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ILICIT FINANCIAL FLOWS AND NATIONAL DEVELOPMENT – DRIVERS, CHALLENGES, AND PATHWAYS FOR MULTI-STAKEHOLDER SOLUTIONS

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1. INTRODUCTION

Distinguished President and members of the International Law Association Nigerian Branch, learned friends, colleagues, guests, ladies and gentlemen, it is an honour to be invited to give short keynote speech at the Welcome Reception of the 9th Annual Conference of the ILA.

I have been asked to speak on “Illicit Financial Flows and National Development: Drivers, Challenges and Pathways for Multi-Stakeholder Solutions.” Every nation has a development story it is still writing. No country has arrived at the final chapter of its development. Advanced economies race toward AI supremacy and technological dominance; emerging economies seek industrialisation, infrastructure, and fiscal strength. What is remarkable — and deeply troubling — is that Africa, a continent of extraordinary natural wealth, human potential, and resources, continues to write a story of paradox: abundant in assets, constrained in outcomes cloudy in development trajectory.

Today, I want to speak to one of the most consequential yet under-prosecuted threats to development: Illicit Financial Flows. IFFs are not an abstraction. They are the difference between a functional public hospital and an empty shell. They are the infrastructure that was never built, the school that was never equipped, the tax that was never collected — money that belonged to our people, drained away through legal sleight of hand, regulatory opacity, and a global financial system too often designed to protect the extractors rather than the victims of the extractions.

The Development Paradox

Nigeria produces oil. Nigeria collects taxes. Nigeria earns royalties. In absolute terms, these revenues dwarf what this country receives in foreign aid or foreign direct investment. And yet our infrastructure remains inadequate, our fiscal deficits persist, and our public debt grows. In 2024, Nigeria's FDI inflow stood at approximately 1.3 percent of nominal GDP — a figure the IMF itself describes as insufficient for an economy of Nigeria's scale.

The African Union's High-Level Panel on IFFs, chaired by former South African President Thabo Mbeki, arrived at a finding so arresting it

deserves to be stated plainly: Africa loses more resources annually through illicit financial flows than it receives in official development assistance. Let that settle. The continent is a net exporter of capital to the very nations from which it simultaneously seeks aid. That is not a misfortune but a structural arrangement.

What Are Illicit Financial Flows?

IFFs are cross-border movements of money that are illegal in origin, transfer, or use. The IMF defines them as funds that are illegal in their source — such as corruption — illegal in their transfer — such as tax evasion — or illegal in their use — such as terrorist financing. But the Mbeki Panel gave us perhaps the most actionable insight: it was not corruption alone, nor crime alone, that drove the greatest haemorrhage. The breakdown was clear: 65% from commercial activities — trade mispricing, profit shifting, base erosion 30% from criminal activity — tax evasion, money laundering, illicit financing 5% from corruption — bribery and misappropriation

The Mbeki finding was revolutionary because it shifted the moral and legal lens. For too long, we framed Africa's financial hemorrhage as a problem of corrupt African officials. That narrative — however partially true — absolved the architects of the global financial system. The real drain is corporate: it flows through spreadsheets, audited accounts and corporate financial statements, not suitcases.

The Scale of the Crisis

USD 1.6 trillion is lost globally to IFFs every year. Africa alone loses an estimated USD 88.6 billion annually — more than the entire continent receives in development assistance. One-third of Africa's private wealth is held offshore, beyond the reach of our tax authorities.

Nigeria's losses are particularly staggering. Conservative estimates put the annual hemorrhage at USD 18 billion — largely from tax evasion, profit shifting, and trade mis-invoicing. Over a decade, Nigeria is estimated to have lost USD 178 billion to tax evasion alone. Our tax-to-GDP ratio sits at approximately 13.5 percent — far below the African average and far below what is needed to finance our national infrastructure aspirations.

To be clear about what this means in human terms: every billion dollars lost to IFFs is a hospital unbuilt, a generation underserved, a debt deferred to our children. IFFs do not merely reduce fiscal space — they corrode public trust, deepen inequality, fuel insecurity and reward illegality at industrial scale.

The Machinery of Extraction

Allow me to name the mechanisms plainly, because understanding them is the precondition for addressing them.

Transfer Pricing and Profit Shifting

Multinational enterprises manipulate intra-group pricing of goods, services, and intellectual property to shift profits from high-tax jurisdictions — where the work is done and value created — to low- or zero-tax havens. The goods and services are real; the prices are fiction.

Trade Mis-invoicing

This is the largest single component of IFFs. Exporters under-invoice; importers over-invoice. The difference disappears offshore. Developing countries lose an estimated USD 160 billion annually through this channel alone. Nigeria's Money Laundering Act 2022 and the National Single Window Project are recent steps taken in the right direction to address these anomalies by digitising and integrating trade processes to reduce this opacity.

Tax Havens and Financial Secrecy

Approximately 30 percent of global financial wealth is held in tax havens. Oxfam has documented this extensively. These jurisdictions do not merely offer low taxes — they offer architecture for hiding: anonymous shell companies, opaque trusts, nominee structures. And critically: western governments and western banks have been knowing participants in this architecture. The Mbeki Panel said this directly, and it must continue to be said.

Lack of Beneficial Ownership Records

Many jurisdictions lack comprehensive registers of beneficial owners of companies and trusts. The Panama Papers and Paradise papers show us that opacity enables individuals and companies hide illicit funds behind corporate structures.

The Global Response

The international community has not been idle. Let me briefly survey the landscape of responses, because understanding them helps us understand both the progress made and the work that remains.

The OECD/G20 BEPS Inclusive Framework

Launched in 2013, the BEPS project produced 15 Action Plans to close loopholes in the international tax system. Its centrepiece is the Two-Pillar Solution: Pillar One reallocates taxing rights toward market jurisdictions; Pillar Two establishes a global minimum corporate tax of 15 percent for large MNEs. As of 2024, 145 jurisdictions are members of the Inclusive Framework.

But the BEPS framework was not designed with Africa in mind. Developing countries were initially excluded from shaping rules that would bind them. The thresholds — €20 billion turnover for Pillar One — are calibrated to OECD-scale multinationals, not the MNEs operating in our markets. Nigeria objected to these proposals for precisely this reason and we were right to do so.

The UN Framework Convention on International Tax Cooperation

Africa's push for a more inclusive tax architecture culminated in December 2023, when the UN General Assembly adopted Resolution 78/230, mandating the creation of a UN Framework Convention on International Tax Cooperation. Negotiations began in 2025. This is the most significant development in international tax governance in a century — and Nigeria, through the NRS, is playing a leading role. This is exactly where we should be putting our mouths where our money is.

Prior to the commencement of the UN Framework the GA and ECOSOC established the FACTI Panel to review the financial accountability landscape and recommend necessary actions. One of its recommendations was a UN tax cooperation framework.

Nigeria's Tax Reform: A Structural Shift

Ladies and gentlemen, I am proud to report that Nigeria has not merely observed these global conversations from a distance. Through our 2025 tax reforms, we have enacted what I believe is a generational restructuring of our domestic revenue architecture — reforms that directly target IFFs and embed global anti-avoidance standards into our national law.

The four foundational laws — the Nigeria Revenue Service Establishment Act, the Nigeria Tax Administration Act, the Joint Revenue Board Act, and the Nigeria Tax Act — together represent a leap into the 21st century. Let me highlight the anti-IFF architecture specifically:

Minimum Effective Tax Rate (15%): Section 6(3) of the NTA 2025 ensures that where a non-resident subsidiary pays less than the minimum effective tax rate, the Nigerian parent company makes up the difference. This directly implements the GloBE standard (Global Anti Base Erosion Standard).

Significant Economic Presence (SEP): Section 17 taxes digital economy actors — cloud services, online advertising, data transmission — even without a physical presence in Nigeria. You earn in Nigeria; you pay in Nigeria.

Anti-Avoidance Rules (Section 190): A broad authority to disregard artificial or fictitious transactions — round-tripping, sham structures, contrived losses — designed to drain the Nigerian tax base. This is a broad anti-abuse rule that targets sham or contrived schemes (e.g. round-tripping, artificial losses, or structures lacking commercial substance) designed to shift profits offshore or erode the Nigerian tax base. It directly counters sophisticated avoidance that enables capital flight.

Transfer Pricing Enforcement (Section 191): Mandatory arm's-length reporting and adjustment authority to ensure related-party transactions cannot be used to shift profits offshore.

International Information Sharing (Section 120(3)): Overrides standard secrecy to enable disclosure to treaty partners — essential for cross-border IFF investigations.

These reforms and more are more than legislation — they are a declaration of fiscal sovereignty. Enforcement will be the test but I am persuaded the new NRS leadership is up to the task .

The Imperative of Asset Recovery

Addressing IFFs is not only about stopping future losses. We must also reckon with what has already been taken. Asset recovery is not a peripheral concern — it is a matter of reparative justice and development finance. And I say this not as an abstraction, but as someone who has sat at the table where these negotiations actually happen — and felt the full weight of what confronts a country trying to recover what is rightfully its own.

The AU Mandate — and Its Unfulfilled Promise

In January 2015, the 24th Ordinary Session of the AU Assembly adopted a Special Declaration on Illicit Financial Flows, endorsing the Mbeki Panel findings and directing that all financial resources lost through illicit capital flight be identified and returned to Africa to finance the continent's development agenda. The AU Commission was mandated to mount a diplomatic and media campaign for the return of illicitly acquired African assets.

That was over a decade ago. I must be candid: the implementation record has been modest — Nigeria's efforts being a commendable exception, not the continental norm. The resolution exists. The political will and understanding to operationalise it has been uneven.

In 2017, the AU Assembly adopted the theme "Winning the Fight Against Corruption: A Sustainable Path to Africa's Transformation," appointing

President Muhammadu Buhari of Nigeria as Champion. One key objective was the Common African Position on Asset Recovery (CAPAR), eventually adopted in February 2020. CAPAR is a comprehensive instrument — covering not merely stolen public funds, but natural resources, artefacts, proceeds of abusive transfer pricing, trade mis-invoicing, and aggressive tax avoidance. On paper, it is exactly what was needed. In practice, its reach depends entirely on sustained political commitment from member states, and genuine cooperation — not rhetorical cooperation — from the global North.

The Frustration of Asset Tracing: A Personal Account

Asset recovery begins with asset tracing — and asset tracing is where the process most often stalls. I speak from direct experience.

Between 2015 and 2019, I served as Executive Secretary of the Presidential Advisory Committee Against Corruption. It was a period of national commitment to confronting corruption and recovering stolen assets. And I encountered the full weight of what that actually involves. Stolen assets, once moved across borders, do not sit in labelled accounts waiting to be found. Laundering transforms them: into real estate in London or Dubai, into stocks and securities, into artwork, jewellery, rare wildlife — and increasingly, into digital assets. The money changes form, changes name, changes jurisdiction. Tracing it requires intelligence, cooperation, technology, and often, a willingness to pursue paths that lead nowhere before finding the one that leads somewhere.

During that period, Nigeria received a steady stream of approaches — mostly from international firms and professional bodies — claiming access to information about the location of assets stolen by Nigerian politically exposed persons. The offers were striking in both their variety and their audacity. Some demanded 40 percent of recoveries as their fee. Others proposed monthly retainers of USD 100,000 — with no guarantee of results whatsoever. The message was unambiguous: information about Nigeria's own stolen wealth had been commodified, and those who held it intended to extract maximum value from its return.

There is something deeply troubling about that dynamic. The country is twice victimised — first when the assets are stolen, and again when intermediaries leverage their knowledge of where the assets are hidden to extract enormous fees from the very country trying to recover them. It is a secondary market built on the infrastructure of the primary crime.

After careful deliberation, Nigeria settled on a principled framework: a 5 percent recovery fee, inclusive of all out-of-pocket costs. It was a refusal to surrender a disproportionate share of the people's assets as ransom for information. But it required us to build our own alternative capacity — our own intelligence, our own investigative networks, our own ability to trace without depending entirely on those who profit from our dependence. That experience convinced me that no African country should be wholly reliant on external intermediaries to recover its own resources. The capacity must be built domestically, and shared regionally.

Nigeria is not alone in this experience. Iraq, attempting to trace assets frozen by Western governments in the aftermath of the Saddam Hussein era, faced a similar predicament: desperate for information, unable to locate its own frozen wealth without external guidance. Out of that frustration, Iraq introduced a formal incentive scheme ranging from 10 to 25 percent of recovered assets — a figure that reflects not generosity, but desperation. Information asymmetry is itself a form of power, and it is wielded with full awareness of what it costs the requesting state.

The Six Pillars of Effective Recovery

From that experience, and the work that followed it, I have concluded that effective asset recovery rests on six interdependent pillars. Remove any one of them and the structure weakens.

A Robust Legal Framework: The law of both the requesting and requested state must permit asset return, and must also govern asset management and utilisation after return. This is not a technicality — recoveries have stalled not because assets could not be found, but because the receiving country lacked a legal framework for managing returned funds that satisfied the conditions imposed by the holding jurisdiction. Non-conviction-based forfeiture — civil forfeiture — is particularly important. It enables

recovery of assets beyond the provable income of a defendant without requiring a criminal conviction, and without the full burden of criminal proof. Where this mechanism is absent, many recoveries simply cannot proceed.

International Cooperation: Mutual Legal Assistance Treaties, extradition agreements, and active implementation of UNCAC and FATF recommendations form the scaffolding of cross-border recovery. Informal networks — the Egmont Group, INTERPOL, GloBE Network, ICAR, IACC — provide important intelligence-sharing and capacity-building functions. But treaties and networks are only as effective as the political will and administrative capacity behind them. We must build relationships, not merely sign instruments.

Institutional Independence: Investigators and prosecutors must be operationally independent — by law, by funding, and by practice. I have seen what happens when an institution's leadership can be pressured, its budget withheld, or its key staff reassigned at politically inconvenient moments. The capacity evaporates. Institutional independence is not a governance luxury; it is a functional prerequisite for any serious anti-corruption or asset recovery programme.

Technology: As financial services digitalise, so must the tools of recovery. Blockchain analytics, AI-assisted transaction monitoring, and big data forensics are now indispensable. Technology is a moving target — and law enforcement must keep pace. I have seen asset recovery efforts hampered by something as mundane as an unpaid annual subscription to digital forensic software. These are not luxuries. They must be anticipated, budgeted, and treated as operational essentials.

A Functional Criminal Justice Process: The judiciary is the final arbiter of accountability. Where courts tolerate dilatory tactics, reward procedural obstruction, or permit wealth to purchase indefinite delay, the message to society is devastating: crime pays, and it pays handsomely. Every year a corrupt actor spends their ill-gotten proceeds while nominal proceedings drag on is a year the system announces its own complicity. The criminal justice process must be included in the anti-corruption effort — not as an afterthought, but as a principal.

Whistle blowing Citizens and Civil Society: Recovered assets must return to the public in ways that are visible, accountable, and meaningful. Civil society must be structurally embedded in the recovery, management, and utilisation process — as a safeguard, not a decoration. In this regard there must exist a robust whistle blower framework that not only incentivise but also protects the whistler from harm. While in PACAC we prepared the widely acclaimed but shortlived Whistleblower policy in 2016. It was to be institutionalised by a legal framework but the NASS was not enthusiastic about it. Nigeria's lack of a legal framework has undoubtedly weaken the quest for asset recovery and the fight against corruption. Public education about what asset recovery means, and what it makes possible, builds the constituency of sustained pressure that keeps governments honest and keeps the effort alive across political cycles.

The Double Standard We Must Confront

I want to close this section with a challenge to the international community that must be stated plainly in forums such as this one, and carried from this conference into every international negotiation our members attend.

The global North's engagement with asset recovery has been selective. There has been genuine — if imperfect — cooperation and action around corruption and organised crime. But those categories account for roughly 30 percent of IFF losses. The remaining 70 percent — from tax evasion, trade mis-invoicing, aggressive avoidance, and abusive transfer pricing — receives conspicuously less urgency and cooperation. Why? Because in those cases, the beneficiaries are not anonymous criminals. They are named corporations with headquarters in major Western capitals, named financial institutions managing trillions in assets, and named jurisdictions whose governments sit in the same rooms as ours at multilateral negotiations.

CAPAR explicitly covers this full spectrum. The AU's 2018 call to international partners covered assets lost to "abusive transfer pricing, trade mis-invoicing, tax evasion, aggressive tax avoidance and double taxation, money laundering, smuggling, trafficking." We should hold our partners to that full breadth — not merely the politically convenient subset of it.

The UN Framework Convention on International Tax Cooperation, if it achieves its potential, represents the most significant opportunity in a generation to begin correcting this asymmetry. Nigeria must remain at the forefront of those negotiations.

A Call to Multi-Stakeholder Action

IFFs are not merely a government problem. They are a societal problem demanding a societal response. I close with a direct call to the distinct communities in this room.

To key Professionals e.g. legal practitioners, Accountants, auditors, bankers, real estate practitioners and lawyers are the gatekeepers of these anomalies. The structures through which IFFs flow — shell companies, nominee arrangements, artificial transactions, agreements of imperfect and unequal obligations — are all drafted by lawyers. Professional ethics and anti-money laundering obligations of all implicated professions especially the legal profession must be treated as non-negotiable. So far, NBA has demonstrated some lukewarm attitude to needed reforms although I admit minor progress has been made in the Rules of Professional Ethics on vulnerability and culpability to money laundering and steps to mitigate it. Beyond this, we must advocate for beneficial ownership transparency as a matter of the rule of law, not merely regulatory compliance.

To policymakers and government:

Legislate robustly — and enforce relentlessly. Nigeria's 2025 tax reforms are exemplary on paper; their legacy will be written in implementation. Invest in the Nigeria Revenue Service, in EFCC, in ICPC — not merely in mandates, but in capacity, independence, and resources.

To civil society and academia:

Your role is surveillance and accountability. Monitor procurement. Scrutinise extractive industry contracts. Generate the evidence base that policy reform requires. The media must name the structures, the companies, and where the law permits, the individuals.

To the private sector:

Responsible tax practice is not philanthropy — it is a precondition for the stable societies in which business operates and flourishes. Voluntary compliance, robust KYC, and support for the cashless economy are not competitive disadvantages; they are markers of legitimacy.

To the international community:

We ask not for charity but for fairness. Support automatic exchange of tax information. Dismantle the secrecy jurisdictions that your financial systems have constructed and sustained. Back the UN multilateral tax framework. Return what has been taken.

Conclusion: The Africa We Are Building

Africa stands to retain nearly USD 90 billion annually by effectively addressing illicit financial flows. That is not a forecast — it is a recoverable present. It is schools and hospitals and roads and research institutions and the middle class that will drive our economies into the next century.

National development is not charity. It is not waiting on the goodwill of global financial institutions. It is the disciplined, relentless, legally grounded effort to ensure that what is earned in Africa, created in Africa, extracted from Africa — stays in Africa to finance the Africa we are building.

The task before us — before this Association, before our profession — is to ensure that the law does not merely describe this theft. The law must stop it.

Thank you for inviting me and I wish you a fruitful conference.

About the Speaker

Prof. Bolaji Owasanoye, SAN, OFR, NPOM serves as Coordinating Director, Proceeds of Crime and Illicit Financial Flows Unit, Nigeria Revenue Service. He previously served as Chairman of the Independent Corrupt Practices Commission (ICPC) 2019–2024 and Executive Secretary of the Presidential Advisory Committee Against Corruption (PACAC) 2015–2019. He is Research Professor at the Nigerian Institute of Advanced Legal Studies.