



# Comparative Examination of Challenges and Development in Anti-Corruption Measures in Public Procurements of Nigeria, China and Brazil

## Desafios e Avanços das Medidas Anticorrupção nas Compras Públicas: Uma Análise Comparativa entre Nigéria, China e Brasil

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Received: 13 April 2025

Revised: 2 August 2025

Accepted: 10 November 2025

e-ISSN: 2965-3630

**How to cite this article:** Nwawulezi, U., & Kabano, J. (2025). Comparative Examination of Challenges and Development in Anti-Corruption Measures in Public Procurements of Nigeria, China and Brazil. *Journal of Law and Corruption Review*, 7, e089. <https://doi.org/10.37497/CorruptionReview.7.2025.89>

**ABSTRACT | Purpose:** This study provides a comparative analysis of the challenges and developments of anti-corruption measures in public procurement processes in Nigeria, China, and Brazil, focusing on regulatory frameworks, institutional mechanisms, and practices aimed at enhancing transparency, integrity, and accountability. **Methodology:** The research adopts a qualitative doctrinal approach, based on the analysis of national legislation, international treaties, reports from multilateral organizations, and specialized academic literature. A comparative method is employed to identify similarities, differences, and limitations of anti-corruption regimes in public procurement across the three countries. **Findings:** The findings reveal that despite relevant normative advances, significant weaknesses persist in the implementation and enforcement of anti-corruption measures. Nigeria faces institutional capacity constraints and limited adoption of e-procurement systems. China exhibits a centralized and punitive approach, with notable progress in digital tools, but ongoing transparency challenges. Brazil presents a relatively robust legal framework and advanced electronic procurement systems, although enforcement gaps and coordination issues remain. **Originality/Value:** The study advances the literature by demonstrating that effective anti-corruption strategies in public procurement require not only legal reforms, but also institutional strengthening, international cooperation, and the strategic use of digital technologies.

**Keywords |** Public procurement; Anti-corruption; Transparency; Public governance; Comparative analysis.



**RESUMO | Objetivo:** O estudo analisa comparativamente os desafios e os avanços das medidas anticorrupção nos processos de compras públicas na Nigéria, China e Brasil, com foco nos marcos regulatórios, mecanismos institucionais e práticas adotadas para promover transparência, integridade e accountability. **Metodologia:** Adota-se uma abordagem qualitativa de natureza doutrinária, baseada na análise de legislações nacionais, tratados internacionais, documentos de organismos multilaterais e literatura científica especializada. A pesquisa utiliza o método comparativo para examinar semelhanças, diferenças e limitações dos regimes anticorrupção aplicados às compras públicas nos três países. **Resultados:** Os resultados indicam que, embora existam avanços normativos relevantes, persistem fragilidades significativas na implementação e fiscalização das medidas anticorrupção. A Nigéria enfrenta déficits institucionais e limitações na adoção de sistemas eletrônicos de compras. A China apresenta uma abordagem centralizada e punitiva, com progressos no uso de tecnologias digitais, mas ainda marcada por desafios de transparência. O Brasil dispõe de um arcabouço legal robusto e mecanismos eletrônicos consolidados, porém enfrenta dificuldades de enforcement e coordenação institucional. **Contribuições:** O estudo contribui para a literatura ao demonstrar que o combate à corrupção em compras públicas exige mais do que reformas legais, demandando fortalecimento institucional, cooperação internacional e uso estratégico de tecnologias digitais.

**Palavras-chave |** Compras públicas; Anticorrupção; Transparência; Governança pública; Análise comparativa.

## I INTRODUCTION

In recent years, Countries around the globe have implemented various measures aimed at curbing corrupt practices in public procurement processes. However, Nigeria, China, and Brazil are three notable Countries faced with several challenges of combating corruption in public procurement. This comparative review examines different strategies adopted by the Countries under review and how effective these strategies are in reduction of corruptions along with promotion of transparency in public procurement processes. It is established that the complex nature of procurement processes in the contract awards either before or after basically contributes to fraudulent and corrupt practices found in PP processes. This complexity can lead to a lack of transparency, accountability, and oversight, creating an environment conducive to manipulation and exploitation.<sup>1</sup>

As it is rightly observed that corruption and lack of integrity affects market and as well remained a critical factor in public procurement. Also, lack of transparent financial interests bolstered by lobbyists and conflicts of interest have the power to impact legislations, its executions, standards of competition, and finally, market's ability to grow economically and remain competitive.

Research has shown that corruption affects economic performance and remained major barriers to economic development and progressive achievements in public procurement.<sup>2</sup> A further review of literature shows that bribery is common in public procurement processes. That said, according to the Global Corruption Barometer from Transparency International, in Europe today, attitudes about corruption and confidence in public institutions are growing especially in Greece, Italy, and, France where there are claims that these countries are regarded as “free zone” where corrupt practices are

1 Kari Heggstad, Mona Frøystad, and Jan Isaksen, “The Basics of Integrity in Procurement: A Guide Book U4 Anti-Corruption Resources Centre,” *Chr. Michelsen Institute, Bergen, Norway*, 2010.

2 Joras Ferwerda, Ioana Deleanu, and Brigitte Unger, “Corruption in Public Procurement: Finding the Right Indicators,” *European Journal on Criminal Policy and Research* 23 (2017): 245–67, <https://doi.org/https://doi.org/10.1007/s10610-016>.



prevalent in procurement processes.<sup>3</sup> In this context, the so-called “free countries” are known for several corrupt practices at alarming rates. Regardless of the style of government, unusually high levels of corruption are harmful to economic growth, while low levels of corruption are advantageous at low incidences.

Basically, the paper revealed that one of the contributing factors that influenced the consequences of corruption in any country is dependent on the nature of those institutions.<sup>4</sup> In light of the above developments, it should be noted that while corruption affects the growth of any country particularly countries operating democracy, its economic development will be adversely affected by corruption. In other words, it may be argued corrupt practices affects the economic growth of developing economies with fragile democratic institutions as the citizens lacks the capacity to punish corrupt leaders. As a result, they become more determined to maintain their position of authority, as corruption and economic growth are positively correlated, high growth lowers corruption, which boosts growth.

More importantly, a worrisome situations as noted by the authors is that most criminal codes around the globe today does not regard corruption as a criminal offence, as well as non provisions of legal definitions of corruption in most global treaties and regulations. The implications of the above are that it will be difficult to guarantee honesty, fairness along with sincerity of purpose from public officials or agencies engaged in public procurement processes. This can only be addressed if international organizations like OECD, UN, along with individual Member States can collaborate in promoting joint anti-corruption framework, but it may require concrete methods of actions in order to achieve this. The question on what to do to guarantee honesty, prudent management, and sincerity of purpose from public officials or agencies engaged in public procurement business around the globe can only be addressed if the above expressions are strictly complied with.

Also, as this challenge has remained a worrisome situations, several countries across the globe have adopted different strategies along with prophylactic measures, each with contentious outcomes. Sometimes, they adopted policies that have extraterritorial ramifications or, in some cases, asserts direct extraterritorial jurisdictions noted as two increasingly common ways States can stop bribery and corruption committed by public officials engaged in public procurement abroad. These policies appear to be impactful on businesses operating internationally as well as demonstrate how the “zero-tolerance” along with “more tolerant” nations employs different business models.

The authors focused on the strategies adopted by the first group of nations in handling the challenges of corrupt practices in procurement processes, along with their implications, regulatory limitations, or associated problems. As the primary objective of the paper is dependent on the salient characteristics of several Anti-Corruption regimes, their consequences for businesses operating under diverse systems and some preventive steps that other nations could take to mitigate the effects of extraterritorial laws. As a tactic in the global market, it examines the functions of the interplay between public along with private preventative mitigating strategies available in public procurement processes.

3 Fabio Méndez and Facundo Sepúlveda, “Corruption, Growth and Political Regimes: Cross Country Evidence,” *European Journal of Political Economy* 22, no. 1 (2006): 82–98.

4 Toke Aidt, Jayasri Dutta, and Vania Sena, “Governance Regimes, Corruption and Growth: Theory and Evidence,” *Journal of Comparative Economics* 36, no. 2 (2008), <https://doi.org/10.1016/j.jce.2007.11.004>.



## Research Methods

This research employs a doctrinal research method to analyze the challenges and developments in anti-corruption efforts within the public procurement sector in Nigeria, China, and Brazil. This method allows the researcher to explore the existing legal frameworks and policies, as well as their practical applications. The study begins with the identification of issues related to corruption in public procurement, followed by data collection through literature reviews that include reports from international organizations and government policy documents. Subsequently, a comparative analysis is conducted to evaluate the effectiveness of anti-corruption policies in the three countries, focusing on their impacts on transparency and accountability. This research also highlights the importance of regulatory reforms and community involvement in procurement processes to address corruption challenges. In conclusion, the authors recommend the necessity of international cooperation in building a more effective anti-corruption framework to ensure integrity in public procurement.

## II PUBLIC PROCUREMENT

Public organizations always endeavor to lead society through various forms of governance. Their governance aims to ensure citizens' Security, safety, and well-being can impact society improvements including education, immigration, animal welfare, and climate change. Public organizations apply policies to drive certain societal changes inhibit growth deemed unnecessary. Public organizations around the world require works, supplies, and services to carry out these policies and activities. Much as we know that procurement in the global market regime is clustered with a lot of evolving issues, there is need to reform the existing regulations and guidelines in order to be in tune with the ever-changing procurement market.<sup>5</sup>

Be that as it may, public procurement simply refers to government's engagement in when purchasing products and services necessary for the executions of its daily activities for the public. In the acquisition of Due to its inclusion in EU legislation, the phrase "PP" is now frequently regarded as an activity within EU region. It must be emphasized that while United States procurement systems regarded "contracts engaged by government" or "governmental agencies," similar organizations adopts a different terms to qualify their own understanding of the term as the case may. In light of the different perceptions and understanding of the term, WTO understood procurements engaged by government or its agencies as a process which should be done with all amounts of honesty and procurement regulations. Nonetheless, procedures for public procurement consist of three steps: First, pertains to choosing the kind of products or services to purchase, and when used in conjunction with "procurement planning," products and services. The second step involves putting in place an agreement to purchase the products or needed labour. During this process, various decisions are made, such as selecting contracting partners along with specified conditions upon which such products or needed labour will be supplied as the case may be. Additionally, contract's terms, plus terminations

<sup>5</sup> Florian Bienhaus and Abubaker Haddud, "Procurement 4.0: Factors Influencing the Digitisation of Procurement and Supply Chains," *Business Process Management Journal* 24, no. 4 (2018), <https://doi.org/10.1108/BPMJ-06-2017-0139>.



along with similar areas of control, may be decided upon, at least in part, at the time of awarding of the contract.

These serves as the three phases of public procurement processes oftentimes referred to. The paper revealed that the existing regulations on PP most times emphasized on the second phase, as this applies to when legal rules, together with other regulatory measures, became critical policymaking tools as this relates to the concerns of the authors. Generally speaking, in practice, the three stages of procurement practices entails that the three levels of operations must co-exists and be considered to be independent components in an integrated framework. In addition, it should be noted that there exists an interplay between the regulatory measures which are applicable to the second stage, first and third phases of the processes, as well as in some situations where the regulatory guidelines considered may likely be of adverse effects on the first and second stages which will arise either when procuring, it is necessary to carefully proposed a sound and robust procurement strategies in future in order to achieve a desired objective that will be in compliance with the procurement regulations. It is often observed that some procurement legislations sometimes permit the applications of certain practices without any form of advertisements along with competitions while dealing with some situations of emergency. This practices is disallowed especially when such situations of emergency is predictable or where such amendments made on the contract at the period of executions that may sometimes be construed by the Courts to amounts to a fresh agreement which must be re-bid in accordance with the regulatory guidelines of PP, especially when such procurement entails future planning. In this regard, there is need to have a sound proposal for future procurement in order to ensure that such procurement processes complied with the several guidelines along with the prescribed time frame contained in the procurement regulatory framework,<sup>6</sup> or when such conditions attached to the agreement, terminations along with other aspects of the agreement may be set particularly, partly at the stage of the award of the contract.

In fact, it is noted that, there exists interplay between contract award stage and execution stage. This two stages remained fundamental requirements as the contract award stage appears to impair basic interests in cases where there is inadequate supervisions over the contract implementation stage. This is due to the fact that if the contract is not carefully managed and overseen, fraudulent practices may occur throughout the implementation stage. In this sense, bidders who are at advantage along with the bidding company may produce an important beneficial proposal capable of winning the bid contract in compliance with the prescribed competitions regulations, along with the acquiring company who may then be permitted to amend the conditions of the bid in such a manner wherein the acquiring company could permits the bidder to ignore those conditions attached to the bidding agreement. For example, in situations where the acquiring company fails to enforce deliveries or substandard products contained in the agreement or permits a review of price that will be of advantage to the contractor. Similarly, it may arise even when the procuring entity appears to be honest. In this case, the acquiring agent is allowed to bid at a very low rate and as well will like to change the nature of the contract implementation stage in order to gain favourable conditions.

<sup>6</sup> See United Nations Commission On International Trade Law, "UNCITRAL Model Law on Procurement of Goods, Construction and Services," UNCITRAL, June 15, 1994, [https://uncitral.un.org/en/texts/procurement/modellaw/procurement\\_of\\_goods\\_construction\\_and\\_services](https://uncitral.un.org/en/texts/procurement/modellaw/procurement_of_goods_construction_and_services); James J Myers, "The New UNCITRAL Model Law on Procurement," *Pub. Cont. LJ* 23 (1993): 267.



Also, it must be emphasized that a refusal to execute despite any form of extra payments may likely result to certain challenges to the acquiring company. The implications of this is that any amendment of the contract at the implementation phase in the acquiring regulations sometimes appears to amounts to a fresh agreement which must be re-bid as stated above. This suggests that amendments at the implementation stage oftentimes are very challenging when it comes to monitoring than abuse of the regulations which regulates the contract at the award stage as other distributors may not be able to regulate the procedures in such a manner as it applies at the tendering procedures phase.<sup>7</sup> Another important point to note is that there appears a difference between Common Law and global systems. In one hand, in the Civil Law systems, contractual agreement along with the implementation is monitored by the Civil Law procedures.<sup>8</sup> From the above observations, knowledge of this is very important for the purposes of laws on public procurement.<sup>9</sup>

Any emphasis on public procurement centres on a procedure wherein the relevant commodities, works, and services are purchased from another party via market procedures. We are talking about the procedures that apply when selecting a contractual partner in a system where government suppliers are legally at liberty to take decisions on whether or not to enter into a contractual agreement with the governments or its agencies. This situation applies to the regulatory measures utilized in such a system where the government suppliers are legally at liberty to take decisions. This might not hold true in a centrally planned economy, or it might hold true only partially. For example, public procurement represents a substantial percentage of GDP in most OECD countries, often within a certain percentages that may be low, while in many developing countries, this percentage may be high as case may be. It has been noted that these numbers may possibly be higher in nations that are shifting from centrally planned to market economies.<sup>10</sup>

### III REGULATORY FRAMEWORKS OF PUBLIC PROCUREMENT CONTRACTS

Basically, Governments contract awards are oftentimes are regulated by the State municipal regulations as noted in the United Kingdom. But in such jurisdictions, a separate and additional norm applies to government contracts that are unrelated to conventional commercial transactions. This is crucial since it has to do with awarding government contracts, where special “administrative law” constraints on the bidding process often come into play. Furthermore, the administrative courts in certain nations with distinct administrative court systems may make use of these tendering regulations.

These tendering regulations are occasionally applied by administrative tribunals, but other similar concerns bordering on contract fulfillment are been regulated by municipal regulations along with judicial organs. However, in United Kingdom, bidding procedures along with similar problems connected to public contracts are adjudicated in simple individual Courts as applicable to most cases of administrative nature. The paper revealed that in some jurisdictions of the world, public contracts

7 Vito Auricchio, “The Problem of Discrimination and Anti-Competitive Behavior in the Execution Phase of Public Contracts,” *Public Procurement Law Review*, 1998, 113.

8 Peter Treppe, *Regulating Procurement: Understanding the Ends and Means of Public Procurement Regulation* (Oxford University Press, 2004), 18–19.

9 United Nations Commission On International Trade Law, “UNCITRAL Model Law on Procurement of Goods, Construction and Services.”

10 Denis Audet, “Government Procurement: A Synthesis Report,” *OECD Journal on Budgeting* 2, no. 3 (2003): 149–94.



awards follows different set of regulations arising from personal contracts. This type of situations is found practicable in France, a jurisdiction where PP contracts awards are controlled or monitored by several administrative regulations that governs the design along with the implementation of the agreement and enforced in a specific type of administrative Courts.

## IV DISPARITIES IN PROCUREMENT SYSTEMS

According to Arrowsmith et al. different rules appears to be vital to a large extent. Trepte in his observations maintained that “Procurement processes should not be examined or cajoled by mere references to a globally acceptable and perfect procurement regulations, and should be examined in their context.<sup>11</sup> He further maintained that no “single appropriate model” exists. The extent in which regulatory framework governing PP can or should be harmonized remained major concerns. The UNCITRAL Model regulations acknowledges the necessity of divergences despite the fact that UNCITRAL tends to promote global business exchanges through liberalization or harmonization of acquiring processes existing between States, rather than creating a more reliable regulatory framework. Indeed, certain scenarios, such as those in which differing system values are represented in the varying weights assigned to distinct procurement targets,<sup>12</sup> seem to justify these disparities in approach. For instance, the significance of sincerity of purpose in contract award or the application of procurement regulations in advancing implementation guidelines; the existence of compelling social along with economic situations of varying degrees of corrupt practices or a level of national market competitions; and certain variations in the qualifications and abilities of the procurement staff.<sup>13</sup>

In practice, there appears to be a serious attempt to harmonize public procurement systems between countries through the applications of global business exchange instruments which introduced certain level of uniform processes on different Countries, as well as certain control arising from the UNCITRAL forms of guidelines which serves as guidelines necessary for amendment applied in several jurisdictions around the world. Furthermore, some Reconstruction Banks which demands individual acquiring criteria for funding acquisitions in poor jurisdictions seems to have achieved significant headway by amending their regulations, bolstering the trends towards harmonization. In other words, the World Bank, with cooperation from other Reconstruction Banks had adopted certain policies which empowered advancing nations through the utilization of their respective acquiring guidelines, instead of WB regulations for such a fully funded acquisition.

It should be emphasized that this is a guideline which seems to depart from the existing regulations, while ensuring that there is a more harmonization of the processes within the Countries, as municipal acquiring regulations may be applicable to funded projects along with similar acquiring processes.<sup>14</sup>

11 Trepte, *Regulating Procurement: Understanding the Ends and Means of Public Procurement Regulation*.

12 Omer Dekel, “The Legal Theory of Competitive Bidding for Government Contracts,” *Pub. Cont. LJ* 37 (2007): 237.

13 Eche Nwogwugwu, “Towards the Harmonisation of International Procurement Policies and Practices,” *Public Procurement Law Review* 3 (2005): 131; Christopher R Yukins and Steven L Schooner, “Incrementalism: Eroding the Impediments to a Global Public Procurement Market,” *Geo. J. Int’l L.* 38 (2006): 529.

14 Christopher L Pallas and Jonathan Wood, “The World Bank’s Use of Country Systems for Procurement: A Good Idea Gone Bad?,” *Development Policy Review* 27, no. 2 (March 1, 2009): 215, <https://doi.org/https://doi.org/10.1111/j.1467-7679.2009.00443.x>.



## V ISSUES OF MODEL LAW,<sup>15</sup> IN PUBLIC PROCUREMENT PRACTICE

The issues concerning regulations on public procurement with reference as well as the creation along with the improvement of the monitoring regulations on PP are found in the new regulations on acquisition of products, services along with constructions upheld by the UNCITRAL. In broader sense, this regulations draws its strength from global challenges of the past and present situations regarding regulations of the acquiring procedures in PP. The primary purpose of this is to avoid the need for States to create or modify procurement laws “from scratch,” and by utilizing the global regulatory experience in this area, it helps them enhance the quality of their procurement laws. A procurement Model Law was originally accepted by UNCITRAL in 1993. Only products and construction were covered in the first edition. But in order to expedite the work on products and building of fresh model regulations, this rules was created in 1994 in order to address matters of agreement that has been left unattended to by the first model regulations. It is important to keep in mind that the purpose of this innovation is to assist Countries in dire need to improve and modify their existing regulations on PP procedures. In the context of the UNCITRAL instruments, it should be emphasized that the extent to which the UNCITRAL applies to nations is dependent on the ability of such Nation to trade with other Countries when they adopt a more uniform public procurement strategy. States can also benefit from adopting measures based on the Model Law when they join international trade agreements that facilitate procurement. The sole noteworthy aspect of this law, nevertheless, is its assistance to States in accomplishing their goals for domestic procurement, which may include value for money, efficiency, or probity.<sup>16</sup>

One may argue that this model regulations as properly called is not legally enforceable legislation that commits States to any procurement agreement, but rather only mere regulations meant to assist States. In this case, Countries are not bind by its regulations or be compelled to agree on its results in accordance with their own policies because it is not legally enforceable. It is therefore the view of the authors that more guidelines would be of relevance in order to complete certain specifics of the regulations that will be tailored to an individual Nation in situations when such a State accepts the bulk of its provisions. For instance, defining the thresholds at which unofficial processes like “request for quotations” will be used. According to the report, Model Regulations are not meant to be an exhaustive set of rules, but rather as a framework for controlling procurement processes. It is important to note that developing nations were the primary target audience for this Model Law when it was first developed, but much later, it became an applicable regulation in the European region particularly in Eastern and Central Europe. As time goes on, it became applicable in the regions of Africa and Asian where it was used extensively.

15 S. Aidarbayev and A. Begzhan, “The UNCITRAL Model Law: A Guide for Reforming the Legal Regulation of Public Procurement,” *KazNU BULLETIN International Relations and International Law Series* 89, no. 1 (2020), <https://doi.org/10.26577/irilj.2020.v89.i1.05>; Marc Bacchetta, “Law and Policy in Public Purchasing, The WTO Agreement on Government Procurement,” *Journal of World Trade* 31, no. 6 (1997).

16 Gosta Westring, “Multilateral and Unilateral Procurement Regimes: To Which Camp Does the Model Law Belong,” *Public Procurement Law Review* 3 (1994): 142.



## VI ANTI-CORRUPTION MEASURES

It must be recognized that prevention of corrupt practices along with ensuring transparency in PP practices are two concepts that mutually co-exists when corruption in public procurement processes is in contention. Though “anti-corruption” and “counter-corruption” are sometimes used disparagingly, while “ensuring transparency” implies greater positive features of certain processes known to be fundamentally the same. Advancing on the above argument, it is not out of place to maintain that integrity, in the eyes of CIDST, is the quality of operating under strong principles or of applying previously established norms and principles in a fully functional, uninterrupted, and internally consistent manner. This suggests that in order to achieve certain measures of integrity, there should be a level of quality assurance devoid of corrupt practices in the acquisition processes capable of guaranteeing sustainability and reliability of the procurement contract. In other words, the emphasis here is centered on preventive along with corrective measures which are also found in BI programs.<sup>17</sup>

Corruption in the security sector, which typically accounts for a significant portion of a state’s budget, has a negative impact on a growth, sound government, and social welfare. As a result, there are less or no resources left for other crucial industries like health and education. Corruption in the security sector has the potential to exacerbate conflicts and cause insecurity on a regional scale. Furthermore, successful anti-corruption programs are designed and implemented from a holistic perspective, inside a larger A framework for good governance. A program for business intelligence and counter-corruption should be established in each nation that aspires to have a secure, productive, and efficient security industry.

A variety of strategies can be implemented as measures aimed at preventing and combating corrupt practices as the case may be. This may be in form of coercive, preventive; corrective, and voluntary. Much as these are relevant in the procurement processes, it must be emphasized that a detailed risk assessment is required as the first stage in any BI/counter-corruption initiative. Among other things, DCAF, NATO, along with CIDS have released specific evaluation surveys, guidelines, instruments, along with a wide range of other product information that are relevant. Essentially, the above global institutions provide advice along with trainings on the development as well as implementation of BI along with anti-corruption projects or policies. In light of the risk evaluation steps, necessary strategic planning or actions should be developed as measures capable of promoting sustainability and transparency. In addition, the strategic planning will assist in formulating a robust programme that will be tailored towards achieving the expectations along with addressing the circumstances of a given situations. It may be argued that even though BI/counter-corruption programmes are subject to evaluations on individual basis, there is still need to have proper guidelines on work areas, procedures, approaches, and best practices can be useful.

Anti-corruption efforts are typically part of larger, good governance strategies that engage a diverse set of actors. Given that building integrity assessments are heavily focused on behavioral aspects, the actors involved in the process comprised of the military, civilians; national; regional; whistleblowers; ombudsmen along with global organizations who are charged with the responsibilities

<sup>17</sup> “DCAF – Geneva Centre for Security Sector Governance,” Europe and Central Asia, accessed January 24, 2025, <https://www.dcaf.ch/>.



of ensuring that all ethical rules that will guarantee transparency and integrity are strictly complied with. Parliaments, government agencies and ministries, Ombuds, audit and oversight institutions, and other organizations are in charge of developing, executing, along with supervising enforcement specific guidelines, programs, strategies, and regulations.

It therefore seems that governmental organizations such as the armed forces and non-governmental organizations engaged in acquisitions or similar activities, whilst mass media, higher institutions of learning along with civil society organisations are responsible for carrying out integrity values, overseeing and scrutinizing processes and results. As rightly said earlier, international bodies like the Inter-governmental and global institutions are meant to ensure compliance and adherence to global standards.<sup>18</sup>

## VII ISSUES OF CORRUPT PRACTICES IN PUBLIC PROCUREMENT

This section lays bare the challenges of corrupt practices in PP processes. It examines the impact of corruption as commercial impediments in Public Procurement. Corrupt practices have been perceived as not a disease which affects public officials alone, but the society in general and that if it is to be eradicated effectively, the solution to it must be pervasive to cover every sector of human society.<sup>19</sup> Thus, to be corrupt therefore is to be dishonest, engaged in bribery that is capable of infecting or tainting not only the corrupt, but others in the society at large. Corrupt practices therefore, whether domestic or global, can be operationally implies as a misuse of public power for private benefits. It should be noted that global consensus which aimed at creating a level playing ground through prohibitions of bribery by individuals engaged in acquisitions of cross- border contract basically forms the reason behind accountability, probity; honesty and transparency in global commercial transactions devoid of corrupt practices. This ensures that businesses across national borders are properly monitored and executed in line with the regulations guiding acquisitions, rather than only being subjected to a certain degree of restrictions applicable to a particular Country which may be at variance with other jurisdictions.

A significant point to note is that despite the gains associated with procurement regime, the paper observed that issues bordering on tracing of products bid as a result of the commercial transactions between the supplier of products and the customer has been a worrisome situation and should be addressed.<sup>20</sup> This situation can be better handled through the enforcement of GPS along with better communication strategies to check mate the channel of communication. Another very important question to be answered under this same issue is whether the ascription of economic crimes of national security dimensions to the crime of public procurement allegedly committed by the suspect could justify the faulty and ineffective procedures adopted by the government procuring agencies in executing the award of contract? In our humble opinion, in a country operating global best standards in public procurement, this could hardly be justified.

18 "DCAF – Geneva Centre for Security Sector Governance," Europe and Central Asia, n.d.

19 Branham Chima, "[SUMMARY] A.G Ondo State v. A.G Federation & Ors (2002) - Hbriefs," Humongouz Empire, 2002, <https://www.hbriefs.com/sc/a-g-ondo-state-v-a-g-federation-ors-2002/>.

20 Shubham Tripathi and Manish Gupta, "A Framework for Procurement Process Re-Engineering in Industry 4.0," *Business Process Management Journal* 27, no. 2 (2021): 439–58.



According to the provisions of the 1997 OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions along with other several additional procedures is regarded as the most significant international tool in this aspect. It is also important to remember that certain trade agreements, like the one between the EU and the WTO, includes improved transparency provisions that help lessen corruption. This, however, does not account for its adoption in the last several administrations. However, transparency is explicitly included in the introductory part of recently reviewed World Trade Organization General Partnership Agreement (GPA) that is yet to be officially accepted as a means of preventing corrupt practices along with conflicts of interest that may likely arise from trade transactions.

In the same analogy, and in light of the applicable global regulations like UNCAC, it be suggested that addressing issues of corrupt practices may be viewed as a significant issue needed to be tackled by the new agreements which recognized the relevance of transparency as a vital issue in acquisition processes, or conducting acquisitions in such a manner that demonstrates transparency, accountability along with honesty or devoid of any competing interest.<sup>21</sup> It is also important to note that engaging in acquisition processes in foreign commercial transactions is capable of assisting in combating corrupt practices along with collusion thereby raising the number of suppliers engaged in the commercial transactions which will in turn makes such tactics more difficult to implement. This seems to apply to some markets and nations. Trade regulations and other procurement goals have a complicated connection. In large part, there is mutual benefit between the objectives of achieving profits from the money invested in the acquisitions of products, services, along with increasing more opportunities for acquisition processes that will encourage foreign engagement in procurement business. One factor that could contribute to justifying a transparent approach to PP when applying the relevant regulations on corrupt practices in PP is that because of the advantages of buying from foreign suppliers of higher value along with the motivation for local dealers in performing better, opening up of commercial transactions therefore encouraged cheap or better values of purchases made by the public. Moreover, a few of the particular strategies for creating free markets that were previously mentioned also increases the value of the money in other forms.<sup>22</sup>

With the increasing desire of maintaining transparency and accountability in PP processes, every efforts made in improving reliability and fairness not only will guarantee effective monitoring of the contract award in a non-discriminatory manner, but will assured international suppliers of transparency. By so doing, it reduces corrupt practices and provides reliable guidelines for local enterprises likely to increase value for capital invested in the acquisitions business.

Regardless, there is a risk of conflict as a result of engagement in commercial transactions along with the participation of a certain government acquisition agencies desirous of making profits from the capital invested. It has earlier been suggested that a certain level of fairness required in preventing

21 Beverley Earle, "The United States' Foreign Corrupt Practices Act and the OECD Anti-Bribery Recommendation: When Moral Suasion Won't Work, Try the Money Argument," *Dick. J. Int'l L.* 14 (1995): 207; Sope Williams-Elegbe, "Fighting Corruption in Public Procurement," *Fighting Corruption in Public Procurement*, 2012, 1-356; "Fighting Corruption and Promoting Integrity in Public Procurement," OECD, 2005, [https://www.oecd.org/en/publications/fighting-corruption-and-promoting-integrity-in-public-procurement\\_9789264014008-en.html](https://www.oecd.org/en/publications/fighting-corruption-and-promoting-integrity-in-public-procurement_9789264014008-en.html); Marco Celentani, Juan-José Ganuza, and José-Luis Peydró, "Combating Corruption in International Business Transactions," *Economica* 71, no. 283 (2004): 417-48.

22 See "The Revised WTO Agreement on Government Procurement (GPA): Key Design Features and Significance for Global Trade and Development," WTO Working Papers, 2017/04 (January 26, 2017), <https://doi.org/10.30875/188535E1-EN>.



discriminatory practices against global distributors may likely surpassed what is needed for ensuring increased value invested in specific acquisition patterns potentially limiting the discretion of procuring entities.

Furthermore, this tends to be negative when engaging in negotiations with suppliers for the value of money within the context of a certain national procurement system. In the event of conflict with the value of the capital invested, it should be noted that there are also possibilities of conflict arising from the expected goals of the suppliers thereby hindering procedural efficiency of the commercial transactions. In this case, global regulations demands that valuable information should be provided in foreign languages so as to encourage global commercial transactions, even though, direct economic gains of enhanced engagement in respect of certain benefits for the money accrued by the acquiring agencies does not outweigh the expected price.<sup>23</sup>

It should be noted that Westring<sup>24</sup> has earlier criticized the whole essence of the Model Regulations contract awards rules, arguing that they are overly focused on advancing European procurement processes at the risk of a proactive measures needed to address immediate challenges in government acquisition processes.<sup>25</sup> Furthermore, another contentious parts of commercial transactions regulations on acquisition is its effects on government's abilities in using acquisition in promoting "horizontal" objectives, which encompasses both social along with economic goals. In this context, any limitations in government's abilities in utilizing acquisitions as a tool in promoting domestic business may provide a compelling argument for trade restrictions, and such laws will certainly have constraining effects on government's efforts in doing so. More so, it has been observed that many horizontal procurement policies are focused on very broad and perfectly acceptable purposes rather than protecting national sectors from competition, which is counter to the very rationale of trade laws. However, it is possible to argue that the many laws established to open up trade may have a negative impact on these legitimate aims in the eyes of the trading system.<sup>26</sup>

For example, as earlier noted, scenarios in which a strategy of retaining contract awards for enterprises in developing Countries so as to enhanced the standard devoid of political turmoil that may likely contravenes with the regulations prohibiting discriminatory practices against international distributors. Transparency rules are likely to have an impact on horizontal policy. Thus, in times of disagreement, it will be necessary to determine the extent of granting approvals or discretion to core norms in order to accommodate horizontal policy. In this sense, it will right to point out that EU along with WTO regimes have frequently been confronted over their supports for free markets system, having made several attempts to combine their free market economic systems with their governments' policies thereby adopting certain acquisition processes to accomplish their expected objectives.<sup>27</sup>

23 Sue Arrowsmith, "National and International Perspectives on the Regulation of Public Procurement: Harmony or Conflict?," *Public Procurement: Global Revolution* 3 (1998).

24 Sue Arrowsmith, "The EC Procurement Directives, National Procurement Policies and Better Governance: The Case for a New Approach," *European Law Review* 27, no. 1/6 (2002): 3-24.

25 Westring, "Multilateral and Unilateral Procurement Regimes: To Which Camp Does the Model Law Belong."

26 Arrowsmith, "The EC Procurement Directives, National Procurement Policies and Better Governance: The Case for a New Approach."

27 Christopher McCrudden, *Buying Social Justice: Equality, Government Procurement, & Legal Change* (OUP Oxford, 2007).



## 1 Nigerian Experience

Issues bordering on corruption in PP sector in Nigeria cannot be overemphasized. These corrupt practices stems from mismanagement of public funds through corrupt procurement practices that has remained unabated and hindered Nigeria's economic development along with lacks of public trust in government institutions. As these have remained a worrisome situations, it must be emphasized that public procurement processes in Nigeria lacks transparency and accountability as a result of several notable factors associated with corruption.<sup>28</sup> Additionally, inefficient legal and regulatory frameworks also contribute to the continuous corrupt practices in public procurement sector. These arose from absence of strong and robust implementation mechanisms that further exacerbates the problems. An additional dimension to the incessant corrupt practices in PP processes in Nigeria is traceable to lack of adoption of E- Procurement processes in Nigeria, and by extension in the region of Africa. This could be as a result of expertise in this aspect of procurement regime.<sup>29</sup> It is pertinent to state that unreasonable applications of exemptions as well as illegal segmentalization of the acquisition processes are the notable causes of corrupt practices.<sup>30</sup> Issues of corrupt practices is a common phenomenon in Nigeria which affects all segments of the economy including procurement contracts.<sup>31</sup> According to Onyekpere, lack of a sound and robust regulatory frameworks impedes the efficiency of the procurement regime which creates room for fraudulent practices between government officials and the contractors.<sup>32</sup>

Moreover, institutional weaknesses along with lack of capacity in procurement agencies also hamper anti-corruption efforts. Inadequate knowledge and skills required in evaluations of bids and monitoring of contract performed are found to be responsible for the increased risk of corruption in the procurement processes.<sup>33</sup> Furthermore, political interferences and favouritism in procurement decisions have undermined the integrity of the process, thereby led to inflated costs and substandard projects deliveries.

In recent years, as this corrupt practices remained a developmental issue, several attempts are made in form of anti-corruption measures aimed at restoring hope in procurement business in Nigeria. One of those measures borders on the introduction of electronic procurement systems aimed at enhancing transparency and reduction of human interventions in procurement processes. These systems are designed to minimized corrupt practices through the provisions of digital trail of procurement activities that guarantee fair competition amongst bidders.<sup>34</sup>

28 O J Ameh and O Ogundare, "Impact of Due Process Policy on Construction Projects Delivery in Nigeria," *Journal of Building Performance* 4, no. 1 (2013).

29 Eziyi Offia Ibem et al., "Factors Influencing E-Procurement Adoption in the Nigerian Building Industry," *Construction Economics and Building* 16, no. 4 (2016): 54–67.

30 A Neupane et al., "Willingness to Adopt E-Procurement to Reduced Corruption: Results of the PLS Path Modelling," (2014)8 *Transforming Government: People, Process and Policy*, 4: 500-520.

31 Adeyeye Adewole, "Governance Reform and the Challenge of Implementing Public Procurement Law Regime across Nigerian State and Local Governments," *International Journal of Public Administration and Management Research* 2, no. 4 (2014): 25–32.

32 E Onyekpere, "Public Procurement Reports," *Abuja Centre for Social Justice*, 2009.

33 Stuart Emmett and Barry Crocker, *Excellence in Supplier Management: How to Better Manage Contracts with Suppliers and Add Value: Best Practices in Supplier Relationship Management and Supplier Development* (Cambridge Academic, 2009).

34 Musa Success Jibrin, Success Blessing Ejura, and Nwaorgu Innocent Augustine, "The Public Procurement Reforms in Nigeria: Implementation and Compliance Challenges," *Journal of Asian Business Strategy* 4, no. 11 (2014): 149.



Furthermore, the unabated corrupt practices in all sectors of the economy in Nigeria informed the establishments of several anti-corruption agencies specialized in curbing the canker worm which has affected the economic development of Nigeria. In this regard, some of the agencies like the Independent Corrupt Practices and Other Related Offenses Commission (ICPC), Economic and Financial Crimes Commission (EFCC), along with Bureau of Public Procurement (BPP) and others have demonstrated government's commitments in combatting corruption confronting PP processes. These agencies have been tasked with investigating and prosecuting cases of corrupt practices, thereby creating deterrent effects on potential offenders. The paper revealed that over reliance of the Nigerian Public Procurement Act on open rendering along with two-stage tendering processes contributes to fraudulent practices in procurement activities which demands for a review.

In addition, reforms in the legal and regulatory frameworks have been initiated to strengthened anti-corruption measures in PP. Another measure in line with the provisions of the Bureau of Public Procurement in Nigeria is its emphasis on debarment of any distributor, service contractor or provider who violates any sections of the Act or Regulations made in line with the Act.<sup>35</sup> It has been contended that as debarment from public tenders appears to be unfair to companies, individuals or in other words, more serious than sentences pronounced by the court on the company or individual, this does not suggests a punitive measure against the contractor.<sup>36</sup> Interestingly, the passage of PPA as well as its subsequent amendments have laid down clear rules along with the guidelines needed to be adhered to in PP capable of promoting transparency or accountability. Also, inclusions of provisions for open competitive bidding and the publication of procurement information have contributed to greater scrutiny and oversight of procurement processes.

While progress has been made in establishing anti-corruption measures in PP, it should be noted that much works are still needed in the aspects of enforceability of the regulations to be done. This suggests that sustained efforts to build institutional capacity, enhanced transparency, and enforced anti-corruption regulations remained essential in addressing several challenges confronting the sectors. Additionally, promoting best practices that encouraged transparencies along with strict adherence to ethical conduct as contained in the rules of procurement and amongst stakeholders are crucial in combating corrupt practices effectively. The above expressions depict the fact that the current anti-corruption regulations in place in Nigeria suffers from different challenges that have affected the enforcement of its rules. The need to understand this is important because it provides strong basis of assessment in terms of efficiency and adequacy of the regulations.

## 2 Chinese Experience

Public procurement in China have its own challenges arising from corrupt practices due to its rapid economic growth and the challenges it faces in implementing effective anti-corruption measures. As regards corrupt practices in China's acquisition processes, the paper revealed that a notable challenge in anti-corruption efforts in Chinese public procurement is lack of transparency.

35 Federal Republic of Nigeria Official Gazette, "Public Procurement Act," Pub. L. No. 65 (2007), sec. 6 (11), <https://bpp.gov.ng/wp-content/uploads/2019/01/Public-Procurement-Act-2007pdf.pdf>.

36 Jessica Tillipman, "The Congressional War on Contractors," *Geo. Wash. Int'l L. Rev.* 45 (2013): 235.



As noted in procurement processes in Nigeria, issues of transparency is the basis of sound and robust procurement businesses devoid of corruption as it guaranteed effective monitoring and oversight.<sup>37</sup> In China, lack of transparency in public procurement processes has been a major issue that contributes to the high increased in corrupt practices. Within the context of anti-corruption regulations in China, it may rightly be said that corrupt practices in PP in China may be viewed from the point of view of economics and rules of law. In the face of rules of law and economics, it has equally been argued that the regime of Xi Jinping brought about hope in the campaign against corrupt practices in PP.<sup>38</sup> Advancing on the above argument, it may be further argued that Chinese Anti-Bribery regulations concentrated more on issues of politics, economy along with trans-border commercial transactions, than emphasizing on specific regulations or guidelines capable of enhancing global participations with other jurisdictions.<sup>39</sup>

In a similar vein, the paper revealed that despite several enforcement measures in place, effective enforcement remained a challenge that has led to continued corrupt practices that informed the need to strengthened enforcement regulations that will strictly complied with the anti-corruption laws meant to combat corrupt practices in public procurement.<sup>40</sup> China as an Asian country has equally quered into the regime of exclusion of companies from PP processes arising from conviction of such company on corrupt practices, money laundering or other notable fraudulent acts. This is regarded as a measure under the debarment regime in acquisition processes practiced amongst the Asia Pacific region, specifically on corrupt practices relating to infrastructural and energy sectors of the economy. The paper revealed that much as debarment regime reduces corrupt practices and enhanced sanity to acquisition processes, it may be argued that the underlying reasons for debarment in acquisition processes in China is commendable, but it still lacks the culture of routine review of the compliance regime as regulations are meant to be reviewed from time to time.

In order words, it may be rightly said that the complexities of the procurement processes appears to be a contributory factor. Public procurement processes in China can be intricate and involves multiple stakeholders' involvement thereby making it a bit challenging to monitor and control every stage of the procurement processes effectively. This suggests that the complexities may likely create unnecessary opportunities for corrupt individuals to exploit. It may be argued that simplification along with streamlining of the procurement processes, while guaranteeing sound and robust control or monitoring mechanisms can assist in mitigating corruption risks.<sup>41</sup>

Despite these challenges, there have been significant developments in anti-corruption measures in Chinese public procurement practices. The Chinese government has recognized the need to address corruption and has taken steps to enhanced anti-corruption efforts. Basically, one of the notable developments made in curbing the menace of corrupt practices in PP in China is the creation of anti-corruption organizations and bodies specifically dedicated to overseeing procurement processes.

37 Khi V Thai, "Public Procurement Re-Examined," *Journal of Public Procurement* 1, no. 1 (2001): 9–50.

38 Miron Mushkat and Roda Mushkat, "Combatting Corruption in the" Era of Xi Jinping": A Law and Economics Perspective," *Hastings Int'l & Comp. L. Rev.* 43 (2020): 137.

39 Yu Chen, "FCPA Actions in China and China's Anti-Bribery Law," *San Diego Int'l LJ* 21 (2019): 71.

40 Jan Telgen, Christine Harland, and Louise Knight, "Public Procurement in Perspective," in *Public Procurement* (Routledge, 2012), 44–52.

41 "Government Procurement in China: Does Your Product Meet the Criteria?," Rödl & Partner, September 3, 2024, <https://www.roedl.com/insights/china-government-procurement-product-criteria>.



These agencies play a vital role in verifying and filing reported cases of corrupt practices in Courts, thereby deterring potential wrongdoers.

Moreover, the use of technology has been instrumental in improving the level of performance of the anti-corruption measures in Chinese PP processes. Also, with a growing awareness of technology around the globe, China adopts e-procurement systems and digital platforms to enhanced transparency and accountability in its processes. Electronic procurement processes offer greater visibility into the procurement process, reducing opportunities for corrupt practices. Embracing and further developing technological solutions can significantly strengthened anti-corruption measures in the Chinese PP practices.

Additionally, global collaborations with regional and international anti-corruption initiatives have been key developments. China's participation in global anti-corruption forums and collaborations with other countries in sharing best practices and experiences has contributed to strengthening its anti-corruption measures. Such collaborations foster a collective approach to combating corruption and encourage the exchange of knowledge and expertise.

### 3 Brazilian Experience

Over the years, the regulatory frameworks on PP in Brazil has tried to address several challenges confronting procurement practices in Brazil, despite all these measures, a notable challenge has been the prevalence of collusion along with bid rigging amongst contractors. This unethical practice undermines fair competition and results in inflated prices for goods and services. Furthermore, lacks of transparent transactions and reliability in the procurement practice by bidders encouraged and creates opportunities for bribery or kickbacks, leading to misallocation of resources and substandard deliverables. Additionally, the complexity of procurement regulations and inadequate monitoring mechanisms contribute to loopholes that facilitate corrupt practices has made significant strides in addressing corruption in public procurement through legal and institutional reforms.<sup>42</sup> The introduction of the Anticorruption Law in 2013 strengthened penalties for corrupt practices, including the imposition of hefty fines and debarment of corrupt companies from public contracts. More so, creation of National Anti-Corruption Strategies in 2015 further reinforced the commitment to combating corrupt practices in every sector of the economy, as well as in PP. Also, the application of debarment technique as measures aimed at eradicating corrupt practices by public officials engaged in acquisitions of products, labour along with services to a large extent appears to be a good measure.<sup>43</sup> Moreover, the implementation of electronic procurement systems and centralized databases has enhanced transparent practices along with traceability in PP processes thereby bringing reductions in malpractices.

42 "Government Procurement and PPPs | LawsofBrazil," Law of Brazil, accessed January 24, 2025, <https://lawsofbrazil.com/category/government-procurement-and-ppps/>.

43 Mona Clayton, "Entendendo Os Desafios de Compliance No Brasil: Um Olhar Estrangeiro Sobre a Evolução Do Compliance Anticorrupção Em Um País Emergente," *Temas de Anticorrupção e Compliance*. Rio de Janeiro: Elsevier, 2013, 149–66.



While Brazil has made progress in enacting anti-corruption legislation and institutional frameworks, challenges persist in the enforcement and compliance with these measures.<sup>44</sup> Inadequate resources and capacity constraints within enforcement agencies hinder effective detection and prosecution of corrupt activities. Moreover, the lack of a whistleblower protection framework discourages individuals from reporting corruption for fear of retaliation. Furthermore, there is a need to strengthen compliance mechanisms within public and private entities to ensure adherence to anti-corruption regulations throughout the procurement cycle.

In order to address the existing challenges and further advanced the whole essence of anti-corruption measures in PP, several safeguards and guidelines may be adopted to curb the menace of corrupt practices. Strengthening the independence and autonomy of oversight bodies, such as the Comptroller General's Office, can enhance the effectiveness of monitoring and investigation activities. Additionally, fostering a culture of integrity and ethical conduct through training and awareness programs can promote compliance with anti-corruption standards among procurement stakeholders. Furthermore, promoting public-private sector participation along with non-governmental organizations engagement in surveillance or investigating processes of procurement to ascertain its compliance with the relevant regulations can serve as an additional check on corrupt practices.

## VIII GUARANTEEING TRANSPARENCY AND AVOIDING CONFLICTING INTEREST IN PROCUREMENT SYSTEM

This is another extremely essential goal of several PP processes along with rules aimed at protecting integrity in the procurement processes.<sup>45</sup> In this context, integrity specifically implies to the idea that procurement should be executed in such a manner devoid of corrupt practices. Corruption in procurement processes covers a lot of illegal transactions involving several kind of engagement or collaborative efforts between governments and bidders where such contract awards are awarded contrary to PP regulations and procedures. In keeping with global trends, analysis as exemplified in the Countries under review suggests that assurances of transparent transactions devoid of conflict of interest in PP processes may be achieved through engagement in E-Procurement recognized as credible and reliable procedures that enhances fairness, transparency and utmost good faith in acquisition processes.<sup>46</sup> Generally, as observed by Vaidya and Hyde, issues of promoting and protecting bidder's rights through E-Procurement processes clearly that fairness along with probity could be achieved through inter-organizational patterns of information system designed in such a manner that could enhanced efficiency and best practices in PP processes.<sup>47</sup>

44 Steven Kelman, "Remaking Federal Procurement: Visions of Governance in the 21st Century Program" (Working Paper, 2002), 66, <http://www.hks.harvard.edu/visions-publication/kelman.pdf>.

45 Frank Anechiarico and Hamilton College, "Reforms in Procurement Policy and Their Prospects," in *Public Procurement: The Continuing Revolution*, ed. Sue Arrowsmith and Martin Trybus (The Hague, Netherlands: Kluwer Law International, 2003), <https://digitalcommons.hamilton.edu/chapters/49>.

46 Arjun Neupane et al., "Role of Public E-Procurement Technology to Reduce Corruption in Government Procurement," in *Proceedings of the 5th International Public Procurement Conference (IPPC5)* (University of Southern Queensland, 2012).

47 Kishor Vaidya and Micki Hyde, "Inter-Governmental Information Systems Assimilation: An Empirical Evaluations in Light of the Diffusion of Innovation Theory," *Int. J. Bus. Inf. Syst* 7, no. 3 (2011): 247-68, <https://doi.org/https://doi.org/10.1504/IJBIS.2011.039330>.



It may be stated that corruption occurs at the stage of the executions of a contract where officials collides with bidders to perpetrate the illegalities. Obviously, States are meant to have clear rules that regulate these practices. It may be rightly said that corrupt practices are predominantly found in government procurement sectors, than it is obtainable in private sector procurement practices as a result of some issues arising from poor wages as well as the structure of such government.<sup>48</sup>

First, awarding contracts based on bribery or personal connections could hinder authorities from getting the best value out of their acquisitions. This is because it could mean that contracts won't go to the best companies (which happens frequently when family members or political allies get contracts), or even in those cases, the government won't get the advantage of the most offers that are competitive in nature which likely to be made in such a manner that will fair and less competitive. The whole essence of this is because there is a tendency that companies with biggest marginal profits have the capacity to indulge in sharp practices than others. In this case, it should be highlighted that in situations where bribery is widespread, the best firm may actually win the contract. Scandals involving corruption may also discourage businesses from submitting bids for new contracts. In a market where corruption is an issue, the terms that the government obtains may also generally be less favorable as a result of the fact that contractors performing certain functions on behalf of government are likely to engage in corrupt practices in the procurement processes that will deny innocent bidders the opportunity of having a fair and transparent contract awards. Therefore, reducing or eradicating corrupt practices in PP processes will guarantee assurance and increase value of the money received at the time of purchase of the products services, and works.

Second, similar measures appears helpful in addressing damages to monetary values which was as a result of corrupt practices as well as other inhibiting factors that may arise from ineffectiveness or illegal transactions such as preferential treatment for domestic companies in violation of international trade regulations, as detailed below). Therefore, as will be covered in more detail below, transparent and competitive bidding are essential instruments for tackling corruption and many other cases of monetary values associated with procurement practices.

Although it is true that attaining value for money is a key reason for inclusion of honesty in procurement sectors as this remained a significant factor in achieving a fair value for the money. The reason for this is that public officials should not profit from their positions of public trust as government is under an obligation to ensure that it upholds the highest standards of practice on their own part. Another is the belief that the government should lead by example in order to deter corruption in the economy as a whole, especially when it is a major issue. In nations where organized criminal groups are deeply embroiled in corrupt public contracting procedures (such as New York State in the United States),<sup>49</sup> reducing those groups' financial resources may also be viewed as requiring the prevention of corruption. Because of these factors, eliminating corruption might be viewed as a separate goal of procurement regulations that is not always connected to cost-effectiveness.

Political concerns most certainly also contribute to the reason governments are frequently especially eager to combat corruption, even when doing so is not warranted on other grounds: if

48 Trepte, *Regulating Procurement: Understanding the Ends and Means of Public Procurement Regulation*.

49 "The Revised WTO Agreement on Government Procurement (GPA): Key Design Features and Significance for Global Trade and Development."



corrupt activities are exposed, governments stand to lose politically. It would be unexpected to see these factors openly stated, though, and resolving these political issues is generally not a justifiable goal of the procurement process.

Regarding the relationship between this goal and equal treatment, other aspects of equality of treatments is probity. It may be argued that any actions taken in a corrupt manner, basically violates the principles of probity and equal treatments thereby preventing the participation of firms from the acquisition processes due to certain reasons that are baseless. However, as the reading discusses, there are a number of reasons why treating probity as a distinct purpose is justifiable, not the least of which being the unique significance of this issue and the extensive array of particular measures implemented to meet it.<sup>50</sup> However, as the reading discusses, there are a number of reasons why treating probity as a distinct purpose is justifiable, not the least of which being the unique significance of this issue and the extensive array of particular measures implemented to meet it.

The goal of probity may occasionally clash with other system goals, as may be found in the interactions between other acquisition purposes covered in this aspects. Therefore, there could occasionally be a conflict between the goal of stopping corruption and making sure that the procurement procedures are administered effectively. For instance, the requirement that a special committee approved all significant contracts rather than merely the contracting officer in charge of the procurement which may likely cost £500,000 annually. This contention is justifiable when it is very much important to achieve a better value for money results in savings of over £500,000 due to the deterrent effect of corruption. However, the clearance processes won't be financially justified if corrupt practices in a particular Country become extremely uncommon for certain conditions. In order words, government needs to consider if the other reasons listed above make fighting corruption so vital in and of itself that tax dollars should be allocated to do so. To address the issue above, government typically values promoting non-fiscal goals on probity as found in private sectors.

As rightly observed above, maintaining honesty and transparency greatly encourages monetary values when purchasing certain products, labour along with services, but also there exists situations where conflict may arise. Specifically, a situations where the monetary values remained the only consideration, and should be pointed out that this may be appropriate in certain conditions in order to grant procuring officers some discretion in evaluating tenders, such as by allowing them to use procedures that allow for both pricing along with non-pricing requirements or to permit some degrees of negotiation with bidders in line with the initial submission of bids to be able to modify their offers and improved monetary values in response to feedbacks from the acquiring company. A procurement system may decide to give up some value for money in order to reduce corruption, as greater discretion that could result to an improved monetary value throughout the entire processes may likely create more opportunities for corrupt practices than would be applicable to situations where discretionary practices are prohibited.

The authors contend that, in industrialized economies, the goal of eliminating corrupt practices is frequently overemphasized, or at the very least, that the specific benefits and drawbacks of anti-

50 Read on Justice Nyigmah Bawole and Peter Adjei-Bamfo, "Public Procurement and Public Financial Management in Africa: Dynamics and Influences," *Public Organization Review* 20, no. 2 (2020), <https://doi.org/10.1007/s11115-019-00443-7>; Dekel, "The Legal Theory of Competitive Bidding for Government Contracts."



corruption initiatives are not thoroughly considered. This could be as a result of the previously mentioned political harm brought on by corruption. This is why it's typical for governments to respond in order to address the challenges of corrupt practices in PP through enactment of regulations that will match contemporary corrupt practices found in PP around the globe today the has remained a threat due to its adverse effects on procurement practices that involves cutting down on discretionary or procedurally costly measures.<sup>51</sup>

As the paper has exhaustively discussed issues of corrupt practices in PP, the idea of honesty, accountability along with transparency frequently encompasses the aim of avoiding both the appearance of impropriety and actual corruption. In this case, regulations might exist that forbid specific types of conflicts of interest or mandate that these conflicts be disclosed. This is due, in part, to the possibility that it will aid in the prevention of corruption by discouraging corrupt behavior and raising the likelihood of detection. Nonetheless, it is also possible to interpret these regulations as supporting the distinct goal of responsibility.

Against this background, public procurement laws helps in guaranteeing sound procurement processes to a large extents we will look at how regulations controlling the contract award process—specifically, those pertaining to contests and transparency—address the issue of corruption. Presumably, opportunistic corruption is easier to combat than systemic corruption when procurement award methods adhere to fundamental criteria of competition and openness.<sup>52</sup> But combating corruption in general, especially systemic corruption is a very difficult issue that calls for a variety of extra approaches, such as disciplinary and criminal penalties, educational initiatives, and structural changes.<sup>53</sup>

It is important to remember that corruption can also arise from private sector initiatives alone, independent of government cooperation. Private companies' "collusive tendering" is one significant practice. This will obviously hinder efficient public contracting and, more specifically, achieving value for money, therefore states will want to make sure that appropriate legislation is in place to address this kind of issue. False information supplied by contractors to win contracts, such as regarding their training and expertise, and dishonest contract execution techniques, including charging for services that aren't really rendered to the public, are other issues. (For instance, under health care contracts, for nonexistent patients).

## IX STRENGTHENING EFFICIENCY IN PUBLIC PROCUREMENT PRACTICE

Ultimately, the aim of any acquisition processes should be to guarantee an efficient execution of procurement process itself. This calls for the process to be executed without needless or disproportionate delays or unreasonable waste of finances for the sake of acquiring agencies, nor with excessive expenses for distributions.

51 Jeffrey Branstetter, "Darleen Druyun: An Evolving Case Study in Corruption, Power, and Procurement," *Public Contract Law Journal*, 2005, 443–68.

52 See United Nations Commission On International Trade Law, "UNCITRAL Model Law on Procurement of Goods, Construction and Services."

53 "The Revised WTO Agreement on Government Procurement (GPA): Key Design Features and Significance for Global Trade and Development."



This helps to achieving other objectives in part because reputable suppliers are more likely to take part in a smooth processes that will results to better monetary values . But as we've already mentioned, there needs to be some compromise between this aim and the process's other goals. For instance, the goals of equal treatment (i.e., equal access to government business opportunities) and monetary values for the purchase of the products, labour along with services, however, suggests that contract awards should be done through a transparent process where any qualified bidder whether an individual or company will safely participate in the bidding. However, it may be argued that the expenses of filing and reviewing a large number of offers outweighs any profits associated with the goals, making it a targeted bidding process only restricted to firms specifically invited to participate.

## **X CONCLUSIONS AND RECOMMENDATIONS**

This paper has broadly examined anti-corruption measures in PP processes in Nigeria, China, along with Brazil, highlighting the challenges and developments that have informed the emergence of several regulatory frameworks in the Countries under review. While each country has made efforts to address corruption in public procurement, significant challenges persists. The analysis reveals that Nigeria struggles with the executions of several anti-corruption laws, China's top-down approach has shown promise but transparency and accountability remained a major concerns, while Brazil's regulatory frameworks remained robust, but institutional weaknesses hinders its effectiveness.

The authors propose some measures capable of resolving these challenges in the procurement processes. Firstly, it is essential to strengthen the institutional capacities so as to improve fairness, and enforced probity in the acquisition processes. This can be achieved by enhancing the capacity along with guaranteeing independence of the anti-corruption agencies, procurement regulatory bodies, and judicial systems. Secondly, promoting citizens engagement and participation in the procurement process can help identifying and preventing corrupt practices. Thirdly, engaging in global cooperation along with knowledge sharing can as well play an important role in addressing complex issues of corrupt practices in PP. Fourthly, it should be noted that the authority to determine whether or not a term is transparent for the unfair contract terms provisions is vested in the Court. Essentially, issues of transparency particularly are not the only factor that determines the underlying unfairness in a contract awards. In order words, a decision of a particular Court on one issue which appears to be fair, does not simply implies that it will continue to be fair always.

Sixthly, the development and implementation of technology-based solutions, such as e-procurement systems and data analytics, can help to enhanced transparency and accountability. Also, engagement in regular assessments along with monitoring of progress is also crucial to identifying areas of improvements and adjustment for anti-corruption strategies. By implementing these measures, Countries can enhance their anti-corruption measures in public procurement, promotes good governance, and guarantee monetary value for public expenditure. In this case, it requires sustained commitments for necessary reforms and willingness to address the complex issues surrounding corruption in public procurement. It is submitted that incorporating these recommendations into the Nigerian, Chinese and Brazilian procurement regulations will elevate the legal regimes of fair and



transparent procurement processes devoid of corruption. This reform will strengthen protection for bidders who lack bidding power in procurement contract.

## ACKNOWLEDGEMENT

The authors acknowledged the contributions of the College of Law Library, Bowen University, Iwo Osun State, Nigeria for the realizations of this research work.

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