

TACKLING CORRUPTION IN TRANSNATIONAL DEFENSE PROCUREMENT: PROBLEMS OF IDENTIFICATION AND ATTRIBUTION



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Abstract

Corruption in defense procurements is challenging to tackle because of problems posed in identifying the involvement of bribe-givers and bribe-takers and in attributing motives to them. Since it is viewed as a victimless crime, there is great reluctance on the part of both the bribe givers and takers to come forward with any revelations. Further, even if they are identified it requires a herculean effort to establish motives for the bribe takers. Without establishing that the bribe takers in some way influenced the decision making process in favor of the bribe givers, it would not be possible to secure convictions. Through case studies of three different corruption scandals in transnational defense procurement, the factors influencing successful identification and attribution are identified. It is suggested that instead of looking at corruption in transnational defense procurement simply as another law enforcement issue, it should be looked at as transnational crime and an issue in the realm of international relations. This frame of reference will enable better handling of the corruption cases since more avenues of cooperation will be available and more specialized agencies can be involved.

Keywords: Defense procurement, transnational issues, corruption, law enforcement.

Introduction

This paper tries to understand the complexities involved in combating corruption in transnational defense procurement. At the outset it is acknowledged that defining corruption, let alone trying to identify and measure it, poses unique problems because of its cultural construct and diversity of value systems across the world.

The extent of corruption within the defense procurement sector has been widely documented by various organizations, most notably by Transparency International (TI). In addition it gets extensively reported in the media- often being described as 'scandals'. Although the media focus helps to draw public attention to corruption and may serve as deterrence, it often obfuscates the issue. A lack of transparency in the military sector, which acts as the fertile breeding ground for corrupt practices in the first place, further prevents disclosure of the actual facts. This fuels speculation in the media and emergence of conspiracy theories.

The media glare on the defense procurement 'scandals' can have a positive effect. Airon Ann Mothershed in a research paper entitled '*Perception Is Reality, or Is It?-A Case Study of Four Department of Defense (DoD) Procurement Scandals*' asks the question whether media coverage lead to procurement reform in the Defense sector in the United States. After analyzing the media coverage during four different procurement scandals in the United States-the spare parts scandal, Operation Ill wind, the Darleen Druyun scandal and the Iraq contracting scandal- the author concludes that 'the public's reactions to scandals are negative and strong, last long enough, and result in public pressure that may indirectly lead to lasting reform in defense procurement processes.' (Mothershed, 2011)

However the media focus on the defense procurement 'scandals' also results in a more immediate and negative effect. There is a 'trial by the media' and very often even before the legal process can get started the tainted officials are identified and a version of the facts relating to the scandal is projected as the legitimate version. This media attention tends to distract attention from the real investigation of the offence and consequent prosecution of the offenders. The investigations are usually long drawn, complicated, spanning across several national boundaries and often uncover little or no evidence to press for charges.

In this paper, it is argued that the central problem in tackling corruption in transnational defense procurement is the inability of investigation agencies to identify, with evidence, the guilty persons and the difficulty of establishing motives- which is a central pre-requisite for obtaining prosecution approval. Rather than being seen as factors that are specific to each case, it is argued that these twin problems of identification and attribution are in fact general problems that

plague transnational defense procurement around the world. The first section of this paper looks at certain definitions of corruption and ways of looking at corruption in defense procurement. The second section presents three case studies of investigations carried out in different parts of the world- two in which the investigations failed or were thwarted, and one in which the investigation was partly successful. The third section identifies the relevant factors from these cases that influenced the identification and attribution issues. These factors are then analyzed and emerging patterns isolated to try and understand what factors are most important and relevant. Contrasting frames that emerge from the factors are compared and a set of recommendations offered for the best frame to use for tackling corruption in transnational defense procurement.

I. Corruption

Although corruption is widely understood and used in popular discourse, there are several problems when attempting a precise definition that can aid in investigation.

Towards a definition

Corruption is most commonly defined as the *misuse or the abuse of public office for private gain* (WorldBank, 1997; UNDP, 1999) However, this definition is both restrictive and open to interpretation. There are important assumptions that are being made which need to be further elaborated- such as what is 'public office'- would a politician not holding any office but still exerting huge influence in decision-making still be said to hold public office? What constitutes 'private gain'- would favors extended to relatives or friends be labeled as 'private gain'?

Academicians have favored a more general definition avoiding any value-loading. J.S Nye has defined corruption as "...behavior which deviates from the normal duties of a public role because of private-regarding (family, close private clique), pecuniary or status gains; or violates rules against the exercise of certain types of private-regarding influence". (Nye, 1989) Though this definition can be argued to be more accurate, it offers very little practical insight for identification of corruption in real life.

Heidenheimer has identified three ideal-type definitions of corruption. (Heidenheimer, 1989) These are public-office centered, public-interest centered and market-centered. The UNDP and World Bank definitions are on the 'public-interest' lines while the definition offered by J.S Nye is along the 'public-office' line. The market-centered approach, according to Heidenheimer is exemplified by Van Klaveren who says "... *A corrupt civil servant regards his (public) office as a*

[separate] business, the income of which he will seek to maximize. The office then becomes a 'maximizing unit'. The size of his income depends upon the market situation and his talents for finding the point maximal gain on the public's demand curve." (Klaveren, 1989)

Cultural origins. The legal system does not always present a water-tight definition of corruption. Perhaps one difficulty in arriving at a universally acceptable definition of corruption is because it relates to a particular pattern of behavior and a set of beliefs/values. Each society has its own belief/value systems and norms that govern behavior and these also tend to change with time. As a consequence, definitions of corruption vary across cultures and over time.

If an official favors a welfare applicant when the applicant is really poor but is not eligible as per law, does the official's action constitute 'corruption'? He may not be acting in a legally correct manner but however, by moral standards, he is doing perfectly fine. Moreover, where is the 'private gain' in this case? Similarly there may also occasions when the laws themselves are unjust. In such cases, how can corrupt behavior be judged? Take the case of a Nazi concentration camp officer allowing a Jewish prisoner to escape by taking a bribe. In strict legal terms, this would be classified as 'corruption'. But it can also be argued that the Nazi soldier has by refusing to act as per law- which would have resulted in the death of the Jewish prisoner- acted in a morally correct manner. And can one really condemn the Jew for bribing his way out of a concentration camp? (Rose-Ackerman, 1978)

Desirability of Corruption. It has been argued by several theorists that corruption may in fact be a desirable phenomenon. Keeping aside the value judgments involved and from a strictly economic perspective corruption has the potential to maintain allocative efficiency when there is competition between suppliers. The argument goes that the most efficient producers will be the ones who have the most surplus with them. Therefore the highest bribe will be paid by these producers since they have the surplus that they can part with. While this might make sense in a perfect market condition, the fact is that there is tremendous information asymmetry in the markets. Differing value systems mean that corruption is not seen as a desirable practice by many. Therefore the highest bribes need not be offered by those producers who are the most efficient but rather those who function within a value system that does not place a negative connotation on corruption.

Corruption and Efficiency. Even if the allocative efficiency in completely corrupt societies (where all producers engage in corruption and there is no ambiguity attached to the moral status of corruption) is accepted, there are other factors that needs to be considered. Arvind Jain has identified some of the negative effects that corruption has in a system:

- a. Effect on bureaucratic efficiency: a corrupt bureaucrat may not necessarily award the contract to the most efficient producer (factors other than amount of bribe may matter). Also, corrupt producers may prevent entry of new producers creating monopoly conditions.
- b. Effect on resource allocation: Public resources will get allocated to projects which are not necessarily the most efficient for the nation. Corrupt officials will award projects not on the basis of the merits of a project but on the bribes offered. Corruption will similarly also affect human resource allocation and investment efficiency, as it will discourage entrepreneurial effort.
- c. Effect on cost enhancement: Corruption acts as a 'tax' on the cost of a transaction and has the effect of increasing government expenditures overall. (Jain, 2001)

Typology of corruption in Defense sector

Transparency International (TI) is one of the leading Non-governmental organizations that have been involved in working to minimize incidences of corruption in the public sphere. Originally founded in 1993, TI is best known for its annual publication of the Corruption Perception Index (CPI) which is a ranking of countries based on how corrupt they are perceived to be. In 2013, it published the Government Defence Anti-corruption Index with which corruption in the defense sector of 82 countries was measured.

TI defines corruption as *"the abuse of entrusted power for private gain which eventually hurts everyone who depends on the integrity of people in a position of authority"*. (Transparency International, 2014)

The framework adopted by TI is avowedly a practitioner one, not a theoretical one. In the sphere of Defense, TI has set up the Transparency International Defence and Security Programme (TI-DSP) which works with national governments and armed forces to build integrity and reduce corruption in the defense and security sectors. Out of this framework TI has formulated a typology that lays out the range of ways that corruption may manifest itself in these high-risk sectors. It has five broad categories: Political risks, Procurement risks, Personnel risks, Finance risks, Operations risks.

POLITICAL	PERSONNEL	PROCUREMENT
DEFENCE & SECURITY POLICY	LEADERSHIP BEHAVIOUR	TECHNICAL REQUIREMENTS / SPECIFICATIONS
DEFENCE BUDGETS	PAYROLL, PROMOTIONS, APPOINTMENTS, REWARDS	SINGLE SOURCING
NEXUS OF DEFENCE & NATIONAL ASSETS	CONSCRIPTION	AGENTS/BROKERS
ORGANISED CRIME	SALARY CHAIN	COLLUSIVE BIDDERS
CONTROL OF INTELLIGENCE SERVICES	VALUES AND STANDARDS	FINANCING PACKAGE
EXPORT CONTROLS	SMALL BRIBES	OFFSETS
		CONTRACT AWARD, DELIVERY
FINANCE	OPERATIONS	SUBCONTRACTORS
ASSET DISPOSALS	DISREGARD OF CORRUPTION IN COUNTRY	SELLER INFLUENCE
SECRET BUDGETS	CORRUPTION WITHIN MISSION	
MILITARY-OWNED BUSINESSES	CONTRACTING	
ILLEGAL PRIVATE ENTERPRISES	PRIVATE SECURITY COMPANIES	

(Source: Defence Corruption Research List, Transparency International, May 2012)

The typology offered by TI is a helpful starting point and serves to direct attention to the myriad processes in the defense sector, and in particular in defense procurement, that are susceptible to corruption.

II. Case Studies of corruption in defense procurement

Case Study 1: The BAE-Al Yamamah case

BAE Systems (formerly known as British Aerospace) was accused of paying bribes to the Saudi Royal Family to secure deals for supply of fighter jets to Saudi Arabia. BAE systems had been selling fighter jets to Saudi Arabia since the 1960s, however a significant jump in its sales took place in the 1980s with the signing of the Al Yamamah arms agreement with the Saudi Arabian Government. The Al Yamamah (“the dove”) agreement committed the United Kingdom government to develop and support the fighter jet program of the Saudi government. The agreement was first initiated in September 1985, and BAE Systems acted as the prime contractor on the programme for the UK Ministry of Defence. Two memorandum of understanding (MOU) were signed in the 1980s, and another MOU was signed in December 2005 by the two governments to replace the Tornado aircraft with 72 Eurofighter Typhoon fighter jets.

Allegations. In May 2004, *The Guardian* revealed that the Al Yamamah deal had been secured with the aid of a secret slush fund. It was alleged that over GBP 60 million had been paid to the Saudi Royal family (including to son of the then Saudi defense minister) by BAE systems. This expose caused the Serious Fraud Office (SFO) to initiate an enquiry into the whole affair. During the next few years, the SFO investigation revealed that bribes had been paid to the Saudi Royal family including- gifting of a Rolls-Royce, a GBP 200,000 wedding gift to one of the Princesses, a fully paid ski vacation for a Prince and his friends. As the SFO’s investigation continued, in December 2006 the Saudi government reportedly issued an ultimatum giving the UK “10 days to halt a fraud investigation into the country’s arms trade - or lose a £10 billion Eurofighter contract”. The government made it clear that unless the inquiry was closed, the kingdom’s arms business would be taken elsewhere. In fact, the Saudis began to hold discussions with the French to negotiate for a fresh deal for fighter jets.

On 15 December 2006, the SFO announced that it was discontinuing its inquiry. A statement released by them stated: “The Director of the Serious Fraud Office has decided to discontinue the investigation into the affairs of BAE SYSTEMS Plc as far as they relate to the Al Yamamah defense contract with the government of Saudi Arabia. This decision has been taken following representations that have been made both to the Attorney General and the Director of the SFO concerning the need to safeguard national and international security. It has been necessary to balance the need to maintain the rule of law against the wider public interest.”

This decision had the full support of the then Prime Minister, Tony Blair. In his monthly press briefing he explained that the decision to discontinue the probe had been taken keeping in view the relations with the Saudi Arabian government and the need to preserve British jobs. (Jarrett and Taylor, 2010)

The US Government made a formal diplomatic protest to the UK Government following the SFO's decision to discontinue its inquiry into BAE Systems within days of the SFO's December 2006 announcement, and also raised the issue at a meeting of the anti-bribery working group of the Organisation for Economic Cooperation and Development (OECD). The United Kingdom had in 2001 signed the OECD anti-corruption convention and the British decision to close the SFO probe was seen as a violation to this convention.

In February 2010, BAE Systems reached a settlement with the US Department of Justice (DoJ) to plead guilty of conspiring to make false statements to the US Government in connection with certain regulatory filings and undertakings, including the Al Yamamah agreement as well as certain other contracts. In March 2010, BAE Systems pleaded guilty to conspiring to defraud the United States by impairing and impeding its lawful functions, to make false statements about its Foreign Corrupt Practices Act compliance program, and to violate the Arms Export Control Act and International Traffic in Arms Regulations. It was given a \$400 million fine and agreed to take measures in order to stay within US and foreign laws concerning corruption and the exports of arms. The company also agreed to retain an independent compliance monitor for three years to assess its compliance program and to make a series of reports to the company and the DoJ. (Herrmann and Fletcher, 2012)

The Press Release of the Department of Justice noted that "... according to court documents, the "support services" that BAES provided according to the formal understanding resulted, in part, in BAES providing substantial benefits to a foreign public official of KSA, who was in a position of influence regarding sales of fighter jets, other defense materials and related support services. BAES admitted it undertook no adequate review or verification of benefits provided to the KSA official, including no adequate review or verification of more than \$5 million in invoices submitted by a BAES employee from May 2001 to early 2002 to determine whether the listed expenses were in compliance with previous statements made by BAES to the U.S. government regarding its anti-corruption compliance procedures. In addition, in connection with these same defense deals, BAES agreed to transfer more than £10 million plus more than \$9 million to a bank account in Switzerland controlled by an intermediary." (Department of Justice, 2010)

Case Study 2: India's arms procurement and the the Bofors scandal

The World Bank recently released new data from its International Comparison Program (ICP) 2011 (The World Bank, 2014) which shows that India has displaced Japan to become the world's third biggest economy in terms of purchasing power parity (PPP). India's growth story in the past decade has meant that it has been presented an opportunity to increase its spending on defense procurement. Although the proportion of defense spending in GDP has been decreasing, India's steadily rising GDP has translated to higher availability of funds for defense procurement. IHS Jane's Annual Defence Budgets Review noted earlier this year that "Despite suggestions to the contrary throughout late 2012 and early 2013, the Indian government announced a further significant increase in its defense budget. Total defense spending, including pensions and defense ministry expenses, increased to USD 46.2 billion and we're expecting further growth in 2014." (Jane's Annual Defence Budgets Review, 2014)

Defense procurement encompasses a variety of processes such as acquisition of weapon systems, procurement of rations for soldiers, contracting of services and construction work, adoption of technologies for indigenous manufacture, etc. In India, the rules and procedures governing these processes are myriad and complicated. During the past 8 years, at least 9 major arms suppliers including Rheinmetall Air Defence (RAD), Singapore Technologies Kinetics Ltd. (STK), Israel Military Industries Ltd. (IMI) and Corporation Defence Russia (CDR) have been 'blacklisted' by the Indian Ministry of Defense (MoD) and the Central Bureau of Investigation (CBI) is investigating more than twenty cases of corruption. (Mohanty 2014) Earlier this year, India cancelled a contract for 12 AW-101 helicopters signed with Finmeccanica worth \$753 million, after it was revealed by Italian investigators that the company paid kickbacks of \$67.6m to Indian officials to secure the contract. The heads of Finmeccanica and Augusta Westland (a subsidiary company which entered into the contract) are currently on trial in Italy and the CBI in India has commenced investigations into the roles of several Indian officials including an ex-air force chief. (BBC, 2014)

The Bofors Saga

In March 1986, the Government of India inked a \$285 million contract with the Swedish Arms company Bofors for supply of 155mm Howitzer field guns. In 1987, an Indian newspaper *The Hindu* ran a story claiming that huge kickbacks were paid to Indian politicians and Defence Ministry officials by Bofors to secure the deal. Documents accessed by the newspaper's reporter revealed that perhaps bribes were also paid to the then Prime Minister Rajiv Gandhi.

The Central Bureau of Investigation (CBI) were given the job of conducting investigations in this case. It charged several government officials of accepting bribes through secret Suisse bank accounts, including former Indian Defence Secretary S.K. Bhatnagar, an Indian arms agent, and an Italian businessman that frequently brokered deals between large companies and the Indian government. About \$ 50 million were supposedly paid as bribes.

Background: The Indian Army, in the 1980s was in search of 155 mm howitzer guns to meet its operational requirements. In 1982, four manufacturers were identified who could supply this need and after a lengthy elimination process, in 1985 this list was further reduced to two. The two companies that were in contention were Bofors AB and Sofma. Over the next few years, seven field evaluations were carried out for both the guns and Sofma guns came out as the top performers in six of these evaluations. However, the Indian Government decided to award the contract to Bofors AB instead. On 16 April 1987, Swedish Radio alleged that Bofors had paid bribes to a number of people across countries to obtain the contract. The main person involved was identified to be Ottavio Quattrocchi, an Italian businessman who represented the petrochemicals firm Snamprogetti. Quattrocchi used his links with the Gandhi family in India to apparently swing the deal in favor of Bofors.

The investigations being carried out by CBI did not see much progress until 1997 when the Swiss courts released some 500 documents relating to Bofors' and Quattrocchi's involvement. This enabled CBI to file charges against Rajiv Gandhi, the then prime minister and the Secretary of Defence S K Bhatnagar. Meanwhile, the Indian National Congress came to power in 2004 (the same political party that Rajiv Gandhi headed), however, in the interim Rajiv Gandhi was assassinated and S K Bhatnagar died due to natural causes. On 5 February 2004, the Delhi High Court quashed the charges of bribery against Rajiv Gandhi and others. So the situation emerged that only the case against Quattrocchi remained- the bribe giver. Quattrocchi had long before fled the country and Interpol at the request of the CBI, had issued a long-standing red corner notice to arrest Quattrocchi. On 6 February 2007, Quattrocchi was detained in Argentina. However in the absence of an extradition treaty between India and Argentina he was not deported to India. Instead his trial began in the Argentine Supreme Court. The Indian Government sought the court's approval for extradition but lost the extradition case as it could not provide a key court order which was the basis of Quattrocchi's arrest. In the aftermath, the government did not appeal this decision because of delays in securing an official English translation of the court's decision. On 12 July 2013, Quattrochi died of a heart attack in Milan. As of 2014, all the principal accused in the case were dead or had been declared innocent. (SCOTT, 2009).

Case Study 3: The Lafayette Scandal

The Lafayette scandal, as it has come to be known, refers to the allegations that over \$760 million in bribes were paid to French, Chinese, and Taiwanese officials for the 1992 sale of six Lafayette French frigates to Taiwan.

During the 1980s and 1990s Taiwan was faced with a unique military situation. China, upon its entry into the United Nations in 1971 was making all out efforts to ensure that no fresh weapon sales were made by any country to Taiwan. Taiwan's isolation was complete when in 1979, the United States formally recognized Beijing as the only legitimate government of China and severed its longstanding political and military ties to Taiwan. Although Washington is required by the Taiwan Relations Act of 1979 to provide Taiwan with sufficient defensive weapons, the 1982 U.S.-China joint communiqué included the provision that defense supplies provided to Taiwan would not exceed the 1979 level of supply in either qualitative or quantitative terms.

In this situation, Taiwan was desperate for arms supplies from any country willing to incur China's ire. It also led to 'availability-based procurement' in Taiwan military establishment which meant that if any strategic weapons were offered by any country then the government would find a way to finance it. Theoretically, the defense budget was unlimited- only countries should be willing to supply the arms.

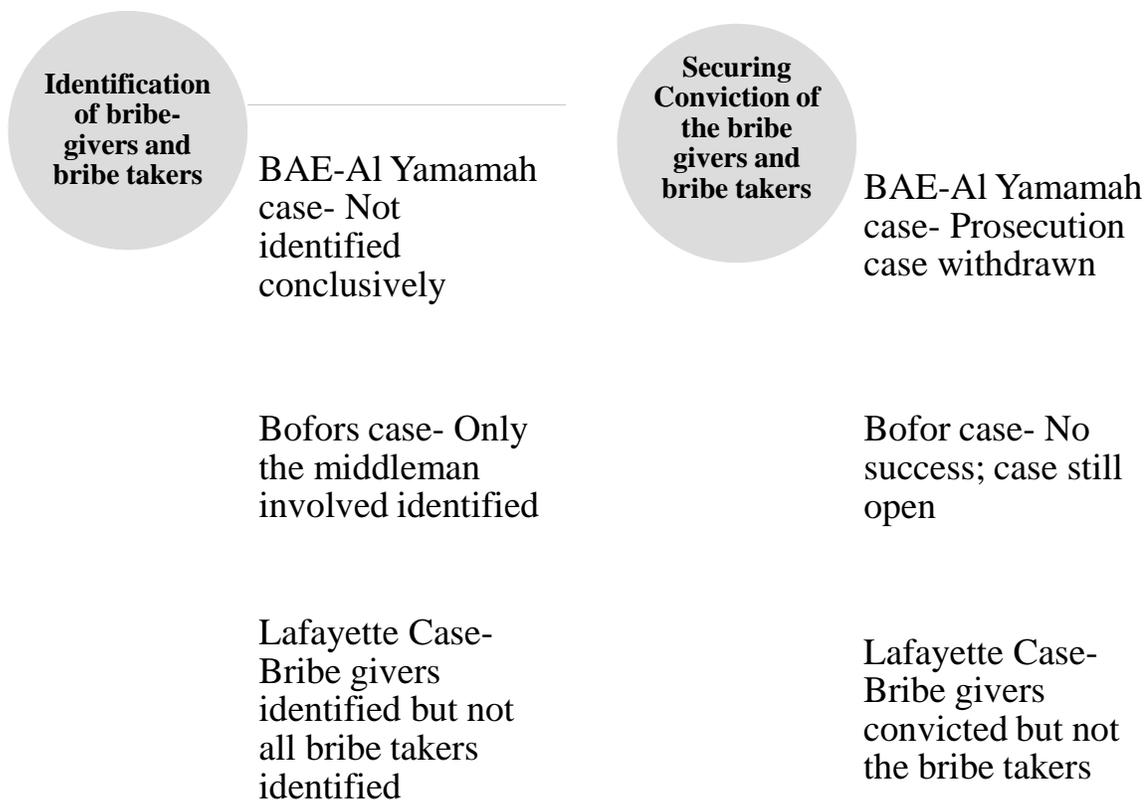
During this period the Taiwanese Navy was anxious to modernize its obsolete fleet of World War II-era destroyers. The United States did not offer much help in this regard. However, France and South Korea expressed their interest. The choice was between South Korea's Ulsan-class frigates and France's Lafayette-class frigates. The South Korean ships scored over the French ships both in terms of cost and performance. However, in October 1989, in a surprise move the Taiwanese Navy decided to procure the French frigates. Further, whereas the agreement originally stipulated a certain degree of technology transfer for assembling the ships in Taiwan, and the unit price was set at US\$358 million the final contract however was for ships to be built fully in France at a higher unit price of US\$474 million. The final price tag for the six ships was an exorbitant US\$2.8 billion. Yet, at the time, no one seriously questioned the change in the contract or the inflated additional costs the change had entailed.

In 1993, the lid was blown off the scandal with the mysterious death of Captain Yin Ching-Feng of the Taiwanese Navy. He had been a key person in the entire procurement effort and police investigations revealed that he had taped hours of conversations of numerous high ranking Taiwanese military officers which showed that huge bribes were received by them for favoring the French firm. A total of 28 people, including 13 military officers and 15 arms brokers were interrogated however only one mid-ranking official was found guilty of taking bribes totaling US \$ 310,000. By 2001, Taiwanese prosecutors managed to indict six former Navy commanders and officers on charges of malpractice and forging documents- however none of them for bribe- taking. The murder of Captain Yin Ching-Feng also remained unresolved.

Meanwhile, in France in 1998, when investigations were being carried out against senior Elf executives (the company that had lobbied for the frigate deal in France) for complicity in the misuse of the company's funds, explosive revelations were made regarding the frigate deal. Ultimately, these led to prison sentences for the officials of Elf involved, including its highest ranked directors. On the amount of bribes that were actually paid, figures suggested by various suspects and witnesses ranged from US\$500 million to US\$760 million. Testimonies indicated that between US\$114 and US\$400 million was owed back to Taiwan and was split among senior officials, while a small proportion went, probably, to Chinese advisers in the mainland. No portion of the money was ever recovered. (Sung, 2009)

III. Factors influencing identification and attribution

From the three case studies discussed above, there were two cases where there was a total failure of the law enforcement machinery and one case of partial success. The relative success and failures in the four cases is presented below:



The remarkable failure in these high-profile corruption cases to identify and convict the guilty may seem appalling at first. Especially when it is seen that in non-transnational cases, i.e. cases within the country's boundaries, the rates for identification and attribution are far higher in each of these countries. However, this unfortunately appears more to be the trend than the exception when transnational procurement cases are separately viewed. There are several possible factors that are relevant and these can be gathered from the case studies themselves:

1. **Involvement of highest ranking officials** – Transnational cases often do not involve small sums or petty officials alone. In the BAE case for example and the Bofors case, involvement was probably at the head of state level. In the Lafayette case, the highest military commanders were thought to be involved.

2. **Issues of international relations become more relevant** – the investigation in the BAE case was completely derailed due to Saudi Arabia's insistence. Extradition in Bofors case fell through because of the relationship between India and Argentina.

3. **Total lack of coordination between law enforcement agencies of different countries** – in the Lafayette case, even though France was able to successfully convict the bribe givers, there was virtually no effect on the prosecution of the bribe takers in Taiwan.

4. **Different levels of commitment to the investigation process from countries involved** – in the BAE case and Lafayette case, there was more interest shown in the investigations by the countries where the bribes originated. In the BAE case, there was no investigation at all carried out in the bribe recipient country. In the Bofors case, there was no desire for any investigation in the bribe-giver's country.

5. **Effect on governance models on commitment to tackle corruption** – a democratic form of government would seem to encourage better investigation. In the BAE case, the Saudi royalty had no desire to cause any investigation. In the Lafayette case, until the election of a new President (replacing the son of Chiang- Kai-Shek), no worthwhile investigation took place.

6. **Security issues are taken well beyond the justifiable needs of confidentiality** – Secrecy was used in all the discussed cases to hide corruption, and inhibit the ability of investigation agencies to carry out their job. Further, it also reduces the accountability to the Parliament and the general public in the country.

7. Reluctance of countries to share information with other countries – Countries get very guarded when it comes to sharing information, especially if it is thought to relate to security issues. In the Bofors case, even the basic documents needed for investigation were not being provided by the Italian government until the courts intervened.

8. Deep involvement of the political class in defense procurements – A conflict of interest often exists since the political class which is supposed to ensure that corruption is tackled firmly is itself compromised with its deep involvement in the procurement process. In the Bofors case, investigations were stonewalled by the political class repeatedly. Goldman, Rocholl and So in their paper (Goldman, Rocholl and So, 2013) analyze whether political connections of publicly traded corporations in the United States affect the allocation of government procurement contracts. On analyzing the value of procurement contracts awarded before and after 1994 and 2000, they find that companies that are connected to the winning (losing) party are significantly more likely to experience an increase (decrease) in procurement contracts. They suggest that the allocation of procurement contracts is influenced in part by political connections.

9. Absence of an independent investigation agency – the investigative agencies lack the necessary independence to be able to effectively pursue the guilty. In all the cases discussed, the investigations were either called off or were delayed deliberately for so long that the relevance was lost.

Framing the problem

There are competing frames of looking at the problem of corruption in transnational defense procurement. Traditionally tackling corruption has always been looked at as a law enforcement issue. This approach offers the advantage of locating corruption within the legal framework of a particular country. However, looking at the factors identified above, a frame that views corruption in transnational defense procurement as trans-national crime offers certain distinctive advantages.

The Law Enforcement Frame	The Transnational Frame
<ul style="list-style-type: none"> • Directly relates to the legal system of the country 	<ul style="list-style-type: none"> • Relates to legal systems of multiple countries
<ul style="list-style-type: none"> • Identifies the institutions in the country responsible for dealing with the problem 	<ul style="list-style-type: none"> • Identifies bilateral/multilateral institutions for dealing with the problem
<ul style="list-style-type: none"> • Seen as a national issue/problem 	<ul style="list-style-type: none"> • Seen as a global/multi-national problem
<ul style="list-style-type: none"> • Co-ordination between nations is generally difficult 	<ul style="list-style-type: none"> • Co-ordination between nations is easier
<ul style="list-style-type: none"> • Subject to hijacking by national political class 	<ul style="list-style-type: none"> • Greater accountability of the political class
<ul style="list-style-type: none"> • Military given central importance 	<ul style="list-style-type: none"> • Military one of the stakeholders
<ul style="list-style-type: none"> • Not directly concerned with international relations 	<ul style="list-style-type: none"> • Takes into account international politics
<ul style="list-style-type: none"> • Media seen as an obstacle/irritant 	<ul style="list-style-type: none"> • Media as a means of communication
<ul style="list-style-type: none"> • Cultural constructs of corruption across countries not considered. 	<ul style="list-style-type: none"> • Cultural constructs of corruption across countries taken into account.

Recommendation

An analysis of the various factors that affected the success/failure of the investigations in the three cases of corruption in transnational defense procurement reveals that perhaps it would be more fruitful to look at the issue from the perspective of transnational crime rather than just a law enforcement issue. An immediate fall-out of such a frame is that a certain degree of coordination among various nations is entailed- drawing up conventions, setting up institutional mechanisms for exchange of information, ensuring independence of national investigative agencies dealing with these crimes etc. The shift in frames also moves the focus from the issue from being just another 'national' issue to a 'global' one. A transnational crime frame, it is recommended, would help resolve the problems of identification and attribution by ensuring information obtained from bribe-givers is promptly shared and also by ensuring that the legal structures across countries are better synchronized to share evidence necessary to secure convictions.

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