International Journal of Political Science (IJPS)
Volume 11, Issue 1, 2025, PP 43-55
ISSN 2454-9452 (Online)
https://doi.org/10.20431/2454-9452.1101005
www.arcjournals.org

Public Procurement Breaches in Ghana: AK 47 for Gunning Political opponents

Tonny Ograh[1*], Evans Kyeremeh[2]

[1]*Takoradi Technical University Faculty of Business, Ghana*

[2]*University of Education, Winneba. Ghana*

***Corresponding Author:** **Tonny Ograh,** *Takoradi Technical University Faculty of Business, Ghana.*

Abstract: *Researchers and practitioners both consider consistent and fair application of procurement law as an essential to the fight against corruption in procurement. Therefore, this study aims at analyzing the capricious application of procurement law to infraction committed by heads of public entities in developing countries where democracy is at its embryonic stage. In total, 406 respondents took part in the survey. A stratified random sample was used to select the respondent for the study because of the heterogeneous nature of the study population: media practitioners, political commentators and individuals who contribute to radio discussions through phone-in section. Simple regression was used to analyze the results of the study. The study reveals that successive governments used infractions committed in procurement process to punish heads of entities appointed by previous regimes whilst the same law is loosely applied to the heads of entities appointed by governments in power. The implication is that this phenomenon stifle innovation among heads of public organizations appointed by the previous regimes. It also encourages corruptions among heads of entities appointed by governments in power. This study is a novel because it will help to position the fight against corruption in procurement in a different pedestal which has been ignored in procurement literature.*

Keywords: *Procurement breaches: Political manipulations: Political settlement, Procurement infractions, Holding powerinfractions , Holding power*

1. INTRODUCTION

The impact of infractions in procurement are prevalence in many developing countries and it affects the growth of the nation. Public procurement is an important tool that could be used to address many concerns due to the large amount of money involved. Complexity of the projects, political interferences in procurement processes, and opportunities for discretionary decisions by procurement officers, poor monitoring and accountability mechanisms affect the entire procurement systems (World Bank, 2016). Public procurement involves the acquisition of goods and/or services at the best possible total cost of ownership, in the right quantity, quality, time and place for use by government and public organizations via contract (Beke, 2018).

However, infractions in public procurement play critical role in the success of a procurement process since it affects the processes leading to award of contract. For example, in Ghana, one-third of local infrastructural projects stand unfinished, which suggests potential abuses in the procurement process (Williams, 2015). Similarly, 38 percent of government projects in Nigeria never reached completion stage (Rasul and Rogger, 2016). Such high levels of inappropriate award of contracts call for the assessment of procurement processes that is essential to the promotion of economic development. These inefficiencies in public procurement have therefore led to series of procurement reforms (Dza et al., 2013). Apparently, countries all over the world have been concerned with how to modernize, simplify and improve public procurement practices using public policy and legal reforms (Schooner et al., 2008).

Public procurement is not just the simple act of purchasing but a development tool that has the ability to transform public finances into development outcome. It has become an essential part of governance that political leaders must deploy with tact and skill to execute their promises and accomplish the desired benefits for their citizens. Since procurement is the means by which public resources are spent, improvements within the procurement system by means of reforms have developmental impact within

the economies of developing countries. Public procurement reform means a change in which the past ways of doing procurement give way to a new and better system. These reforms primarily focus on organizational, institutional and legal structures with the emphasis on changing from traditional to more efficient, effective, modernized and simplified processes, organizations, institutions and legal structures for doing the procurement business (Basheka, 2009).

Ghana has attempted to address weaknesses in its public procurement process by the passage of several financial and legal instruments. These have come in the form of constitutional, legislative instruments, administrative instructions and financial circulars. In 1960, the Government enacted the Ghana Supply Commission Act, which was reviewed later in 1990 by PNDC law 245. In the same year, Contracts Act, Act 25 of 1960 was also passed. In 1976, the National Procurement Agency Decree (NPAD), SMCD 55 was passed by the Supreme Military Council. In 1979, another law, the Financial Administration Decree SMCD 221 was also passed. All these laws, decrees and instruments were meant to provide a comprehensive framework of administrative powers to regulate the activities of procurement within the public sector. Hence, procurement is highly a legal topic, mostly regulated by procurement legislation and civil law systems. The country recognized the need for increasing the effectiveness of the use of public funds, including funds provided for official development. This requires the existence of adequate national procurement system that meets international standards and that operates as intended (Osei-Tutu et al., 2011).

In 2003, with the pull of the EU–IMF–WB nexus, a new public procurement law to enforce transparency, competitiveness, accountability, and de-politicization was enacted which is called Act 663. The Public Procurement Act was enacted to harmonize public procurement processes in the public service, secure judicious, economic and efficient use of state resources, and furthermore, ensure that public procurement is fair, transparent and non-discriminatory (Ministry of Finance, 2001). Subsequently, the Act was amended in 2016 (Act 914) to meet the emerging issues. This new Act was constituted after years of foul play and abuse as far as procurement was concerned in the country (Osei-Tutu et al., 2011). Even though the Public Procurement Act (914 amended) of Ghana is reputed to be an integrity promoter and corruption resistant (Osei-Tutu et al., 2011), the application of the law to procurement infractions has become battleground for successive governments and their political opponents. The significance of public procurement in the economy elevates it from the technical acquisition of goods and services for the public sector to a political and economic struggle that could serve the purposes of resource allocation and transfer of capital on various scales (Ayhan and Ustuner, 2015). Hence, its application becomes crucial for the political class.

More than 10 years after this reform, it is clear that the application of Ghana's procurement law has continuously been modified, eroded and undermined and moving gradually away from the initial good governance ideals and practice to politicization (Goodfellow, 2014). The application of the procurement law to infractions in procurement process committed by heads of entities depends on who is involved. This selective application of the law has become a topical issue. However, there is little studies on assessments of application of law to procurement breaches in Ghana. Concerns abound that if nothing is being done to assess the procurement irregularities orchestrated by heads of public organizations, corruption in procurement could assume an alarming rate in the country. While all these concerns would be addressed in this paper, the concern here is not to weigh up the impact of procurement irregularities on the economy, but rather to assess the political angle behind the way successive governments apply the law to perceived infractions involving high profile personalities in the country

Many existing analyses of procurement infractions are relevant here, despite few focusing more on procurement infractions in general. At the level of national politics, the removal of the Chairperson of the Ghana's Electoral Commission in 2018 from office has enlivened the debate on the partisan politics and procurement in Ghana, while political discussing highlight issues of political application of the law and procurement infractions with its important ramifications for building national consensus. Meanwhile, critical analyses of procurement practices that focus on award of huge contracts by head of entities perceived to political and subsequent payment of contractors awarded, have clear relevance for thinking about the rationale and the practices of procurement in Ghana.

This paper benefits from these insights, but also takes a rather different approach. It attempts to assess procurement breaches involving high profile personalities appointed by immediate past regimes under the fourth republic of Ghana by bringing perspectives from the emerging literature on 'theory of

equality' to bear on the question of Ghana's procurement infractions. Drawing on huge outcry of successive opposition parties, it proposes viewing the posture of successive governments towards 'procurement infraction concerns' in Ghana as embodying an underlying selective application of procurement law that is observable in the form of obvious cases. It therefore aims to analyze the concept of the political settlement, using it to illuminate particular aspects of procurement breaches that has eluded political economy and procurement scholars. In this respect, it takes the political settlement idea out of its natural habitat and situate it in political application of procurement rules, which lead to the removal (resettlement) of qualified organizational heads from their legitimate positions – and explores its value in relation to issues of fair application of procurement laws. In so doing, however, it aims to illuminate features of the political settlement in Ghana that are relevant to the protection of public purse. Based on this, the following proposition is made:

PI: Procurement laws are applied fairly to people who commit procurement infractions

PII: Political class use infractions committed in procurement to punish their political opponents

PIII: Application of procurement infraction to removes perceived political opponents is justifiable.

1.1. Procurement Breaches (Infractions)

An effective regulatory framework for public projects is crucial in undertaking procurement projects. For example, in Bangladesh, the World-Bank-funded post-flood rehabilitation projects failed to achieve objectives because construction projects were marred with procurement irregularities (Mahmood, 2010). Consequently, the World Bank suspended its funding of 14 road construction projects. Significant funds are wasted annually because of infraction in procurement systemss. Consequently, public procurement projects continues to underperform (Kiama, 2014). A further example from Uganda's construction industry experience identified losses worth 2-25 per cent of project values (Kakitahi et al., 2013). A lack of compliance with regulatory requirements in Uganda's public construction projects requires attention; otherwise, poor practice and governance will continue to occur, leading to unsuccessful construction projects (Kakitahi et al., 2015).

Public sector procurement is becoming a complicated societal phenomenon, which can destroy trust and public confidence (Ata and Arvas, 2011). Many see procurement as a means of achieving economic, social and other objectives (Thai, 2017). Procurement infractions eat into social, cultural and economic structures of society and destroys the performance of critical procurement functions (Amundsen, 2006). Public procurement breaches is a barrier to business growth, the state and public organizations (Froystad et al., 2010). The local chapter of Transparency International, Ghana Integrity Initiative (GII) and Ghana anti-corruption coalition have urged government to check procurement breaches in various state institutions as it continues to hamper the country's effort in fighting against corruption. Procurement breaches could however occur inadvertently or advertently. In this paper, procurement breaches is operationalized as the blatant deviations from the laid procurement processes that affect the quality, price, quantity or delivery and the materials to the award of a contract.

1.2. Application of Rules or Discretion

Citizens in democracies have delegated the provision of public services to government entities, which is governed and directed by elected officials. A thorough system of accountability safeguards and protects citizens' interests (Boeger, 2017). Accountability is holding an actor accountable for their actions, and this process including the exchange of information between individuals or organizations (Grossi and Thomasson, 2015). Transparency is necessary for this process to succeed (Ferlie et al., 2005), which can be provided by providing information about actor performance. Legal accountability is a fundamental kind of accountability, and it contains laws and regulations that procurement practitioners require to observe. Public procurement professionals are held accountable for their actions, which necessitates interaction between individuals or groups (Grossi and Thomasson, 2015) As a result, procurement heads must have a thorough awareness of how the law is applied.

However, head of procurement entities and professionals often face trade-off in the constraints impose on them in carrying out their functions. Officials may use discretion to better serve the public's interests, or exploit it for personal gain. The extent to regulate conduct and the extent to leave at the discretion of procurement officers is a central question in public procurement. A useful lens to analyze this trade-off is the more general problem of the delegation of authority within organizations (Aghion and Tirole,

1997). From the principal-agent perspective, the principal may prefer rules over discretion for high degrees of preference misalignment with the agent while officials may use discretion to better serve the public's interests. Kelman (2005) argues that a proliferation of rules can lead to an intricate system that removes all incentives for procurement practitioners to obtain good deals for the government, and instead makes them focus on costly compliance. The application of rules and discretion affect the quality of procurement transaction (Carril, 2021). Rules may reduce the scope of breaches through the prevention of practitioners from exercising discretion that might lead to infractions (Kelman, 2005). According to Carril, (2021) tightly regulated awards result in worse ex-post performance, which is in line with the Kelman view of procurement regulation.

Even though strict application of rules minimize infraction, it imposes red tape costs on transacting parties. Additionally, by removing the discretion from the practitioners, regulation also affects the distribution of post-award contract performance. Stringent application of rules can minimize infractions but the quality of the project may be compromised (Carril, 2021; Ayhan and Ustuner, 2015). According to Decarolis et al., (2020) the use of discretion can lead to improved contract performance, even when it increases the risk of infraction.

1.3. Political Manipulations in Procurement

Many countries in Africa undertook procurement reforms to make it fit for purpose and less vulnerable to corruption and assist in better managing resources to meet developmental goals (Williams-Elegbe, 2015; Besheka, 2007). World Bank Country Procurement Assessment Report (CPAR) highlights political interference and the operational involvement of politicians in the procurement processes as one of the causative factors of procurement corruption (Williams-Elegbe, 2013; World Bank, 2000). Though, public procurement is a political tool, the intervention of politicians in the bureaucratic decision-making process creates distortions and opens the opportunity for breaches (Williams-Elegbe, 2018).

Political manipulation in procurement has become a usual phenomenon in the public sector (Isaac et al., 2013). There is a common method of manipulating the procurement process with the ultimate aim that a preselected bidder wins a contract. This practice restricts the competition that procurement procedures are designed to facilitate and often increase the price paid for contracts (IWorld Bank, 2001). This encourages the practice where supplies or contractors who succeed in winning government contracts through political manipulation contract assign or sell the right to the contract to third party for fees (Williams-Elegbe, 2018). Though, in law a party to a contract may only assign the benefits, but not the burden of contracts and required to do so with the consent of other contracting party. However, in developing countries, both right to payment and the obligation to perform the contract are devolved to a third party with little formal consent of the awarding party but with informal knowledge of procurement officials. According to Williams-Elegbe, 2(018) the motivation for this practice is based on regular manipulations of the procurement process through political pressures. This means the persons winning the contract do not have either interest or competence to discharge the contract. Based on literature, this practice affects contract profitability leading to low quality performances and deliberate poor contract management.

1.4. Political Settlement and Procurement Decisions

The idea of a 'political settlement', as developed in recent years by Khan (2010) and others including Di John and Putzel (2009) represents a renewed attempt to understand the underlying political determinants of economic growth in developing countries. It evolved out of an explicit critique of the New Institutional Economics (NIE) propounded by scholars such as North (1995). The political settlement concept emphasizes why a preoccupation with formal institutions (such as legally enshrined property rights and other laws and regulations) is insufficient when attempting to understand economic development outcomes, especially in very low-income settings. Central to the critique is the absence of an adequate conception of power in the neoclassical framework underpinning NIE, and the failure to recognize that power relations sustaining what economists conventionally consider 'bad' political and economic institutions may in fact constitute essential foundations for economic growth. In this view, it is particular kind of political settlements, rather than 'good institutions' in the heart of Western liberal democracies, that form the foundation of stability and developmental transition. A political settlement consists of a situation in which the application of law supported by the institutional structure as a whole is only consistent with one's political affiliation.

Di John and Putzel (2009) argue that political settlements are shaped by political organizations, and that political parties have been the most effective as acting as a bridge between civil society and the state. This definition would suggest that political parties and elites rather than citizens themselves are involved in, and have influence on, political settlements. Political settlements are often defined as an understanding, or bargaining outcome, between different elites (DFID, 2010; Di John and Putzel, 2009), but they can also be described as the balance of distribution of power between contending groups and classes (Khan, 2000; Di John and Putzel, 2009). Inclusive (as opposed to exclusive) political settlements have a more comprehensive distribution of rights and entitlements and are often seen as more robust and legitimate.

Khan (2010) uses the term 'holding power', and defines this as 'how long a particular organization can hold out in actual or potential conflicts against other organizations'. 'Holding power' depends in part on income and wealth, but is also linked to 'historically rooted capacities of different groups to organize' (Khan 2010) and to an organization's 'ability to mobilize prevalent ideologies and symbols of legitimacy to consolidate its mobilization and keep its members committed. Political settlements emerge through conflict, that is the power structure that prevails in conflict and as such they are not necessarily inclusive of everyone's interests. The resilience of a settlement simply depends on the allocation of benefits to those who have achieved a certain degree of power through past struggles. In this context, a fair application of the law is an important foundation for any kind of economic development, because without fairness in place conflict over the institutional structure will disrupt developmental progress.

Whilst some procurement practitioners would sacrifice professional ethics in order to become willful collaborators with politicians thereby circumventing the process (Bryant, 2008), others are obligated to break the rules reluctantly. Indeed, where the technocrats or entity members fail to circumvent the law as demanded by their political heads, they are often threatened with postings or transfers to deprived districts (Ibrahim et al., 2017). In some case, these saints are often wrongly accused of committing procurement infractions, which can lead to severe sanction. Second, the relationship between the purchasers' perceived efficiency and compliance as postulated by Gelderman et al., (2006) was established in this study (Rossi, 2010). Here, even though the law was clear on the procedures to follow, the heads of entities sometimes exercised better judgment when they felt that the project cost could be lessened through non-compliance. Here too, the politicians may use this as a base for punishing the entity head who does not share the ideology of the ruling government.

Certain other scholars associated with conventional institutional approaches, such as Acemoglu and Robinson, (2008) have in recent years also attempted to factor the role of what they term 'de facto power' into their understanding of the determinants of economic development. As Leftwich, and Sen, (2011) has noted, however, they pay relatively little attention to the role of informal institutions, assuming that particular kinds of formal institutions flow from particular allocations of de facto power and the institutions that determine developmental outcomes for better or worse. In fact, formal institutions can often be quite out of step with de facto power, and informal institutions doing the work of holding the people together. From a political settlements perspective, the key to growth at low levels of development is thus the underlying informal norms and the degree to which these work with 'holding power' to facilitate investment and productive accumulation rather than mere extraction by elites. With these various bodies of literature in mind, the distinctive contribution made here by impartial application of law concerning procurement infraction of political power approach is the specific focus on how the interplay between formal institutions and power dynamics is embodied in a procurement breach.

Certain theorist such as theory of equality before the law maintains that laws should apply equally to all citizens: simply put, no one is above the law. This idea, which is also one of the meanings of the amorphous term 'rule of law' is a mainstay of many current constitutions and is widely viewed as a central tenet of a fair and just legal system. Friedrich Hayek saw it as the most critical element of liberal society, stating that the great aim of the struggle for liberty has been equality before the law (Hayek, 1960). State enforcement of laws not only affects incentives directly, but also influences norms. Coercive state enforcement can exist under elite domination where a subset of agents control the means of violence, enforce laws from which they disproportionately benefit, and are themselves above the law or under partial or full equality before the law where laws apply more equally to all citizens in each case with different implications for norms, incentives, and inequality.

2. METHODOLOGY

The study adopted a descriptive research design. The study targeted media practitioners, political commentators and radio listeners in the Greater Accra region. Quantitative research method is logically and literarily deductive and is generally rooted in the positivist/objectivist philosophical framework (Sutrisna, 2009). Therefore, a quantitative research method was used to analyze the proposition of the study. A questionnaire survey is an effective method to gather information about events and causal relationships. It is also a widely used method to analyses the variables. For this, a standardized questionnaire survey was used for data collection. Interviews and documentary analyzes of the newspapers were also used to support the findings. Twenty-five theoretical questions were formulated based on interactions among political pundits, procurement scholars, and assessment of prevailing literature. This questionnaire was piloted with media consultants in the country. The feedback from the piloted studies caused changes to some of the terminologies and provided detail explanations to some of the terms perceived to be ambiguous. This study focused on heads of entities as the subject for investigation because in Ghana the head of an organization is invariable the head of procurement in the organization.

In this study, the theoretical population is the entire media landscape in the Greater Accra region. The media practitioners and the individuals who contribute to media discussion in the morning shows constituted the study population. There are about fifty-six FM stations in Greater Accra region and forty (40) of these FM stations focus on partisan political issues. Hence, this study selected individuals who contribute to media discussions and the practitioners of the twenty-five FM stations in greater Accra region.

The sampling units were selected from media practitioners, political commentators, and individuals who contribute to radio discussion through phone-in segments. These three groups constitute the major stakeholders in the media landscape and therefore represents the view of the public in Ghana. The probability sampling technique was used in selecting respondents from the sample frame. Each unit in the sample had an equal chance of being included in the survey. The population units were classified into strata and respondents were selected from each stratum. A stratified random sample was chosen because the population is heterogeneous: media practitioners, political commentators and individuals who contribute to discussion through phone-in section. The variability in the population values is large, and therefore simple random sampling is not suitable for selecting the population units, as it may be possible that all the units from the same group will be selected and the sample will not be representative of the population (Saunders et al., 2019)

Since the FM station could be located, the researchers went to these FM stations to interact with them. The researchers sought email addresses of the respondents from these media houses. The questionnaires were designed on google–form, which was sent to the respondents through their email addresses and WhatsApp. Based on consensus among political pundits, procurement scholars and media practitioners, these questionnaires survey were sent to 420 respondents. Out of 420, only 406 was retrieved from the respondents. Where the data collected was in the form of interviews, the identified respondents relied on the questions asked by the researcher and the answers recorded were treated the same way as the responses obtained from the questionnaire. The respondents responded to both demographic and perception questions in the questionnaires and all the respondents had no missing values in their responses. There was no exclusion of the respondents from the final analysis. After field work, the questionnaire was pre-coded and subsequently coded. Statistical Package for Social Sciences (SPSS) software version 25 was used to process the data, which was presented in the ensuing table.

3. DATA ANALYSIS AND DISCUSSION

3.1. Background Characteristics

Table 1. *Background Characteristics*

	N	Percent
Gender	-	
Male	257	63.3
Female	149	36.7
Total	406	100
Age range	-	

20-30 years	326	80.3
31-40 years	46	11.3
Above 40 years	34	8.4
Total	406	100
Level of Education	-	
SHS	61	15
Professional	30	7.4
HND	13	3.2
Degree	258	63.5
Masters	26	6.4
PhD	18	4.4
Total	406	100
Follow media discussion	-	
Never	8	2
Always	239	58.9
Sometimes	159	39.2
Total	406	100

The study comprised 63.3 percent male and 36.7 percent female gender. Majority of the respondents were in the age group of 20-30 years representing 80.3 percent. There were about 11.3 percent in the age group of 31-40 years and the remaining in the age above 40 years. Most of these respondents were degree holders, thus 63.5 percent. The other educational attainment were Masters, PhD, HND, professionals and SHS. The respondents indicated they regularly follow media discussion on procurement, representing 58.9 percent and 39.2 percent were sometimes followers of media discussion.

3.2. Background Characteristics of the Study on Procurement

Table 2. *Background Characteristics of the Study on Procurement*

	N	Percent
Follow Media Discussions on Procurement Issues		
Sometime	113	27.8
Yes	204	72.2
Total	406	100.0
Mostly discussed issue on procurement	-	
Procurement breaches	217	53.4
Procurement plan	106	26.1
Procurement risk	55	13.5
Monitoring systems	28	6.9
Total	406	100
Assess the way procurement is conducted in the country	-	
Very bad	58	14.3
Bad	126	31
Good	205	50.5
Excellent	17	4.2
Total	406	100
Agree that breaches in procurement could lead to corruption	-	
Strongly disagree	44	10.8
Disagree	19	4.7
Neutral	35	8.6
Agree	160	39.4
Strongly agree	148	36.5
Total	406	100

Source: *Filed Study, 2021*

The respondents captured in the study comprised 72.2 percent who follow media discussions on procurement issues; about 27.8 percent indicated they sometimes follow media discussions on procurement issues. The distribution suggested there was sufficient data to determine the objectives of the study.

The issues on procurement mostly discussed were procurement breaches indicated by 53.4 percent, procurement plan also indicated by 26.1 percent and procurement risk indicated by 13.5 percent of the respondents in the study. There were also about 6.9 percent of the participants in the study who identified monitoring systems related to procurement as issue being discussed

According to the respondents' assessment of the way procurement was conducted in the country, about 50.5 percent of them rated it as good and 4.2 percent said it was excellent. However, 31.0 percent of the respondents considered the conduct of procurement in the country as bad and 14.3 percent said it was very bad.

Respondents were asked to indicate their level of agreement that breaches in procurement could lead to corruption and 79.9 percent said they at least agree (thus, 39.4 percent agreed and 36.5 percent strongly agree). On the other hand, 15.5 percent at most disagree that breaches in procurement could lead to corruption (thus, 4.7 percent disagree and 10.8 percent strongly disagree).

3.3. Unfair Application of Procurement Laws to People Who Commit Procurement Infractions

This section examined the application of procurement laws whether fairly applied to people who commit procurement infractions or not.

It was identified that, 67.0 percent of the respondents have heard about procurement breaches committed by heads of public entity, while 23.1 percent indicated they have not heard any. Slightly above 50 percent (53.0 percent) said that, the application of the law to head of an entity appointed by the previous regime who commit contentious breaches was were not fair. The remaining 47 percent of the respondents were of the view that, the law on procurement was fairly applied to head of an entity appointed by the previous regime commit contentious breaches is shown in table 3.

It was also indicated by the respondents that, head of an entity appointed by the government in power who commit breaches received unfair application of the procurement laws. Investigating the association between application of procurement law to the heads appointed by the previous regime and government in power for committing contentious breaches showed significant association, p-value < 0.05 (Table 3).

Table 3. *Application of Procurement Laws to People who Commit Procurement Infractions*

	N	Percent
Heard about procurement breaches committed by head of any public entity	-	
No	94	23.1
Maybe	40	9.9
Yes	272	67
Total	406	100
The head of an entity appointed by the previous regime commit contentious breaches, was the law on procurement applied to the person fairly	-	
No	215	53
Yes	191	47
Total	406	100
Head of an entity appointed by the government in power commit breaches, was the law apply fairly to the person	-	
No	234	57.6
Yes	172	42.4
Total	406	100
Head of public entity who refuses to bow to manipulation of government in power, what happen to the person	-	
The person is praised and promoted by government	29	9.9
The persons is accused of engaging in procurement breaches and removed from office	264	90.1
Total	293	100.0
Procurement breaches committed by heads of institutions appointed by the previous regime are subjected....	-	
Dismissal	193	47.5
Administrative discipline	87	21.4
Demoted	54	13.3
Transfer to a different unit	72	17.7
Total	406	100
How would you assess the punishment you have chosen above	-	
unfair	224	55.2
Neutral	76	18.7
Fair	106	26.1
Total	406	100

Source: *Filed Study, 2021*

3.4. The Extent of Application of Procurement Laws to Procurement Infractions

This section examined the application of procurement laws whether fairly applied to people who commit procurement infractions or not. It was identified that, 67.0 percent of the respondents have heard about procurement breaches committed by heads of public entity, while 23.1 percent indicated they have not heard any.

Slightly above 50 percent (53.0 percent) said that, procurement laws are not fairly applied to the head of an entity appointed by the previous regime when the person commit contentious breaches as indicated in table 3. The remaining 47 percent of the respondents were of the view that, the law on procurement was fairly applied to head of an entity appointed by the previous regime who commits contentious breaches. It is instructive to note that when the head of an entity appointed by the previous regime commits mere infraction or in some case contentious breaches, the law is excessively applied to the person. As shown in table 3, about 47.5 percent of respondent indicated the person is subjected to dismissal while 21.4 percent, 13.3 percent and 17.7 percent were subjected administrative discipline, demoted and transfer to a different unit respectively.

AK 47 for shooting political opponents: Several accounts by respondents and documentary evidence shows that governments in power often use breaches in procurement as a weapon (AK-47) to punish (shoot) their political opponents. The use of procurement breaches to punish head who were appointed by previous regime has obviously become a common phenomenon among successive regimes in Ghana. For example, the chairperson of electoral commission whose security of tenure is guaranty by the constitution was subsequently removed from office based on contentious procurement infractions. It is instructive to note that most of these infractions labelled against heads of procurement in Ghana were considered as contentious ones.

It was also indicated by majority of respondents that, when head of an entity appointed by the government in power commit breaches in procurement, the law is not fairly applied. Ironically, the heads appointed by the government in power do not suffer the same punishment as the one appointed by the previous regime. While is instructive to note that anytime an appointee of the government in power breaches the procurement law, the government either comes to the person's defense or remains loudly silence on the allegation. In a classical situation were the minister of health unequivocally engaged in breaches, the minister only appealed to Ghanaians for forgiveness and promise to retrieve the excess payment from the supplier. It was intriguing to note that when the president visited the minister's hometown, he rather sympathized with the minister as most vilified minister among his appointees. In the situation where the breach committed is so obvious, the government loosely apply the law. Indeed, even though the government rarely apply the law to his appointees, it was established that the appointees who suffer some of punishment from procurement breaches are individuals who are non-partisan in character. It is obvious to state that individuals, highly partisan are mostly shielded by regimes in power. The implication for applying the law capricious to procurement infractions is enormous not only to procurement but to public sector. In cases where the law on procurement is used excessively on political opponent as indicated by respondents, the ramification is that these entity heads often become reluctant in discharging their duties. The efficiency in running public organizations could ultimately be affected. In the instances where the situations demand to exercise discretionary power to minimize cost, the head is reluctant to so for fear of being accused of breaching the procurement laws. What this mean is that tightly regulated awards could result in worse ex-post performance of a contract. However, in the cases where the laws on procurement breaches are loosely applied to the entity heads appointed by the government power, these heads are more likely to engage in opportunistic venture. Such practices may entrench corruptions in procurement. Procurement corruptions are pervasive worldwide and the practice where it became apparent that the laws are reluctantly applied to some class of individuals, then the issue of procurement corruption would be insurmountable. Though it is instructive to note that systemic corruptions affect the development of a country, pampering of appointees who commit procurement infractions could embolden these miscreants to continue to commit fleece on the state meagre resources which eventually stifle development.

Another area where infraction in procurement has been used to punish heads of public institution is the extent of manipulations. It was revealed from the respondents that, heads of public entity who refused to bow to manipulation of government in power were often accused of engaging in procurement

breaches and removed from office, indicated by 90.1 percent as indicated in table three. However, those who bowed to the government in power's manipulation were regarded as loyal to the government in power. These 'loyal' procurement heads often receive promotion from the government. Further to this, it could be argued that procurement breaches has become a tool used by successive governments to promote culture of silence in the country. This phenomenon has significant implication for procurement practice in Ghana. Even though, political pressure in procurement is common (Ware et al., 2007), the situation weaken the institutions of the state. Where state institutions are weak, the fight against procurement corruptions a mirage.

It is worthy to note that extensive political impunity could pervade procurement practices in the country. This means that where heads of procurement entities are manipulated to give contracts to bidders in which politicians have interest, the consequences for procurement breaches are eluded. In such cases, though formal procurement procedures may appear to have been followed by the awarding entity in question, it was just an attempt to window-dress actions already taken, to give them some legitimacy.

Investigating the association between application of procurement law to heads appointed by the previous regime and government in power showed significant association, p-value < 0.05 (Table). The assessment of the punishment was indicated by 55.2 percent of the respondent as unfair, 18.7 percent said was neutral and 26.1 percent considered being fair punishment. Cross tabulation with chi-square test of association of the two responses, thus, the kind of punishment given to the heads of institution appointed by the previous regime for procurement breaches and the respondents' assessment of the punishment revealed significant (p-value < 0.05) association. From (Table 3.), 67.4 percent said dismissal was unfair, 56.3 percent said administrative discipline was fair, and 63.0 said demotion was unfair and only 15.3 percent of those who observed transfer to a different unit was fair and majority (54.2 percent) said it was unfair. This distribution suggested some level of relationship between the responses on the kind of punishment for procurement breaches committed by heads of institutions appointed by the previous regime and the assessment of the punishment for head of institution appointed by government in power according to the respondents.

Table 4

	N	**Percent**
Which regime would you fault most for using infractions in procurement to punish political opponents?	-	
J J Rawling	103	25.4
J. A. Kuffour	23	5.7
Evan Attah Mills	14	3.4
J D Mahama	71	17.5
Nana Akufo Addo	195	48.0
Total	406	100.0
Do you agree that when governments take over power, procurement breaches should be used to remove heads of entities perceived to belong to opposition party	-	
No	229	56.4
Maybe	61	15.0
Yes	116	28.6
Total	406	100.0
Justifying the reason for removal of entity heads perceived to belong to opposition part	-	
Eliminate sabotage	99	24.4
In order to build trust with head of entities and government	122	30.0
It minimizes procurement corruption	85	20.9
To protect oath of secrecy in the organization	100	24.6
Total	406	100.0

Source: Filed Study, 2021

This section sought to establish the justification for the application of procurement breaches to remove people political opponents. It was also revealed by majority of the respondents that when governments assume power, they should refrain from using procurement breaches to remove heads of entities perceived to belong opposition party, indicated by 56.4 percent. About 28.6 percent of the respondents

agreed that when governments take over power, they should remove heads of entities perceived to belong opposition party. While is instructive to note that majority of the respondents admonished governments to refrain from using procurement breaches to punish their political opponents, some people still justify the fact that procurement breaches could be used to remove political opponents from office. The justification for the reason was to build trust among heads of government institutions, eliminate sabotages, and minimize procurement corruption and to protect oath of secrecy in the organization. It was further revealed that justification for using procurement breaches to remove opponents from office was influenced by respondent political affiliation.

Though, there have been five different regimes under the fourth republic, the respondents were asked to indicate the regime worst off using infractions in procurement to punish political opponent and results indicated that Nana Akuffo Addo was leading, indicated by 48.0 percent. The second most faulted regime was J. J. Rawlings, indicated by 25.4 percent of the respondents and Evans Atta Mills score the least with3.4 percent. It is worth noting that while Nana Addo score the highest, there were certain factors that contributed to the scores. It was revealed that the level of procurement consciousness among Ghanaians is increasingly becoming higher and the attention of the media, both print and electronic has been shifted to procurement related issue due to large-scale procurement corruptions in the country. In the case of Evan Atta Mills, it was attributed to his demised, which ended in his short term of office. Even though, it was revealed that Nana Addo and Evans Atta Mills scored the highest and least respectively, the implication of this assessment is that most of the regimes might have used procurement infractions regularly to punish their political opponents.

4. CONCLUSION

In conclusion, the procurement breaches in Ghana are considered as a tool for promoting political sycophancy among heads of public organization. The application of the law to procurement breaches has become like a double edge sword which is used either harshly to punish person perceive to belong to the political opponents or loosely used to pamper political sycophants. Therefore, this study set out to analyze the capricious application of the law to procurement breaches in Ghana. The study established that when the head of an entity appointed by the previous regime commit procurement infractions, that head is harshly punished by the government in power whilst an entity head appointed by the government in power commit the same breaches that person is often left unpunished by the regime in power.

The practical implication of this finding is that these entity heads appointed by previous regime often become reluctant in discharging their duties professionally. This could result in inefficient running of public organizations in Ghana. In the instances where the situations calls for the exercise of discretionary power to minimize cost, the head is reluctant to so for fear of being accused of breaching the procurement laws. However, in the cases where the laws on procurement breaches are loosely applied to the entity heads appointed by the government power, these heads are more likely to engage in opportunistic venture. Such practices may entrench corruptions in procurement. Also, the entity heads appointed by the previous regimes most like avail themselves to be manipulated by the government for fear of being victimized. This action could promote corruption in procurement. There are many studies which show that corruption in procurement is pervasive and therefore if this practice of using breaches in procurement to punish political opponents is not nipped in the bud, the fight against procurement corruption will just be a mirage. Another issue of importance is that when these procurement heads are unjustly removed from office, in most case, political surrogate are appointed to replace them. Most of these appointees lack relevant knowledge to management these institutions, which ultimately affect the efficient running of these public organizations.

Theoretically, this study contributes to the body of knowledge in public procurement in a developing nation like Ghana and other countries with similar political attributes. This will save as a wake-up call on successive governments to reconsider reforms in procurement laws with its concomitant applications. The findings of this study help to position the fight against corruption in procurement in a different perspective that has eluded procurement literature for ages.

REFERENCES

[1] Acemoglu, D. and Robinson, J., 2008. The role of institutions in growth and development (Vol. 10). Washington DC: World Bank.

[2] Aghion, P. and Tirole, J., 1997. Formal and real authority in organizations. Journal of political economy, 105(1), pp.1-29.

[3] Amundsen, I., 2006. Political corruption and the role of donors (in Uganda).

[4] Ata, A.Y. and Arvas, M.A., 2011. Determinants of economic corruption: a cross-country data analysis. International Journal of Business and Social Science, 2(13), pp.161-169.

[5] Ayhan, B. and Üstüner, Y., 2015. Governance in public procurement: the reform of Turkey's public procurement system. International Review of Administrative Sciences, 81(3), pp.640-662.

[6] Basheka, B.C., 2009. Procurement planning and local governance in Uganda: A factor analysis approach. International journal of procurement management, 2(2), pp.191-209.

[7] Beke, MB, 2018. Political influence in public procurement: balancing between legality and illegality.

[8] Bryant, R.L., 2008. Nongovernmental organizations in environmental struggles. Yale University Press.

[9] Carril, R., 2021. Rules versus discretion in public procurement. GSE, Graduate School of Economics.

[10] Decarolis, F., Fisman, R., Pinotti, P. and Vannutelli, S., 2020. Rules, discretion, and corruption in procurement: Evidence from italian government contracting (No. w28209). National Bureau of Economic Research.

[11] DFID. (2010). Building Peaceful States and Societies. A DFID Practice Paper. UK: Department for International Development (DFID).

[12] Di John, J. and Putzel, J., 2009. Political settlements: Issues paper. directives-explaining non-compliance", International Journal of Public Sector Management,

[13] Dza, M., Fisher, R. and Gapp, R., 2013. Procurement reforms in Africa: The strides, challenges, and improvement opportunities. Public Administration Research, 2(2), p.49.

[14] Frøystad, M., Heggstad, K. and Fjeldstad, O.H., 2010. Linking procurement and political economy: a guide.

[15] Gelderman, C.J., Ghijsen, P.W.T. and Brugman, M.J. (2006), "Public procurement and EU tendering

[16] Goodfellow, T., 2014. Legal manoeuvres and violence: Law making, protest and semi-authoritarianism in Uganda. Development and Change, 45(4), pp.753-776.

[17] Hayek, F.A. (1960b) New nations and the problem of power, The Listener, November 10, pp. 819–821.

[18] Ibrahim, M., Bawole, J.N., Obuobisa-Darko, T., Abubakar, A.B. and Kumasey, A.S., 2017. The legal regime and the compliance façade in public procurement in Ghana. International Journal of Public Sector Management.

[19] Isaac, P.A.B.I.A., 2013. Combating Public Sector Corruption in Ghana: The Case of the Public Procurement Act (2003) Act 663 (Doctoral dissertation, University of Ghana).

[20] Kakitahi, J.M., Alinaitwe, H.M., Landin, A. and Mudaaki, S.P., 2015. A study of non-compliance with quality requirements in Uganda. Proceedings of the Institution of Civil Engineers-Management, Procurement and Law, 168(1), pp.22-42.

[21] Kakitahi, J.M., Landin, A. and Alinaitwe, H.M., 2013. An exploratory study of rework causality in Uganda. Construction Innovation.

[22] Kelman, S., 2005. Unleashing change: A study of organizational renewal in government. Brookings Institution Press.

[23] Boeger, N., 2017. Reappraising the UK social value legislation. Public Money & Management, 37(2), pp.113-120.

[24] Grossi, G. and Thomasson, A., 2015. Bridging the accountability gap in hybrid organizations: the case of Copenhagen Malmö Port. International Review of Administrative Sciences, 81(3), pp.604-620.

[25] Ferlie, E., Lynn Jr, L.E. and Pollitt, C. eds., 2005. The Oxford handbook of public management. Oxford University Press.

[26] Khan, M., 2010. Political settlements and the governance of growth-enhancing institutions.

[27] Leftwich, A. and Sen, K., 2011. "Don't mourn; organize" institutions and organizations in the politics and economics of growth and poverty-reduction. Journal of international development, 23(3), pp.319-337.

[28] Mahmood, S.A.I., 2010. Public procurement and corruption in Bangladesh confronting the challenges and opportunities. Journal of public administration and policy research, 2(6), pp.103-111.

[29] Osei-Tutu, E., Mensdah, S. and Ameya, C., 2011. The level of compliance with the public procurement Act (Act 663) in Ghana.

[30] Public Procurement (Amendment) Act, 2016 (Act 914) - PPA

[31] Rasul, I. and Rogger, D. 2016, "Management of Bureaucrats and Public Service Delivery: Evidence from the Nigerian Civil Service." Economic Journal.

[32] Roman, A.V., 2014. The politics of bounded procurement: Purists, brokers and the politics-procurement dichotomy. Journal of Public Procurement.

[33] Rossi, C.L. 2010, "Compliance: an over-looked business strategy", International Journal of Social Economics, Vol. 37 No. 10, pp. 816-831.

[34] Saunders, M., Lewis, P.H.I.L.I.P. and Thornhill, A.D.R.I.A.N., 2019. Research methods. Business Students 8th edition Pearson Education Limited, England.

[35] Schooner, S.L., Gordon, D.I. and Wherry, J.L., 2008. Public procurement systems: unpacking stakeholder aspirations and expectations. GWU Law School Public Law Research Paper, (1133234).

[36] Sutrisna, M., 2009, May. Research methodology in doctoral research: understanding the meaning of conducting qualitative research. In Proceedings of the Association of Researchers in Construction Management (ARCOM) Doctoral Workshop held in Liverpool John Moores University. Conducted by ARCOM Liverpool, UK: ARCOM.

[37] Thai, K.V. ed., 2017. International handbook of public procurement. Routledge.

[38] Williams, Martin. 2015. "Bricks-and-mortar institutions matter Project delivery and unfinished infra-structure in Ghana's local governments." International Growth Centre (IGC), Policy Brief (89105).

[39] Williams-Elegbe, S., 2015. A comparative analysis of the Nigerian Public Procurement Act against international best practice. Journal of African Law, 59(1), pp.85-98.

[40] Williams-Elegbe, S., 2018. Systemic corruption and public procurement in developing countries: are there any solutions?. Journal of Public Procurement.

[41] World Bank (2000) Reforming Public Institutions and Strengthening Governance. Washington, DC: World Bank

[42] World Bank 200, Turkey Country Procurement Assessment Report.

[43] World Bank Group. 2016. "Benchmarking Public Procurement 2016: Assessing Public Procurement Systems in 77 Economies." Washington, DC: World Bank.

Citation: *Tonny Ograh, Evans Kyeremeh. "Public Procurement Breaches in Ghana: AK 47 for Gunning Political opponents". International Journal of Political Science (IJPS), vol 11, no. 1, 2025, pp. 43-55. doi: https://doi.org/10.20431/2454-9452.1101005..*