
FREEDOM OF INFORMATION (FOI) ACT, 2011 AND PUBLIC INFORMATION MANAGEMENT IN AKWA IBOM STATE

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Abstract

Since the enactment of the FOI Act in 2011, different institutional bottlenecks have impeded its effectiveness, making it to exist more in theory than in practice. This has made salient information that would have impacted life in the society to be circumscribed, leading to misinformation, chaos and violence-prone activities. This paper therefore examines the extent to which the FOI Act has facilitated free access to public information by public office holders in Akwa Ibom. To properly guide the work, 3 objectives and 3 research questions were raised. Descriptive research design was used to gather information from the respondents, who were mainly media practitioners. Questionnaire was used as instrument of data collection. Transparency Theory was used as a suitable framework to guide the work. Findings revealed that although the passage of the Freedom of Information Act in 2011, information seekers have not been able to fully utilize the law to their advantage to hold public officials accountable to the people. Such challenges as ignorance, executive immunity, exclusion of the private sectors and rigid legal procedures were some of the factors respondents believed to have impeded access to public information through the instrumentality of the Freedom of Information Act. The paper concludes that citizens should know their rights within the ambit of the law, public officials who rely solely on section 11 of the FOI Act should be made to comply with Section 2 of the FOI, which mandates them to properly keep public records in a manner that facilitates public access to such records and recommends that the law should be amended to cover access to information held by the private sectors.

Keywords: Social media, Reading and writing culture, Academic performance, WhatsApp, Facebook

Introduction

Information management plays a vital role in putting democratic principles into practice. In essence, sound information management is the foundation through which any government can provide service, fulfil its obligation of accountability towards its citizens and protect their right. This is because the citizens need to be informed about government policies and programmes in the country, and it is the right of the citizens to seek and obtain information from government agencies with a view to having knowledge. Allowing access to public information would make government to be transparent and accountable to the people (Kaplan and Norton, 2016). The ability to access information in the domain of public institution or public office holders is a fundamental element of the right to freedom of expression as provided in section 39 of the 1999 Constitution of the Federal Republic of Nigeria (as amended), that: every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference (Malemi, 2015). Looking at the above section critically, one would see that this right is very indispensable to the proper functioning of Nigeria's democracy.

It is generally believed that the ability of an organisation or institution to manage its records could be a prerequisite to effective administration. Proper records management could help institutions to manage their information efficiently, fulfil their mandates, protect them from litigation, preserve their corporate memory and foster accountability and good government. Information management is the effective storage and retrieval mechanism of information that aids an organisation in making decisions. Proper records

management leads to effective management because an institution's activities are based on access to the information contained in records.

Furthermore, access to information is an important aspect of the universal guarantee of freedom of information which includes the right to seek and to receive as well as to impart information. In addition, Article 19 of the International Covenant on Civil and Political Rights (1966) clearly spells out that "everyone shall have the right to freedom of expression, this shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontier, either orally, in writing or in print, in the form of art, or through any other media of his choice". Article 19 of the United Nations Convention Against Corruption (2003), compels governments of different nations to ensure that the public has effective access to information which is one of the fundamental requirements of having a viable democracy in any country. This Convention preaches against the tendency to withhold information from the people by government agents of various nations of the world. Access to information is critical to empowering the public to make decision, holding government accountable, evaluating public officials in implementing and monitoring government policies and programme (Scholl, 2005).

Information management and freedom of information are closely related, especially in government and public organization. Freedom of information refers to the legal right of individual to access information held by government agencies and public bodies. For proper management of public information and to protect and keep the record properly, government information has been classified as top secret, confidential and restricted as a plethora of laws prevent civil servants from divulging official facts and figures, notably the Official Secrets Act of 1962 which makes it an offence not only for civil servants to give out government information but also for anyone to receive or reproduce such information (Peters, 2021). Further restrictions are contained in the Evidence Act, the Public Complaints Commission Act, the Statistics Act and the Criminal Code, amongst others.

The level of secrecy in public institution is so ridiculous that some government information already in the public domain is classified as secret, using it as an excuse to withhold and deny the public such information. Allowing free access to information brings proper monitoring of government actions and those of its official as they affect the nation and reporting same to the citizens. Such information on the government and its agents would enable the citizen to know the direction in which they are being led (Udoakah, 2014). Freedom of Information Act is a vital tool to ensure democracy and responsible governance in Nigeria. With the full implementation of this Act, corruption in governance is more likely to be exposed just as information regarding the mismanagement of the fuel subsidy regime was revealed in the public space. So, with the FOI Act in force, there will be openness, transparency and good governance which should complement government's avowed commitment to stamping out of corruption in Nigeria.

The FOI Act guarantees a right of access to information to everyone in the country and as such, it places enormous responsibility on those who hold information. It further assists various government agencies such as the Independent Corrupt Practices and other Related Offences Commission (ICPC), the National Human Rights Commission (NHRC), the Economic and Financial Crimes Commission (EFCC) among others in the performance of their duties. It will also enhance the speedy dispensation of justice, especially when one considers that it will make it easier to get public officers as cooperative witnesses unlike in the past when they were protected for divulging information in court cases.

For Abdul Waheed Khan, former Assistant Director-General for Communication and Information of UNESCO, the true flow of information and ideas constitute the nucleus of democracy and is also critical to the respect for Human rights. According to him, without the right to freedom of expression, which incorporates the right to seek, receive and impart information and ideas, the right to vote is undermined.

Objectives

This study seeks to achieve the following objectives:

1. to find out how the FOI Act addresses the setbacks associated with public information accessibility and obtainability in Akwa Ibom State;
2. to evaluate the reasons for denial of access to public information by public office holders/public institutions in Akwa Ibom State;
3. to suggest ways of addressing the bottlenecks associated with the application of FOI Act to public information accessibility in Akwa Ibom State.

Research Questions

1. How does the FOI Act address the setbacks associated with public information accessibility and obtainability in Akwa Ibom State?
2. Why do public office holders/public institutions refuse to make public information available in Akwa Ibom State in accordance with the FOI Act?
3. What are the ways of addressing the bottlenecks associated with the application of the FOI Act to public information obtainability in Akwa Ibom State?

Concepts of Information Management

Information management embraces all generic concepts of management, including the planning, organising, structuring, processing, controlling, evaluating and reporting of information activities, all of which is needed in order to meet the needs of those with organisational roles or functions that depend on information (Cross, 2005). It has to do with the appropriate and optimized capture, storage, retrieval, and use of information (Henderson and Venkatraman, 2013).

Sound information management is therefore at the centre of increased accountability and good governance. It is one of the best weapons in fighting corruption and plays a vital role in the advancement of human rights and contributes towards ensuring sound financial management. That is why Shepherd and Yeo (2018) said that when information is properly managed, it is easier to respond to an audit or litigation. Information management is the entire range of technical, operational, and social functions of a system that is used to handle information. Individual, social networks of individuals, organisations, businesses, and governments all engage in some form of information management. They organise the information they use to communicate, to record history, and share, store, and create meaning from information.

Proper records management ensures that comprehensive and complete records are created, inventoried, indexed, kept in a sure storage, retrieved when required to conduct business, and ensure that the right records are disseminated to the right person at the right time. Effective records management system provides information required for the proper functioning of an organisation. On the other hand, poor records management can be a risk to the organisation. In an institution where records are not properly managed, the flow of records through the life cycle is retarded. Information can only be found if there are well managed records.

Information management is usually influenced by a strategy or framework that guides the planning, application, and uses of that information. Many governments around the world are providing information and services through electronic government (e-government) web sites. It is the process by which relevant information is provided to decision-makers in a timely manner (Dawodu, 2016). The aim of information management is to get the right information to the right person at the place and at the right time (Azameti and Adjei, 2013). The role of information management is to ensure that data and information are collected, stored, processed, and disseminated in a way that supports the organization's objectives. It involves

managing data as a valuable asset and applying best practices for data government, security, and quality to support decision-making processes (Bakare, Abioye, and Issa, 2016).

In managing public information, the manager needs to be methodical in his approach so that wrong information is not sent out to the public. Also, in many government establishments, information officers are seriously warned not to give information without the consent of the governor, the president or the Chief executive in charge. Many of these Chief executives feel that they have the backing of section 11 of the FOI Act, 2011 which prevents public institutions from disclosing information which may be injurious to the conduct of international affairs and the defense of the Federal Republic of Nigeria. So, public officials hide under this section to keep financial records and other vital information that would expose their corrupt practices away from the public. That is why Dawodu (2016) concluded that corruption is one of reasons why information is not easily given to the public by public institutions.

In Nigeria and other Third World countries, because of high Level of denial of rights, favoritism, embezzlement of public funds, public information is restricted to the citizens so that they would not use the information to hold government accountable. In government ministries and parastatals, information officers are meant to protect the ministers or commissioners by writing and publishing stories that promote the organization and its officials. Also, section 308 of the 1999 Constitution of the Federal Republic of Nigeria (as amended) clearly spells out that the President, Federal Republic of Nigeria, Vice President, Governors and their Deputies shall have enjoyed immunity while in office. This immunity clause holds that “no civil or criminal proceedings shall be instituted against them while in office”. Today, those that enjoy this immunity hide under it to involve in corrupt practices including denial of access to public information.

The truth is that, what actually keeps people together in a community for peaceful coexistence is information shared and free access to information. A progressive society is a society which allows information sharing. This is because people need information to survive in business, education, politics, in health and religious setting. In society, it is better to deal with literate and informed citizens than the uninformed. However, the same way information sharing is vital to the citizens, it also the same way it destroys a society when it is mismanaged.

Information mismanagement brings bad reputation to a government, the individual and organisation (Bytheway, 2015). This explains why some individuals and public institutions deny many citizens access to classified information just to protect their image or make good image. Benefits of access to public information are the reason why publishers, journalists, media scholars and the enlightened citizens all agree that government should remove the bottlenecks to the free access to public Information (EKeanyanwu, 2015), Public information is managed in such a way that divulgence would not cause harm to the government or give government exceptionally grave image (Peter, 2021).

The primary purpose of information management is to ensure legal and regulatory compliance. Good information management helps public organizations to adhere to laws and regulations that govern the creation and retention of specific types of information, and the public have a right to see evidence of an organization’s action or decision, especially if those actions or decisions affect someone’s life and welfare. To meet this responsibility, organizations must ensure their information is authentic and accessible at all times.

Information management helps organizations achieve their public responsibility by creating, using, keeping records and evidence. Information management improves public accountability, enhances organizational efficiency, increases public access and transparency, and supports effective work practices. Good information management entails: Record creation, classification, retention, disposal, storage and security, access control, retrieval and retrieval systems, compliance, archiving, training and education, technology and automation and continuous improvement. The guiding principle of information

management is to guarantee that information is available when and where it is required, in an ordered and well-organized manner.

Freedom of Information Act 2011: An Assessment

Abone and Kur (2014) observed that it was the suppression of the press, the denial of applications' access to information that gave birth to the call for Freedom of Information Act in Nigeria. Therefore, in order to save the falling standard of efficiency and productivity in public institutions and assist the fight against corruption majorly aided by mismanagement of information, the Nigerian government under the leadership of President Goodluck Ebele Jonathan signed the FOI Bill into law on May 28th, 2011. This law became the legal framework for record management practices in public institutions addressing the flow, use and maintenance of records in public institutions and private institutions in which any Federal, State or Local Government has controlling interest and those private institutions performing public functions (Yusuf, 2012; Omotayo, 2015).

The FOI Act guarantees the right of the public to access information and ensures records are properly managed by public institutions. The Act was to make public information more freely available, provide for public access to public information, protect personal privacy, and protects serving public officers from adverse consequences for disclosing information for the achievement of those objectives (Shepherd and yeo, 20218). Omotayo (2015) added that the objective of FOI Act was to establish the legal principle and right to access documents and information in the custody of the government or its officials and agencies as a requirement to the guarantee of freedom of expression. It was also aimed at creating mechanisms for the effective exercise of this right. The Act further spelt out ways of getting access to records by the court, materials and documents under the security classification.

Section 1 of the Act has made every citizen of Nigeria whether adult or minor to be entitled to records or information under the control of the government or any public institution. In doing this, citizens need to make application in a written or oral form, and the applicants do not have to indicate any specific interest in the information applied for. Section 1(3) of the Act allows an applicant who has been denied information by a public institution to approach the court to enforce the release of such information. That is, if the applicant is not satisfied with the reasons given for denial.

Section 2(1) of the Act requires a public institution to keep records and ensure that its activities, operations and business are known to the public. This section makes it statutorily about their set up, structure, operations in a manner that facilitates public access to such information. Also, section 3(3) of the Act allows an illiterate or disabled person to request for information through a third party. Section 4 of the Act clearly states that the public institution to which the application is made, shall make the information available to the applicant within seven days, and in the event of refusal of the application, it must state the reason for refusal and the section of the Act under which the denial is made.

Section 7 of the Act provides that when a public institution refuses to give access to information applied for, the public institution shall by a written notice state the reasons/grounds for refusing the application. The applicant has a right to challenge the grounds for refusal in court. Under Section 7(5) of the Act, where a case of wrongful denial of access to information is established, the defaulting officer or institution will be liable on conviction to a fine of ₦ 500,000.00. Section 10 of the Act also makes it a criminal offence, punishable with a minimum of one year imprisonment with no option of fine, for any public officer or head of a public institution to wilfully destroy any records kept in his custody or attempt to doctor or otherwise alter same before they are released to any person, entity or community applying for it.

However, while the Act guarantees the right of access to information in the domain of the public institutions, there are limitations to these rights. The FOI Act recognizes that not all information is for

public knowledge. As a result, public institutions are allowed to deny or refuse any application for access to certain restricted information. The following sections deal with the exemptions/restrictions:

- a. Section 11 of the Act prevents public institutions from disclosing information which may be injurious to the conduct of international affairs and the defense of the Federal Republic of Nigeria. However, where the interest of the public overrides whatever injury that disclosure would cause, such information shall not be denied.
- b. Section 12 of the Act states that an application for information relating to records of public institutions relating to administrative, investigative and enforcement proceedings may be denied if it will affect pending proceedings or may jeopardize ongoing investigation/security of such public institutions or areas touching on personal privacy.
- c. Section 17 allows a public institution to deny an application for information which contains courses or research materials prepared by Faculty members.
- d. Section 19 allows the public institution to refuse an application for information pertaining to public institutions; architects' and engineering plans of public institution buildings or buildings built with public funds.
- e. Finally, by section 27 of the Act, whistle-blowers and public officers who release information to the public are protected as no civil or criminal proceedings can be instituted against them for disclosing such information.

In some instances, some public officials have been accused of hiding under some sections of the law to conceal information which they term 'classified'. A typical case was the secrecy that surrounded the disclosure of President Muhammadu Buhari's health status or the medical bills for the President's 49 days medical vacation in London, United Kingdom in January, 2017. While in London, and even after the President's return, the Nigerian citizens, particularly the Journalists made a stern request that the presidential aids should disclose the president's medical bills and health status to Nigerians as a mark of accountability and transparency. Their demands were premised on the provisions of Section 2(1) of the FOI Act. Their argument was based on the fact that since the president was a public official and his medical expense was from the public purse, it was just normal for the President to disclose such useful information about his state of health.

Contrary to the expectation of Nigerians the Presidency declined to heed the request. The presidency spoke through its Minister of Information and Culture, Alhaji Lai Mohammed stating that the disclosure of the President's medical bills should be considered on the basis of national security and morals'. The statement appeared on the pages of major national dailies on Wednesday, March 30, 2017. Mr. Mohammed was referring specifically to Section 11(1) of the 2011 FOI Act, which state that: "A public institution may deny an application any information the disclosure of which may be injurious to the conduct of international Affair and the defense of the Federal Republic of Nigeria". In other words, Mohammed termed documents and records bordering on the president's health 'classified documents', and disclosing such information was tantamount to contravening sections of the FOI Act. Also, Nigerians have been asking the federal government about the actual amount recovered from rooting and what such money is used for. Till today such information is not on the public domain. To add to this, the past and present state governments have refused to publish the amount realized from internally generated revenues of their states, and how such revenues have been spent for the developmental purposes.

Transparency Theory

The transparency theory was formulated by a political Scientist, Kenneth N. Waltz in 1959. The theory is often associated with democratic accountability, and hold promises for increased democratization

and economic performance. The theory opines that increased transparency is often assumed to lead to increased citizen trust in government, but the relation of trust and transparency is more complex. Transparency also implies access to public information, which can consist of various types of documents and registries.

In the context of public information management, transparency theory typically refers to the openness in government and public administration. The theory has the following assumptions:

- a. Governments and public organizations should be open about their operations, decision-making processes, and the use of public resources. This openness is vital for fostering public trust.
- b. Government agencies and public official are held accountable for their action and decisions. Citizens have the right to access information about how their government operates and how decisions are made.
- c. Government information should be readily available to the public. This includes making documents, data and records accessible through various channels, such as government websites, freedom of information laws, and public disclosure.
- d. There should be public participation in the decision-making process. Citizens should have opportunities to provide input and feedback on government policies and actions.
- e. Transparency contributes to building public trust and enhancing the legitimacy of government institution. When citizens see that government is open and accountable, they are more likely to have confidence in the government's actions.

Transparency theory is closely linked to principles of good governance and is often considered a fundamental aspect of modern democratic societies. It not only benefits citizens by providing them with information and opportunities for engagement but also helps ensure that government operates more efficiently and ethically.

Research Methods

The study made use of the quantitative and qualitative research method. The justification for the choice of this research method is that it is suitable for collecting data from a large and heterogeneous population as it is the case of this study. The data for this paper were derived from both primary and secondary sources. The population of this study consists of the population of all registered Journalists in Akwa Ibom State which is estimated at 609 people (NUJ Secretariat, 2020). This population includes indigenous and none indigenous journalists in the 16 media houses in the state. This study used a sample size of two hundred (242) respondents. To obtain the sample size, the statistical formula developed by Taro Yamane (1967) was adopted as shown:
$$n = \frac{N}{1+N(e)^2} \cdot$$

The sampling techniques adopted in the study were cluster, purposive and simple random sampling. Cluster sampling was adopted because the respondents were sourced from 16 registered media houses from where sample was drawn. This technique allowed all media houses to be represented in the study. Purposive sampling was adopted because it allowed the researcher to select the case to be studied. Finally, simple random technique was used to ensure that every journalist; from 20 years and above has equal opportunity of being interviewed.

The instruments for data collection were questionnaire and interview schedule. The questionnaire was designed in two sections; A and B. Section A sought and obtained background characteristics of the respondents, while section B sought information that would provide explanations to the topic of investigation. The data obtained in this study were analysed using simple percentage.

Data Presentation and Analysis

1. How does the FOI Act address the setbacks associated with public information accessibility and obtainability in Akwa Ibom State?

Table 1: Frequency and Percentage showing how FOI Act addresses the setbacks associated with public information accessibility and obtainability in Akwa Ibom State

Items	Frequency	Percentage	Decision
Compelling of public officials to comply with the Act	183	75.62%	Agreed
Severe punishment of those violating the law	59	24.38%	

Source: Researcher's Fieldwork, 2024

Table 1 shows that among all the respondents interviewed, 183(75.62%) agreed that compelling of public officials to comply with the Act will address the setbacks associated with public information accessibility and obtainability in Akwa Ibom State, 59(24.38%) also agreed that severe punishment on those violating the law will help to address the setbacks.

2. Why do public office holders/public institutions refuse to make public information available in Akwa Ibom State in accordance with the FOI Act?

Table 2: Frequency and Percentage showing why public office holders/public institutions refuse to make public information available in Akwa Ibom State in accordance with the FOI Act

Responses	No of Respondents	Percentage	Decision
Corruption	209	86.36%	Agreed
Immunity clause	172	71.07%	Agreed

Source: Researcher's Fieldwork, 2024

Table 2 shows that among all the respondents interviewed, 209(86.36%) agreed that corruption is the reason why public office holders/public institutions refuse to make public information available in Akwa Ibom State in accordance with the FOI Act. 172(71.07%) agreed also to the fact that immunity clause is the reason behind the refusal.

3. What are the ways of addressing the bottlenecks associated with the application of FOI Act to public information obtainability in Akwa Ibom State?

Table 3: Frequency and Percentage showing the ways of addressing the bottlenecks associated with the application of the FOI Act to public information obtainability Akwa Ibom State

Items	Frequency	Percentage	Decision
Full implement of the laws and Giving punishment to defaulters	196	80.99%	Agreed
Removal of immunity clause	153	63.22%	Agreed

Source: Researcher's Fieldwork, 2024

Table 3 shows that among all the respondents interviewed, 196(80.99%) agreed that full implementation of the laws and giving punishment to defaulters will address the bottlenecks associated with the application of FOI Act in Nigeria, while 153(63.22%) also agreed that the removal of immunity clause will address that.

Findings

Findings revealed that the FOI Act can address the setback associated with it by enforcing its full implementation, and compelling public institutions to adhere to laws and regulations that govern the creation and retention of specific types of information in the country. This can be done by making public institutions to comply with section 2 and section 7(5) of the FOI Act, which mandate them to properly keep public records in a manner that facilitates public access or be liable on conviction to a fine of ₦ 500,000 or

face 1 year imprisonment with no option of fine, for public officers or head of a public institution who wilfully destroys any records kept in his custody.

The findings revealed that public officials sometimes hide under the cloak of the immunity clause to conceal important public information since they cannot be summoned before any court for civil or criminal proceedings. So, the governor may go contrary to the FOI Act to deny the public access to information or refuse to give approval for such information to be released, because he knows he is covered by immunity.

Finding revealed that general systemic failure in Nigeria is the reason for lack of full implementation of FOI Act in the country. The finding revealed that the activities of the government agencies have made freedom of information remain a mirage in Nigeria. This is blamed on factors such as lack of access to public information, poor record keeping and institutional corruption. Findings revealed that denial of public information is the reason for false publications by journalists which are capable of instigating unwarranted unrest in state. Finding revealed that the FOI Act will guarantee press freedom and freer access to public information, which will in return enhance good governance and good democratic practice in Nigeria.

Conclusion

Freedom of Information laws is universal laws, and it is a universal right meant to be enjoyed by citizens of all nations of the world. Freedom of information is a vital tool for democracy to thrive in any nation. Citizens of Akwa Ibom State as well as Nigeria need to be informed about government policies, programmes and all vital information necessary for the citizens. Public offices on many occasions deny the public information due to high level of corruption, claiming that they have immunity to do that without any interference. Information seekers have not been able to fully utilise the FOI Act to their advantage.

Transparency and Accountability in government can only be achieved where there is free flow of public information. Citizens need to be informed about government policies and programmes and other vital information about the socio-economic cum political system. Information held by public authorities is not acquired for the benefit of officials or politicians but for the public as a whole. Unless there are good reasons for withholding such information, everyone should have access to it. Information is said to be power, therefore, the quality of information the people are exposed to can go a long way to influence the quality of their lives. What actually keep people together in a community for peaceful coexistence is information shared and free access to information. A progressive society is a society which allows information sharing. This is because people need information to survive in business, education, politics, in health and religious setting. In a society, it is better to deal with literate and informed citizens, it is also the same way it destroys a society when it is mismanaged.

Recommendations

Based on the findings, the following recommendations were made:

1. Immunity clause should be expunged from the Office of the President, Vice President, Governors and their Deputies since it encourages corruption in the country.
2. Public officials should be made to comply with Section 2 of the FOI Act, which mandates them to properly keep public records in a manner that facilitates public access to such records. Once public information is available or accessible, press men and women will be able to uphold the culture of truthfulness, accuracy, fairness and objectivity in their reportage.
3. Public institutions and public office holders who fail to comply with the provisions of the FOI Act, by denying citizens access to public information should be made to face severe punishment so that it will serve as deterrent to them and those who may want to do same.

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