unethical conduct.

Disrupting financial crime

The most effective action against asset flight is to prevent it occurring in the first place; and here the Nigerian and international financial sectors could play a much greater role. Recent evidence from the Presidentially-appointed *ad hoc* Audit Committees has shown that stolen funds often pass through multiple accounts before being moved offshore beyond the reach of domestic authorities. As facilitators of corrupt funds, both Nigerian and international banks need to raise their standards of governance and control. Those that repeatedly fail should be sanctioned or shut down. But this is not currently happening: Skye Bank has been consistently implicated in the EFCC's corruption and fraud prosecutions, such as the current N22.8 billion trial of three former air force chiefs and an Air Force Director of Finance for money laundering. Skye Bank has been indicted alongside the defendants, yet the Central Bank of Nigeria has not used its sanctioning powers to hold board members to account. Instead, the Central Bank allowed board members to announce they had "voluntarily resigned" - despite evidence of gross insider malpractice, including by the Chairman Tunde Ayeni. Ayeni is a close associate of President Jonathan and convicted PDP governor Diepreye Alamieyeseigha. Whilst chair of Skye Bank, Ayeni was also chair of Joint Aviation Services Limited - a briefcase company involved in bidding for inflated defence procurement contracts - highlighting the high level of elite control of defence spending and money laundering.

2. The consequences of defence sector corruption

Hampering counterterrorism operations

Aside from the evident waste, the kleptocratic capture of the defence sector has had serious consequences for the security of Nigerians. Despite sharp increases in *ad hoc* defence spending between 2011 and 2015, operations in the northeast have remained stubbornly under-resourced, with multiple reports of front line operations hampered by equipment, materiel, and pay shortages, particularly in 2013 and 2014.³⁰

These shortages undoubtedly cost lives. Military sources have privately blamed the suspected deaths of 83 soldiers in an October 2016 Boko Haram ambush, directly on equipment shortfalls and low morale resulting from an uptick in corruption among Army leaders.³¹

During the height of the conflict, corrupt senior officers withheld ammunition and fuel from front-line soldiers, leaving them with no alternative other than to flee when attacked. In November 2014, for example, soldiers hastily fled as Boko Haram stormed the town of Maiha in northern Adamawa State. “The fleeing soldiers asked us to give them our clothes so that they can camouflage and escape from the area safely as some of them discarded their weapons in the bush”, recounted one eyewitness.³² In an early 2015 BBC interview, a soldier anonymously recounted how his superiors refused to resupply frontline troops, leaving soldiers to face heavily armed Boko Haram fighters with only AK-47s and dilapidated armoured vehicles now four decades old.³³

In addition to the rapid surrender of weapons and vehicles in the heat of battle, corruption means the military’s longstanding failure to budget and train for the effective maintenance and repair of equipment, necessitating the frequent purchase of new materiel, and so creating further new opportunities for procurement-related fraud. **In a December 2015 court martial, 66 soldiers on trial for mutiny had their death sentences commuted after the court heard that the soldiers had pleaded to be given weapons and equipment to combat the insurgency, but the funds had been stolen.**³⁴

³⁰ Amnesty International. “Stars on Their Shoulders, Blood on Their Hands: War Crimes Committed by the Nigerian Military”. (London: Amnesty International, 2015), p 23.

³¹ “83 Nigerian soldiers still missing days after Boko Haram attack”, Premium Times, 21 October 2016, <http://www.premiumtimesng.com/news/headlines/213317-exclusive-83-nigerian-soldiers-still-missing-days-boko-haram-attack.html>

³² “Nigerian soldiers flee as Boko Haram captures more territory in Adamawa”, Premium Times, 11 November 2014, <http://www.premiumtimesng.com/news/headlines/170914-nigerian-soldiers-flee-as-boko-haram-captures-more-territory-in-adamawa.html>

³³ “The fight against Boko Haram: A Nigerian soldier speaks out”, BBC World Service, 12 February 2015, <https://soundcloud.com/bbc-world-service/the-fight-against-boko-haram-a-nigerian-soldier-speaks-out>

³⁴ Pardon 34 convicted soldiers – CNPP begs Buhari”, Daily Post, December 20, 2015 <http://dailypost.ng/2015/12/20/pardon-66-convicted-soldiers-cnpp-begs-buhari/>

Empowering Boko Haram

The corruption-fuelled under-resourcing of front-line troops has also indirectly benefitted Boko Haram. Photographs and video footage testify to the terrorist group's use of captured army vehicles and sophisticated arms abandoned by disintegrating Nigerian units, which have been key to the operational success of the terrorist group.³⁵ Furthermore, there have been reports of military sympathisers leaving doors of armouries unlocked. As recently as September 2016, the Army court martialled several officers for selling weapons to the group.³⁶

The culture of impunity within the security forces has indirectly helped Boko Haram to recruit and radicalise a generation of young north-eastern Nigerian males. Many have been impacted by the military's indiscriminate arrest, interrogation, and detention practices. Since 2011, most significant were the deaths of several thousand young men, many of whom had no connections to Boko Haram, from torture, starvation, and neglect at army-run detention facilities. Although such deaths declined sharply in 2014, they have nevertheless continued under President Buhari's government.³⁷

There are also reports that military personnel may have embezzled funds budgeted for the care and feeding of detainees, as well as the construction of additional prison blocks. In many cases, desperate young men not associated with Boko Haram have nonetheless faced indefinite incarceration or even death under military detention.³⁸ The group has been able to use prison breaks as a tool to recruit felons and pre-trial detainees from civilian prisons, as well as young men who had been imprisoned despite no prior affiliation with the group.

The military's mistreatment of detainees has proven a particularly effective source of propaganda, and Boko Haram's demand that the army releases women and children it is holding has been especially effective.³⁹ Those who managed these *de facto* death camps routinely demanded bribes in exchange for releasing prisoners. One former prisoner held at Giwa reportedly spent four months in detention until his relatives managed to secure his release by paying a bribe. At the time of his release, of the 122 men he had been arrested with, only eleven survived.⁴⁰ Even when President Jonathan personally ordered the release of 167 detainees in 2014, officers in Giwa demanded bribes from their families before releasing them, according to Nigerian military sources.⁴¹ Abuses such as these feed public mistrust in the military, playing in Boko Haram's favour.

³⁵ "Inside Nigerian military's renewed offensive against Boko Haram; terrorists now on the run", Premium Times, 3 December 2014, <http://www.premiumtimesng.com/news/172275-exclusive-inside-nigerian-militarys-renewed-offensive-boko-haram-terrorists-now-run.html>

³⁶ "Nigerian Military: Some Officers Selling Arms to Boko Haram", Voice of America, 4 September 2016, <http://www.voanews.com/a/nigerian-military-some-officers-selling-arms-to-boko-haram/3493038.html>

³⁷ "People accused of being Boko Haram are disappearing in northeast Nigeria", Washington Post, 20 February 2016, https://www.washingtonpost.com/world/people-accused-of-being-boko-haram-are-disappearing-in-northeast-nigeria/2016/02/20/a195c61c-d817-11e5-be55-2cc3c1e4b76b_story.html

³⁸ Fineface Ogoloma and Beatrice Sampson. "Boko Haram and Human Rights Violation in Nigeria", ARC Journal of Social Science and Humanities, vol. 1 no. 1, 2015, p. 7. https://www.academia.edu/14433370/Boko_Haram_and_Human_Rights_Violation_in_Nigeria

³⁹ "Amnesty: Babies dying in Nigerian military detention", Associated Press, 10 May 2016, <http://www.sandiegouniontribune.com/sdut-amnesty-babies-dying-in-nigerian-military-2016may10-story.html>

⁴⁰ Amnesty International. "Stars on Their Shoulders, Blood on Their Hands: War Crimes Committed by the Nigerian Military". (London: Amnesty International, 2015), p 63.

⁴¹ *Ibid*, p. 85.

3. Opportunities for defence sector corruption

Inflated procurement and ‘Phantom Contracts’

Creating inflated or phantom contracts is still one of the easiest ways for corrupt actors to steal from the Nigerian defence budget. In 2014, former NSA Dasuki awarded a US \$500 million contract for refurbished helicopters to Triax Company Limited, whose CEO at that time, according to media reports, was Arthur Eze, a major financier of the PDP and a family friend of former President Jonathan. The helicopters had limited to no combat utility and have not been deployed. One source in the Nigerian Air Force described the purchase as “pure waste”. As another source explained, “for the price of each helicopter provided by this contract, the Air Force could have acquired seven top grade, brand new military helicopters.”⁴²

Another common tactic in corrupt defence contracting is the use of ‘briefcase companies’: shell companies that exist only on paper. In December 2011, for example, unconfirmed reports surfaced of the MOD seeking six brand new Mi-17SH military helicopters to support operations against Boko Haram. The tender was not advertised and instead the eight companies were invited to bid for the multi-billion dollar supply contract.

No information is available on any of the companies invited to bid, what goods and services they provide to the defence or any other sector, who their employees are, or who owns them. None appear to have the capabilities to fulfil this contract; suggesting that the beneficiaries are simply set up to give the appearance of multiple bidders competing to lower the price to complete the contract. By acting in collusion however, the multiple bidders are able to increase and artificially inflate the contract price.

The bidding companies included generic names such as Asset Management Corp Limited and GNY Management and Consulting; none of which operated a website, a strong indicator for a briefcase company. Some of the bids were in Euros or Pound Sterling, suggesting—perhaps deliberately—links to Europe or the UK, though none could be found. Most of the bids were around US \$20 million per helicopter. Yet an identical helicopter model purchased by the United States came to US \$17.5 million per unit while a similar model sold by Russia to India in 2012 cost US \$17 million per unit.⁴³ Two of the bidding companies were chaired by the then Chairman of Skye Bank, Tunde Ayeni, a close associate of President Jonathan.^{44;45}

⁴² “How Jonathan Awarded \$500 Million Defence Contract To Arthur Eze For Purchase Of Refurbished Helicopters”, Sahara Reporters, 10 March 2015, <http://saharareporters.com/2015/03/10/how-jonathan-awarded-500-million-defense-contract-arthur-eze-purchase-refurbished>

⁴³ “Multi Billion Scandal looms in Nigeria’s Ministry of Defence over Helicopter Purchase”, ireporterstv, 2012, <http://ireporterstv.co/multi-billion-scandal-looms-in-nigerias-ministry-of-defence-over-helicopter-purchase/>

⁴⁴ “Inside Story Of Skye Bank Management Takedown By The Central Bank Of Nigeria”, Sahare Reporters, 4 July, 2016, <http://saharareporters.com/2016/07/04/inside-story-skye-bank-management-takedown-central-bank-nigeria>

⁴⁵ Tunde Ayeni’s LinkedIn profile lists that he is Chairman of Joint Aviation Services Limited, one of the companies allegedly invited to bid for this contract. Ayeni is a close associate of Goodluck Jonathan, and was Chairman of Skye Bank from 2011 until 2016 when the Central Bank of Nigeria forced the board to resign. After alleged bad loans and insider malpractices by board members, the Central Bank of Nigeria made plans to take over Skye Bank, but allowed the voluntary resignation of the management of Skye Bank - whose Chairman Tunde Ayeni, a close associate of Goodluck Jonathan,

Five common themes in Nigerian defence procurement fraud

Our research found five common themes among the thousands of corrupt defence deals conducted:

- i. The price of the equipment, product, or service purchased is inflated out of all proportion to its true value.
- ii. Bidding entities are 'briefcase companies.'
- iii. The beneficiaries of these front companies are financiers of the ruling party, closely connected to senior party figures.
- iv. The equipment purchased is old, damaged, procured without reference to military needs, has limited to no combat ability, or simply does not exist.
- v. In return for financing the ruling party, contract beneficiaries determine the winners of the election primaries for Federal legislative seats, securing their favoured candidate who in turn has access to the award of contracts at the federal or state level, enabling the beneficiaries to recoup their financial donations to the ruling party.

owed the bank at least N102 billion, without pursuing criminal or regulatory charges. "Why CBN replaced board, management of Skye Bank", Premium Times, 5 July 2016, <http://www.premiumtimesng.com/news/headlines/206456-cbn-replaced-board-management-skye-bank.html> and <http://saharareporters.com/2016/07/04/inside-story-skye-bank-management-takedown-central-bank-nigeria>. Ibinabo Dodiya-Manuel, a regional director at Skye Bank is listed on his LinkedIn page lists him of Charman [sic] of Asset Management Corp Ltd, another bidder to this tender. No records are available for the company. Separately, there is also no publicly available information for Dalhatu Construction Ltd, a third bidder for the helicopter contract. But Dalhatu Investment Limited, is currently under investigation by the EFCC for receiving stolen property amounting to N18 billion from the office of the National Security Adviser. The case highlights the very high level of elite control over defence sector spending and implicates some of Nigeria's most powerful figures including the former governor of Sokoto state (the owner of Dalhatu Investment Limited), allegedly acting in collusion with the former director of finance at the office of the NSA, his son, and the National Security Advisor himself, Dasuki. "Court papers say Dasuki, Bafarawa, others allegedly stole N9.6 bn", Premium Times, 15 December 2015, <http://www.premiumtimesng.com/news/headlines/195244-court-papers-say-dasuki-bafarawa-others-allegedly-stole-n9-6-bn.html>

‘Security votes’ and other budgetary black holes

The Nigerian defence budget lacks sufficient detail for anyone—including the Ministry of Finance or the National Assembly’s defence-related committees—to oversee and account for defence spending. The bulk of military hardware procurement for example, is not described in the annual budget of the MOD but is paid for using opaque *ad hoc* funding and accounting mechanisms.

One example of this fiscal obfuscation is the Nigerian National Petroleum Corporation’s suspicious disbursement of US \$289 million paid directly to the National Intelligence Agency (NIA) - the country’s small overseas espionage arm - just before the 2015 election.⁴⁶ Likely diverted into President Jonathan’s re-election campaign, the payment amounted to more than twice the NIA’s annual budget.⁴⁷ In April 2017, more than US \$43 million in cash was recovered in an apartment raid. The apartment is owned by the wife of the Director General of the NIA, Ayodele Oke, who claimed the money was being stored for “covert purposes”. Oke has been suspended while an *ad hoc* panel investigates how these funds were released to the NIA.

With the misappropriation of so much of the defence budget and therefore chronic under-resourcing of Nigerian military and police forces, both the state and local governments have presided over spiralling additional security expenditures. This spending, mostly in the form of opaque slush funds known as ‘security votes’, appears mainly to be to supplement army and police allowances, the purchase of equipment and fuel for use by security personnel, as well as the sponsorship of vigilante groups.⁴⁸ A relic of military rule, security votes are catch-all line items inserted in the budget to give recipients the flexibility to cover extra-budgetary security expenditures. But, in practice, they are used as opaque slush funds spent with no legislative oversight or outside scrutiny.

Spent in a context where the Constitution grants immunity from prosecution to the president, his deputy, governors, and their deputies, security votes can represent huge windfalls for the handful of top officials entrusted with spending them. **Shortly after taking office in May, President Buhari vowed to “plug revenue leakages”.⁴⁹ However despite taking steps to tighten control over public spending, President Buhari’s 2016 budget contains over 30 so-called “security votes” for the president and state governors, amounting to N210 billion (£540 million) annually.** This represents just a 10 per cent reduction in security vote allocation. There has been no matching institutionalised reform, and President Buhari has put no legislative provisions in place that will prevent the abuse of security votes under future presidents.

⁴⁶ Page, Matthew. “Buhari’s 2016 Budget Continues Use of Secretive Security Votes”, 14 January 2016, <http://africanarguments.org/2016/01/14/nigeria-buharis-2016-budget-continues-use-of-secretive-security-votes/>

⁴⁷ “How a cancer of corruption steals Nigerian oil, weapons and lives”, PBS Newshour, 2 December 2015, <http://www.pbs.org/newshour/bb/how-a-cancer-of-corruption-steals-nigerian-oil-weapons-and-lives/>

⁴⁸ Uche et al., “Security Votes in Nigeria: Disguising Stealing from the Public Purse”, African Affairs, 2012, <http://afraf.oxfordjournals.org/>

⁴⁹ “Buhari: I’ll block all revenue leakages”, Daily Trust, 14 December 2015, <http://www.dailytrust.com.ng/news/news/buhari-i-block-all-revenue-leakages/124242.html>

Loopholes in the current regulatory framework: The Public Procurement and Freedom of Information Acts

“It is regrettable that ever since independence, there has been a tradition that there should be a veil of secrecy surrounding the armed forces ... One must immediately concede that on the surface the reason for this veil of secrecy is to hide from the enemy the disposition of the Nigerian security forces ... But when we come to define the enemy, we in fact then discover that at least from the point of view of secrecy, we are defining the enemy in terms of Nigerians...it is Nigerians who are kept in the dark about the Nigerian security forces...and herein lies the dilemma. Most of the foreign policy elite ...know more about the Nigerian armed forces than Nigerians themselves know.”

Professor Bolaji Akinyemi,
former Director General of the Nigerian
Institute of International Affairs, 1982.

The 2007 Public Procurement Act harmonises government procurement policies and practices, and establishes the legal framework for third party oversight of tender specifications, bidding, and contract awards. The act has a host of powerful anti-corruption mechanisms though the lack of classification guidelines means that not all of these are being fully utilised. For example, for the legislation sanctions the Bureau for Public Procurement (BPP) to verify all stages of the public procurement process from advertising, to bidding, award, and the fulfilment of contracts. The BPP can also investigate complaints from bidding companies, which have a strong interest in contracts being awarded on merit.

The Act breaks new ground globally by granting important oversight powers to civil society to act as observers to government tender awards. These observers have the legal right to submit an observation report on the procurement process to any relevant agency (such as the BPP or the Senate) or to their own organisation.⁵⁰ The Act further guarantees that all procurement records should be made available to the BPP’s investigators and the agency may recommend cases for further investigation to criminal authorities.

Other strong provisions exist within the Act that could be employed to drive up defence sector contracting standards. These provisions include powers for public authorities to exclude (debar) suppliers where there is evidence of fraudulent behaviour (including a failure to fulfil properly a previous government contract), collusion, fake documentation, fraud and corruption. The exclusion of poorly run or corrupt companies from public procurement is an important part of incentivising a responsible and competent supply chain and has been successfully employed in the United States, including for defence procurement.⁵¹

⁵⁰ Section 19, Public Procurement Act 2007

⁵¹ “Evaluation of the Functioning and Impact of the EU Defence and Security Public Procurement Directive (2009/81/EC) across 20 EU states”, 2016, Transparency International Defence and Security Program <http://ti-defence.org/publications/evaluation-eu-defence-security-procurement-directive/>

Yet without classification guidelines, many of these mechanisms cannot be applied effectively to defence, as they can be bypassed with relative ease. For example, even with the 2017 amendments to the Procurement Act, the BPP is excluded from exercising these oversight powers over classified defence and security procurements. Classified procurements are exempt from the legislation, and there is currently no statutory procedure which covers them. Likewise, without guidelines for classification and non-classification, prescribed institutions and civil society are effectively unable to extend its monitoring to the defence sector.

Critically, there are no current guidelines setting out what information on budgets and procurements is classified or could be disclosed, opening up the classification mechanism to continued abuse. The recent amendment to this Act to include defence and security agencies is a positive move. But tenders labelled as sensitive or classified are still exempted, limiting the potential benefit of these legal changes. This is particularly important given that the security sector currently classifies all procurements by default, enabling defence officials to deny the release of any information.

Classification guidelines are urgently required to achieve full implementation of this law. These guidelines should include a public interest test, which would allow the military to separate confidential from non-confidential information, and proactively release non-confidential information. It would also enable civil society and the media to challenge instances where the defence sector has not released information, in apparent contravention of the public interest test.⁵²

⁵² See for example recent FOI challenges brought by the Public and Private Development Centre, <http://procurementmonitor.org/ppdc/>

