

FREEDOM OF INFORMATION ACT IN NIGERIA: JOURNALISTIC CONCERNS

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Introduction

The need to promote open governance around the world gave birth to the idea of freedom of information Act. Freedom of Information is considered a fundamental human right. The concept of human rights refers to the moral norms or principles which describe certain standards of human behaviour. These rights are legally protected internationally. Human rights are usually understood to be inalienable fundamental rights. In other words, a person is entitled to human rights because he or she is a human being. This means that fundamental human rights are neither created nor can be abrogated by any individual or government. Some rights are universally recognized by the United Nations as fundamental. They include:

- Right to self-determination
- Right to liberty
- Right to due process of law
- Right to freedom of movement
- Right to freedom of thought
- Right to freedom of religion
- Right to freedom of expression
- Right to peaceful assembly
- Right to freedom of association

In other words, freedom of information is a human right that is germane to societal development. Nwanne (2016) cites Article 19 of the Universal Declaration of Human Rights (UDHR) adopted by the United Nations General Assembly at its 3rd session on December 10, 1948 in Paris, France to buttress the importance of the press operating without being hindered by acts of government or individuals. It asserts that everyone has the right to freedom of opinion and expression which includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

This right is also recognized in International Human Rights Law as enshrined in the International Covenant on Civil and Political Rights (ICCPR). Article 19 (2) of the ICCPR reads:

Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart

information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

This implies that people are not only free to seek for information; they should also be protected in their search for the information. Puddephatt (2005) insists that the protection of freedom of speech as a right includes not only the content, but also the means of expression.

Freedom of information is indispensable in a country like Nigeria battling to tackle corruption. According to Kuunifaa (2011) cited by Omotayo (2015) access to information and transparency of governance is essential to ensuring accountability and preventing corruption. The right to freedom of information is established by Section 39 (1) of the Constitution of the Federal Republic of Nigeria (1999) which states 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.

The press performs a crucial role in the society hence it is called the fourth estate of the realm. However, the press needs to be free of shackles in order to carry out its constitutional duties. Soeze (2005) cited by Abone and Kur (2014) asserts that as the watchdog of the society, the media is entrusted with the responsibility of keeping the public informed, educated and socialized. He argues that this involves making people aware of daily activities and dealings of governments whether military or civilian and that the media help to ensure that the government knows the feelings and yearnings of those it governs. However, for the media to perform these functions effectively and efficiently, Soeze insists there must be press freedom.

It has been argued that in Nigeria, freedom of information and expression has not always been guaranteed. Ekunno (2001) cited by Afolayan (2012) opines that freedom of information and expression was for a long period regarded as a luxury not practicable in Nigeria as it is in the Western World. Ekunno argues that a culture of secrecy existed in the Nigerian government which denied members of the public and the media access to official information. Since the advent of the first newspaper in Nigeria, *Iwe Irohin Fun Awon Ara Egba ati Yoruba* established by the missionary, Reverend Henry Townsend in Abeokuta in 1859 through the amalgamation in 1914 to independence in 1960 and beyond, successive governments, military and democratic, have not guaranteed freedom of information. (Oboh, 2014).

According to Ezeah (2004) many journalists were subjected to undue hardships, torture and sometimes killed by over-zealous government officials and security operatives while carrying out their legitimate duties. The incursion of the military into the Nigerian political space in 1966 heralded a period of draconian decrees to gag the media. The regimes of Major General Muhammadu Buhari (December 31, 1983 – August 27, 1985), General Ibrahim Badamasi Babangida (1985 – 1993) and General Sani Abacha (1993 – 1998) were particularly hostile to the media proscribing newspapers and magazines and shutting down broadcast stations for carrying out their constitutionally supported role of informing the public.

One of the most repressive decrees in the history of the Nigerian media was Decree No.4 of 1984 which sought to protect public officers against false accusation. It was drafted on the 29th of March 1984 and promulgated during the military regime of Major General Muhammadu Buhari. Section 1, sub-section (i), (ii) and (iii) of the degree states:

Any person who publishes in any form, whether written or otherwise, any message, rumour, report or statement, being a

message, rumour, statement or report which is false in any material particular or which brings or is calculated to bring the Federal Military Government or the Government of a state or public officer to ridicule or disrepute, shall be guilty of an offense under this Decree. (Guardian.ng 2017).

In 1984, two journalists, Nduka Irabor and Tunde Thompson both of *The Guardian* Newspapers were jailed for one year under Decree No. 4 (Accusation against Public Officers) for writing an article on diplomatic postings and retirement which the government considered offensive. (Nwanne, 2016).

The press did not fare much better during the regimes of General Ibrahim Babangida (1985 – 1993) and General Sani Abacha (1993-1998) as they proscribed newspapers and magazines and shut down media houses. Ogbondah (2005) observes that many journalists were unfairly tried and sentenced to various prison terms during this period. Many journalists were relieved with the return of democratic rule to Nigeria in 1999. However, the media was not completely spared even during democratic regimes as press freedom was tampered with in the administrations of Chief Olusegun Obasanjo, Umar Musa Yar'Adua and Dr Goodluck Jonathan. One of such incidents involved Gbenga Aruleba, the presenter of *Focus Nigeria* on Africa Independent Television, AIT and Rotimi Durojaiye of *Daily Independent* newspaper. The two journalists were arrested and arraigned in June 2006 for calling the Presidential Jet acquired by the government of President Olusegun Obasanjo, "a fairly used" or "Tokunbo" jet. (Committee To Protect Journalists 2006). Eme (2008) noted that the journalists were charged for sedition in connection with the materials they published on the cost and age of the presidential jet.

It was not the first time that the media was unfairly treated for carrying out their legitimate duties. On the 22nd of October, 2005, Bellview Airlines flight 210 from Lagos to Abuja carrying 111 passengers and six crew members was declared missing. It was assumed that the plane had crashed but the exact location was unknown. Africa Independent Television, AIT traced the crash site to Lisa village in Ogun State and broke the story. The National Broadcasting Commission, NBC responded by shutting down AIT and its sister station, Ray Power for 14 hours. The NBC accused AIT of indecency for showing close up shots of mutilated and burnt corpses. Many however felt that the closure was politically motivated. The owner of DAAR Communications PLC, operators of AIT and Ray Power, High Chief Raymond Dokpesi even threatened to sue the NBC for what he called the illegal closure of the stations. On September 12, 2008, Channels Television was also closed down over a news broadcast that President Yar'Adua will resign after reshuffling his cabinet.

Another incident of tampering with press freedom happened on the 6th of June, 2014 during the regime of President Goodluck Jonathan. The Nigerian military seized and destroyed thousands of copies of several newspapers including *The Leadership*, *The Nation*, and *Punch* newspapers. The general distribution center for all newspapers in Area 1, Abuja, was also sealed while several newspapers circulation staff were harassed and detained. Although the government through President Jonathan's Senior Special Assistant on Public Affairs, Dr. Doyin Okupe denied that they ordered the seizure, they however justified the attacks as "isolated incidents of security checks."

Media scholars in Nigeria have for long called for a Freedom of Information Act (FOIA) to protect journalists in the course of their work. Ogbondah (2003, p.128) demanded that the

National Assembly should enact or guarantee the press and members of the public the right of access to government-held information including computerized records. The difficult environment the Nigerian media operated in during the civilian and military regimes prompted Media Rights Agenda, Civil Liberties Organizations, the Nigeria Union of Journalists and other international partners to articulate a Freedom of Information Bill in 1999 which was signed into law on May 28, 2011 by President Goodluck Jonathan and became the Freedom of Information Act, (FOIA 2011).

The Freedom of Information Act 2011 is not a journalism law. As Arogundade (2012) cited by Afolayan (2012) notes, it is a law that guarantees a right of access to information to everyone in the country. However, journalists were the main agitators for its passage. The Nigeria Union of Journalists, Media Rights Agenda and media practitioners like Tony Anyanwu, Nduka Irabor and Abike Dabiri ensured that the bill was presented before the National Assembly (Ojebode 2011). It is noteworthy that the Freedom of Information Bill signed into law by President Goodluck Jonathan on May 28, 2011 took more than 12 years to make. Ogbuokiri (2011) observes that three organizations, Media Rights Agenda (MRA), Civil Liberties Organizations (CLO) and the Nigeria Union of Journalists (NUJ), Lagos State Chapter conceptualized the idea of the bill by drafting a manuscript in 1993. Their aim was to bring forth, guiding principles for the right of access to documents and information in the custody of the government or its officials so as to guarantee freedom of expression.

The draft went through several reviews and was presented to former President Olusegun Obasanjo in June 1999. The sponsors hoped that the president would forward the FIB to the National Assembly as an executive bill. He instead advised the MRA to forward it to the national assembly if they wished to do so. The bill was first presented to the National Assembly on December 9, 1999 when Honourable Jerry Ugokwe introduced it to the house. However, it was not passed before the four-year term of the assembly elapsed. In 2003, some members of the House of Representatives including Abike Dabiri, Depo Onyedokun and Emeka Ihedioha who were all journalists re-introduced the bill. However, president Obasanjo did not assent to the bill before leaving office in 2007. After a series of delays the bill was re-submitted at the National Assembly. The House of Representatives finally passed the Bill on February 24, 2011 and the Senate did the same on March 16.

The harmonized version was passed by the National Assembly on May 26, 2011. It was conveyed to President Jonathan on May 27, and he signed it on May 28, 2011 (Daily Independent Newspapers 2011). The fact that the sponsors of the bill were not deterred by how long it took for it to become an act, underlines the importance journalists attach to the Freedom of Information Act (FOIA) as an instrument to aid media practice. But are journalists in Port Harcourt aware of the Freedom of Information Act? How much has it impacted on the practice of journalism in Nigeria? This study sought to assess the level of awareness journalists in Port Harcourt have of the Freedom of Information Act and its impact on the practice of journalism.

Statement of the Problem

This study sought to find an answer to the problem of the awareness level and use of the FOI act in Nigeria and the issues facing the Nigerian journalist. Nigerian journalists for long complained about how various governments, military and civilian tampered with the freedom

of the press and did not allow them carry out their constitutional rights of making government officials accountable to the people. Media organizations were proscribed, journalists harassed, prosecuted and sometimes even killed in the course of doing their legitimate duties. The passage of the Freedom of Information Act was therefore hailed by many as the right thing to do.

Even though the FOI act is not a journalism law, journalists are supposed to be major beneficiaries of the Act since it guarantees them freedom in their quest for information and holding government officials accountable. However, some journalists appear unaware of the provisions of the Freedom of Information Act and do not seem to have easy access to information despite the Act.

Some studies have been done on the topic in places like the five states in South East Nigeria – Abia, Anambra, Ebonyi, Enugu and Imo as well as Edo and Akwa Ibom in the South South and Taraba in North Eastern Nigeria. These studies assessed journalists' awareness levels of the Freedom of Information Act in those states. However, this researcher perceived gaps in studies regarding the awareness levels of journalists in Rivers State about the Freedom of Information Act. For instance, are journalists in Rivers State aware of the Act? Are they familiar with the provisions of the Act? How many of them have actually applied the Act to request for information in the course of their work? What is the relationship between journalists in Rivers State and Information Officers of public institutions? The question this study sought to answer is what is the level of Rivers State journalists' awareness and use of Freedom of Information Act?

Objectives of the Study

The study was guided by the following objectives

1. To assess the level of awareness of the contents of the Freedom of Information Act among journalists in Rivers State
2. To ascertain the challenges Journalists encounter in eliciting public disclosure using the FOI act.

Research Questions

Against the backdrop of the objectives, the following research questions were formulated for the study;

1. What is the level of awareness among journalists in Rivers State on the Freedom of Information Act?
2. What challenges do journalists in Rivers State encounter in eliciting information using the FOI act?

Significance of the Study

This study is significant in filling the knowledge gaps about the Freedom of Information Act in Nigeria. It contributes to the growing body of knowledge on the Act and provides adequate information on the provisions of the act and in the process, creates awareness about the law and its benefits. Students and lecturers of Mass Communication as well as those in other fields would find the research beneficial as it would serve as a future reference for researchers on the subject of the Freedom of Information Act. Journalists, editors and other

media practitioners would benefit significantly from this work, as it explains the provisions of the FOIA and why journalists in particular should use it.

The government would also benefit greatly from the study as it attempted to highlight how the Freedom of Information Act could aid good governance and strengthen democracy in the country. In other words, the government and the press working in tandem can foster national development.

Non-Governmental Organizations, NGOs such as the Socio-Economic Rights and Accountability Project, SERAP, specialized and civil society groups would also find the work useful as the research contains materials that would aid the application of the Freedom of Information Act.

The research would also benefit the general public as it is meant to protect any member of the society who desires to seek and disseminate information. This becomes even more important with the passage of the Whistleblower Protection Bill into law in 2017. The whistleblower law protects persons making disclosures for the public interest from reprisals.

Theoretical Framework

Freedom comes with certain obligations and responsibilities. This work finds anchor on two of the four normative theories of the press – The Libertarian and The Social Responsibility theories propounded by F. S. Siebert, T. B Peterson and W. Schramm in 1963 and cited in Anaeto, Onabajo and Osifeso (2008).

Libertarian Theory

The Libertarian theory is also known as the Free Press theory. According to Anaeto, Onabajo and Osifeso (2008) it was McQuail who relabeled it such in 1987. The theory emerged in the 17th century. Anaeto, Onabajo and Osifeso (2008) citing Daramola (2003) stated that the Libertarian theory asserts that humans are naturally inclined to seeking the truth and be guided by it, in other words, the theory presumes that people are able to discern between truth and falsehood. This means that they will help determine public policy having been exposed to a press operating as a free 'marketplace' of ideas and information.

Daramola (2003) cited by Anaeto, Onabajo and Osifeso (2008) gives the assumptions of the theory as follows:

- Publications should be free from prior censorship
- There should be no compulsion to anything
- Publication of error is protected equally with that of truth in matters of public opinion and belief
- No restriction should be placed on the collection of information for publication provided it is done by legal means
- There should be no restriction on export or import or sending of messages across national frontiers
- Journalists should be allowed to claim a reasonable degree of autonomy in their places of work

Anaeto, Onabajo and Osifeso (2008, p.56) explained that in its most basic form, the Libertarian theory assumes that everyone should be free to publish what they like and to freely hold and express opinion. The Free Press theory is in stark contrast to the Authoritarian theory and places the individual above the State. In the Libertarian theory, the media exists to check

on government. For them to do this effectively, they need to be free of government shackles and control.

Strengths of the Libertarian Theory

It stresses freedom of the press. According to Anaeto, Onabajo and Osifeso (2008), this means the media exist to check on governments. For the media to do this effectively, it needs to be free of government shackles and control. In other words there should not be press censorship implying that attacks on government's policies are accepted and even encouraged as the press is seen as a watchdog. This does not however give the press the freedom to defame or commit sedition.

It views the press as partners with the government in search of truth rather than a tool in the hands of government.

It gives more values for individuals to express their thoughts in media. The Libertarian theory places the individual over the government and advocates the rights of citizens to hold and express information including those which criticize government policies and actions

Weaknesses of the Libertarian Theory

Ojobor (2002) cited by Anaeto, Onabajo and Osifeso (2008) opines that the Libertarian theory is complicated and contains inconsistencies. He argues that the theory did not take care of situations like subversive writings or calls for overthrow of democratic governments.

The theory is too positive about the media and assumes that practitioners are able to discern between right and wrong and so would be willing to meet responsibilities. It does not consider that without some control, press freedom could be abused.

It is also too positive about individual ethics and rationality. When individuals have unrestricted freedoms to access and disseminate information, it could portend serious danger for the society. It could allow falsehood to spread for instance or sensitive information that may compromise national security. An example of this is the kind of information shared on the social media these days.

The theory ignores the dilemmas posed by conflicting freedoms. For example, although the press is free to seek for and disseminate information, individuals like celebrities also have rights to personal privacy. In other words, the theory does not draw the line between press freedom and individual rights. (www.communicationtheory.org).

The Libertarian theory is suitable for this study because the ideas it espouses align perfectly with the concept of freedom of information. In other words, the theory is useful in explaining what the Freedom of Information Act 2011 is meant to achieve which is, easy access to information for whoever seeks it. Journalists are in the business of seeking and disseminating information and desire to be free while doing this, so, the Libertarian or Free Press theory provides a good anchor.

In a nutshell, the Libertarian theory is relevant to this study because its tenets emphasize the natural inclination of people, in this case trained journalists to distinguish between truth and falsehood, right and wrong. In other words, information should not be withheld from journalists as they are responsible enough to disseminate it in an appropriate manner. Another theory which explains this study and strengthens the postulations of the Libertarian theory on freedom of information is the Social Responsibility Media theory. Freedom without responsibility could portend danger. The Social Responsibility theory arose

out of the Hutchins Commission on Freedom of the Press established in the United States in 1947 to reexamine the provisions of the Libertarian theory. Anaeto, Onabajo and Osifeso (2008). This happened because it was perceived that the so called free marketplace of ideas did not really guarantee press freedom. Rather, commercialization concentrated media power in the hands of a few businessmen and media professionals who could set up media empires.

Overview of Freedom of Information Act

Few issues have dominated the media space in Nigeria like the discussion and debates on the Freedom of Information Bill. Perhaps because the media was assumed to be major beneficiaries with the passage of the law, much space was given to it on the pages of newspapers and magazines while it also enjoyed much air time on radio and television. After many years of disappointment, the bill was signed into law in 2011 by President Goodluck Jonathan, becoming the Freedom of Information Act. In brief, the law gives individuals the right to have access to information held by the government or public officials. Although the clamour for the law only really occupied public consciousness in Nigeria in the last two decades, it has been in the world for hundreds of years.

Dawodu (2016) in a work titled “An Overview Of The Freedom Of Information Act (An Appraisal From A Lawyer’s Perspective) traced the origin of the freedom of information laws of most countries to a Finnish man named Anders Chydenius about 250 years ago who fought for democracy, equality and respect for human rights under the principle of public access called “Offentlighetsprincipen”. According to Dawodu, this led to the promulgation of the information law in Sweden in 1766 making it the first country in the world to have freedom of information legislation. By 2015, more than 130 countries have the freedom of information law either as a constitutional provision or as extant domestic law.

The Freedom of Information Act (FOIA) is a law that gives people the right to access information from the federal government hence it is often described as the law that keeps citizens in the know about their government. As Omeri (2011) notes, the act intends that citizens of the Federal Republic of Nigeria should have unfettered access to information required from any public institution.

The Freedom of Information Act (2011) Laws of the Federation of Nigeria is arranged into 32 sections. Section 1 (1) clearly establishes the right of citizens to information. It states:

Notwithstanding anything contained in any other Act, law or regulation, the right of any person to access or request information, whether or not contained in any written form, which is in the custody or possession of any public official, agency or institution howsoever described, is established.

The law describes itself as:

An Act to make public records and information more freely available, provide for public access to public records and information, protect public records and information to the extent consistent with the public interest and the protection of personal privacy, protect serving public officers from adverse consequences of disclosing certain kinds of official information without authorization and establish procedures for the

*achievement of those purposes and; for related matters.
(Freedom of Information Act 2011).*

The rationale behind the FOIA in Nigeria according to Media Rights Group is to among other things;

- Ensure that there is public participation in governance;
- The business of governance is open to public scrutiny;
- Laid down procedures in the conduct of public affairs are adhered to;
- Transparency and accountability in governance are institutionalized;
- Corruption is stemmed; and
- Scarce resources are judiciously deployed for wellbeing of citizens.

The major provisions of Nigeria's Freedom of Information Act are:

1. A guarantee of the right of access to information held by public institutions, irrespective of the form in which it is kept and is applicable to private institutions where they utilize public funds, perform public functions, or provide public services.
2. A requirement for all institutions to proactively disclose basic information about their structure and processes and mandate the institutions to build the capacity of their staff to effectively implement and comply with the provisions of the Act.
3. A provision for the protection of whistleblowers.
4. Adequate provision for the information needs of illiterate and disabled applicants.
5. Recognition of a range of legitimate exemptions and limitations to the public's right to know. The exemptions are however subject to the idea that public interest, in deserving cases, may override such exemptions.
6. Creation of reporting obligations in compliance with the law for all institutions affected by it. These reports are to be provided annually to the Federal Attorney General's Office, which will in turn make them available to both the National Assembly and the public.
7. Requirement for the Federal Attorney-General to oversee the effective implementation of the Act and report on execution of this duty to parliament annually.

Section 1 (1) grants every individual the right to seek information from public institutions.

It states:

Notwithstanding anything contained in any other Act, law or regulation, the right of any person to access or request information, whether or not contained in any written form, which is in the custody or possession of any public official, agency or institution howsoever described, is established.

According to Section 1 (3) any person entitled to the right to information under the Act, has the right to institute court proceedings to compel any public institution to comply with the provisions of the Act. This means that if a public institution refuses an individual access to information, that institution can be dragged to court.

Section 2 (1) (2) and (3) and section 4 compel public institutions to keep records of their activities and make them accessible to the public:

2 (1) A public institution shall ensure that it records and keeps information about all its activities, operations and businesses.

(2) A public institution shall ensure the proper organization and maintenance of all information in its custody in a manner that facilitates public access to such information.

(3) A public institution shall cause to be published in accordance with subsection (4) of this Section, the following information - (a) a description of the organization and responsibilities of the institution including details of the programmes and functions of each division, branch and department of the institution;

(b) a list of all - (i) Classes of records under the control of the institution in sufficient detail to facilitate the exercise of the right to information under this Act, and

(ii) Manuals used by employees of the institution in administering or carrying out any of the programmes or activities of the institution;

(4) A public institution shall ensure that information referred to in this section is widely disseminated and made readily available to members of the public through various means, including print, electronic and online sources, and at the offices of such public institutions.

Section 3 explains the process of requesting information using the Act.

3. An application for access to a record or information under this Act shall be made in accordance with Section 1 of this Act,

(2) For the purpose of this Act, any information or record applied for under this Act that does not exist in print but can by regulation be produced from a machine, normally used by the government or public institution shall be deemed to be record under the control of the government or public institution.

(3) Illiterate or disabled applicants who by virtue of their illiteracy or disability are unable to make an application for access to information or record in accordance with the provisions of subsection (1) of this Section, may make that application through a third party.

(4) An authorized official of a government or public institution to whom an applicant makes an oral application for information or record, shall reduce the application into writing in the manner prescribed under subsection (1) of this Section and shall provide a copy of the written application to the applicant.

Sections 5 and 6 of the Act deal with the time limits for responding to a request. It may be within 3 days but not later than 7.

Section 7 of the Act is concerned with denial of access to information.

7. (1) *Where the government or public institution refuses to give access to a record or information applied for under this Act, or a part thereof, the institution shall state in the notice given to the applicant the grounds for the refusal, the specific provision of this Act that it relates to and that the applicant has a right to challenge the decision refusing access and have it reviewed by a Court.*

(2) *A notification of denial of any application for information or records shall state the names, designation and signature, of each person responsible for the denial of such application.*

(3) *The government or public institution shall be required to indicate under subsection (1) of this Section whether the information or record exists.*

(4) *Where the government or public institution fails to give access to information or record applied for under this Act or part thereof within the time limit set out in this Act, the institution shall, for the purposes of this Act, be deemed to have refused to give access.*

(5) *Where a case of wrongful denial of access is established, the defaulting officer or institution commits an offence and is liable on conviction to a fine of N500,000*

Section 10 of the Act forbids government officials from tampering with official information:

It is a criminal offence punishable on conviction with three years' imprisonment for any officer or head of any government or public institution to which this Act applies to willfully 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.

Section 15 also places restrictions on requesting certain information.

15. (1) *A public institution shall deny an application for information that contains-(a) trade secrets and commercial or financial information obtained from a person or business where such trade secrets or information are proprietary, privileged or confidential, or where disclosure of such trade secrets or information may cause harm to the interests of the third party provided that nothing contained in this subsection shall be construed as preventing a person or business from consenting to disclosure;*

(b) Information the disclosure of which could reasonably be expected to interfere with the contractual or other negotiations of a third party; and

(c) proposal and bids for any contract, grants, or agreement, including information which if it were disclosed

would frustrate procurement or give an advantage to any person.

(2) A public institution shall, notwithstanding subsection (1), deny disclosure of a part of a record if that part contains the result or product of environmental testing carried out by or on behalf of a public institution.

(3) Where the public institution discloses information, or a part thereof, that contains the results of a product or environmental testing, the institution shall at the same time as the information or part thereof is disclosed provide the applicant with a written explanation of the methods used in conducting the test.

Section 16 also grants a public institution the right to deny information that may violate legal practitioner-client privilege, health workers-client privilege, journalism confidentiality privilege and any other professional privileges confidently by an Act (Freedom of Information Act 2011 pgs 1, 2, 3, 4 & 5).

The Freedom of Information Act greatly benefits the press but it is not designed to be beneficial to the media alone as any member of the society can access and use it. It is also not a tool that can be used by the media or any member of the society to harass the government or any public official. This is because the Act is guided by universally accepted principles based on international and regional laws and standards and general principles of law recognized by the comity of nations.

Comparative Study of the Freedom of Information Act among Countries

Over 130 countries across the world today have freedom of information laws. Experts say the clamour for freedom of information legislation arose out of dissatisfaction with secrecy surrounding government policy and decision making. It is important to note that while many countries have freedom of information legislation, there are differences in procedures and implementation.

In Africa, the takeoff of the freedom of information trend was slow. Mohan (2014) in a research titled "FACTSHEET: Freedom of information in Africa" updated in 2016, found that prior to 2011, only five African countries had Freedom of Information legislation. However by 2014, the number had increased to thirteen countries. Mohan's research revealed a positive change across Africa towards freedom of information due to several advocacy campaigns. The study highlighted the following significant developments:

- The adoption of the African Platform on Access to Information Declaration of 2011, which contains a list of key principles essential to the full realization of the right of access to information.
- The passing of Resolution 222 by the African Commission on Human and Peoples' Rights in 2012. This resolution authorized the Special Rapporteur on Freedom of Expression and Access to Information in Africa to include access to information in the Declaration of Principles on Freedom of Expression. It further recommended that the African Union officially recognize September 28 as International Right to Information Day in Africa.

- The adoption of the Model Law on Access to Information for Africa in 2013, prepared by the African Commission on Human and Peoples' Rights.
- The adoption of the Midrand Declaration on Press Freedom in Africa by the Pan-African Parliament in 2013, which calls on African Union member states to adopt and review access to information laws.

However, despite the significant progress made, the research discovered that many African countries were still unable or unwilling to adopt access to information laws. According to Mohan (2014) governments of many African states refuse to provide citizens with even basic information due to a combination of issues.

The research also questioned the sincerity of some African countries to implement the freedom of information laws. For instance, Angola, one of the first countries to adopt the Freedom of Information Act in 2002 had not implemented it as at 2014. In Nigeria, it took about 12 years for the government to adopt the law.

Mohan (2014) also cited the findings of a September 2013 regional capacity workshop, convened by *Reseau des Journalistes Economiques de Guinee* with the intention of promoting Freedom of Information in Francophone countries in Africa. The workshop declared that despite increased adoption of Freedom of Information laws in Africa, effective implementation of such laws remains a challenge in many parts of the continent.

Salha (2014) compared freedom of information laws in eight countries – Sweden, the United Kingdom, the United States, India, Serbia, Slovenia, Germany and Italy. The study titled "Freedom of Information Act: A Comparative Analysis" sought to show the different types of Freedom of Information Acts among the countries with different results in terms of openness and transparency. It also compared the principles adopted in the law, the procedures and exceptions with a view to understanding the international rankings of each country and results in terms of:

- Right to Information rating (RTI) which is limited to measuring the legal framework, and does not measure quality of implementation
- Corruption Perception Index (CPI) which measures the perceived levels of public sector corruption in the country
- Freedom on the Net (FoN) which assesses the degree of internet and digital media freedom around the world
- The CIVICUS Civil Society Index (CSI) which will show the impact of CSO's involvement
- Economic Freedom Index and GDP per capita

Salha's study showed that while all eight countries had freedom of information laws, they were not all protected by the countries' constitution. According to Salha (2014) Sweden was the first country in the world to have freedom of information law having adopted it in 1766. Sweden's constitution protects this law in Chapter 2 on the nature of official documents. Article 1 asserts that every Swedish citizen shall be entitled to have free access to official documents, in order to encourage the free exchange of opinion and the availability of comprehensive information.

Salha's paper also identified how the freedom of information law is known in each of the eight countries and indicated the year of its passage. In Sweden, it is known as the Freedom of the Press Act 1766. In the United Kingdom, it is called the FOI Act 2000 while the United States has FOI Act 1966. In Serbia, it is FOI Act 2003 while Germany has FOI Act 2005. India calls

it RTI 2005 while in Italy it is AAD 1990. The report revealed that Right of Access to the law is not limited by nationality of residence in Sweden, the United Kingdom, Serbia, Slovenia and Germany. In the United States, Right of Access is not limited by nationality or residence but there is an exception. The person requesting access has to make certain records available. In India and Italy, Right of Access to the freedom of information is limited only to citizens.

According to Salha's study, the Freedom of Information Act across the eight countries do not state specific privileges for journalists in terms of access to information. However, the Freedom of Information Act in the United States of America gives special treatment to scholars, researchers and representatives of the news media in terms of fees. Freedom of Information Act: (II) states:

Fees shall be limited to reasonable standard charges for document duplication when records are not sought for commercial use and the request is made by an educational or non-commercial scientific institution, whose purpose is scholarly or scientific research; or a representative of the news media.

The paper also notes that the Swedish law Freedom of the Press protects the role of journalists in its very first Chapter Art. 1:

The freedom of the press is understood to mean the right of every Swedish citizen to publish written matter, without prior hindrance by a public authority or other public body, and not to be prosecuted thereafter on grounds of its content other than before a lawful court, or punished therefore other than because the content contravenes an express provision of law, enacted to preserve public order without suppressing information to the public.

The research revealed that although all the countries studied provide access to official documents, they do not all have the same results. With the aid of tables, the author pointed out in the Open Data Index that the top countries in Right to Information, RTI Rating lack openness especially concerning government budget and spending. For instance, Germany and Italy lack openness in government spending and company registers index, they also score low in RTI Rating.

The report also asserted that there is no direct correlation between the quality of the law and corruption, insisting that it is a matter of implementation and political will.

For instance, India, Slovenia and Serbia scored highly in the RTI Ranking in 2013 but their Corruption Perception Index, CPI was poor. Sweden, Germany, the United Kingdom and the United States which did not perform as well as India, Slovenia and Serbia in RTI ranking did much better in the CPI. Similarly, Sweden, the United Kingdom and the United States outscored India, Serbia and Slovenia in Open Data Index despite the other countries having a better RTI. The author concludes that this means that good laws do not guarantee openness rather government commitment does.

Another article written by Holsen (2007) titled "Freedom of Information in the U.K, U.S and Canada" sought to achieve three core objectives:

- Compare and contrast federal Freedom of Information laws in Canada, the United Kingdom, and the United States
- Examine the costs of compliance, as well as the response rates in each country
- Discuss the importance of recordkeeping to Freedom of Information laws

The report revealed that the United States Freedom of Information Act originally passed in 1966 has been amended four times. Canada passed its Access to Information Act (ATIA) in 1982 and has a carefully structured act that has incorporated most of the key points necessary for good freedom of information legislation.

The United Kingdom's Freedom of Information Act 2000 to which 10,000 UK authorities are subject was only fully implemented in 2005. The report revealed that in the United States the Freedom of Information Act is enforceable in court while the United Kingdom and Canada have established information commissions to ensure compliance. The article could not determine the precise cost of complying with freedom of information in the three countries saying such would be impossible to calculate. It said one reason for that was because some agencies keep track of costs while others do not concluding that costs depend largely on the efficiency of the response procedures and other factors.

The report found out that the guidelines for time required for compliance are comparable across the three countries. The United Kingdom's Freedom of Information Act stipulates that the authority must comply with a request not later than the 20th working day following the date of receipt. In the United States, an agency has 20 working days to comply once it receives a proper receipt while in Canada the ATIA mandates response within 30 days.

The report observed that freedom of information legislation in the three countries generally helped to improve recordkeeping.

Concept of Press Freedom

Freedom is essential for professionals to thrive in their various professions. This presupposes that professionals should have the liberty to carry out their legal duties without restraints from the government or individuals especially in a democracy. Professionals in journalism, print or broadcast should also enjoy this freedom. The concept of press freedom refers to the ideal situation where journalists have the right to disseminate information without interference from government.

The United Nations 1948 Universal Declaration of Human Rights states that everyone has the right to freedom of opinion and expression. The right includes freedom to hold opinions without interference, and to seek, receive, and impart information and ideas through any media regardless of frontiers. Freedom of the press is usually protected by the constitution of countries. The constitution of the Federal Republic of Nigeria 1999 (as amended) states in Section 39 (1) 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.

The concept of press freedom though recognized and protected by the constitution as in the case of Nigeria is not absolute. Nigerian lawyer and Human Rights activist Bamidele Aturu in an article titled "Freedom of the Press in Nigeria: Some Fundamental Issues" in the *Vanguard* of September 9, 2010 explains this:

It suffices however to state that even section 39 which is in Chapter 4 of the Constitution is not an absolute right as

section 45 of the Constitution permits its derogation by laws reasonably justifiable in a democracy in defense of... the point is that even if section 22 had been placed under Chapter 4, that would not be the end of the matter. But the derogation from section 39 compels an examination of judicial attitude to press freedom

The Freedom of Information Act, 2011 also contains sections that appear to contradict the concept of press freedom. Section 14 for instance states:

(1) Subject to subsection (2), a public institution must deny an application for information that contains personal information and information exempted under this subsection includes –

(a) files and personal information maintained with respect to clients, patients, residents, students, or other individuals receiving social, medical, educational, vocation, financial, supervisory or custodial care or services directly or indirectly from public institutions;

(b) personnel files and personal information maintained with respect to employees, appointees or elected officials of any public institution or applicants for such positions;

(c) files and personal information maintained with respect to any applicant, registrant or licensee by any government or public institution cooperating with or engaged in professional or occupational registration, licensure or discipline;

(d) information required of any tax payer in connection with the assessment or collection of any tax unless disclosure is otherwise requested by the statute; and

(e) information revealing the identity of persons who file complaints with or provide information to administrative, investigative, law enforcement or penal agencies on the commission of any crime. (Freedom of Information Act, 2011 p.16)

The National Broadcasting Commission, NBC regulates broadcasting in Nigeria. There are sections in its broadcasting code which appear to limit the freedom of the press. For instance, Section 5 (5.5.5.5) of the code which deals with coverage of crises and emergencies warns a broadcaster against broadcasting any divisive rhetoric that threatens and compromises the indivisibility and indissolubility of Nigeria as a sovereign state (Nigeria Broadcasting Code 2012, p.73).

This implies that the media is not at liberty to broadcast issues of self-determination no matter how aggrieved a section of the country feels or how justified the cause is, since it would be considered divisive and threatening to the indivisibility of Nigeria as a nation.

The Role of the Media in a Democracy

The mass media are indispensable in modern society. Popoola (2015) asserts that the mass media are central to the survival of every human system. The media plays many roles in the society. Lasswell (1948) cited by Popoola (2015) identified three major mass media functions – surveillance of the environment, correlation of parts of society and cultural transmission.

Surveillance of the environment means monitoring happenings in the world and providing useful information to the human society. Popoola (2015) opines that it entails policing and alerting members of a community to dangers and opportunities in their environment. Correlation of parts of society relates to how the media influences people's attitudes towards political issues and public policy through framing and presentation of issues in their discussions while cultural transmission infers that the media has the ability to teach various societal norms and values to ensure transmission from one generation to another.

Charles Wright added the function of entertainment to the mass media. This refers to the media's ability to help people relax and escape from the stress of everyday life. The media also performs the crucial role of information dissemination. McQuail (2000) cited by Popoola (2015) states that the media are the practical means of transmitting information quickly. Popoola (2015) highlights the importance of the information the media disseminate by stressing that people depend largely on such information to make sense of the myriad of issues going on in many spheres of life.

Scholars have added other functions like education, persuasion, advertising, analysis and interpretation of social events to the numerous roles the media perform in the society.

Section 22 of the **1999 Nigerian Constitution** confers on the media the right to operate freely in a democracy. It says that *the press, radio, television and other mass media agencies shall at all times be free to uphold fundamental objectives and uphold the responsibility and accountability of the government to the people.*

Since Nigeria returned to civilian rule in 1999, the media has been in the forefront of entrenching democracy in the country. Media organizations like Africa Independent Television (AIT), Raypower and Channels Television all have dedicated political programmes like *Focus Nigeria*, *Political Platform* and *Politics Today* which highlight the need to stick to democratic norms. AIT's live coverage of the Tenure Elongation debate in the National Assembly is hailed by many for helping to scuttle the Third Term Agenda in 2007.

The media - print and broadcast provide the platform for discussions which help to deepen democracy in the society. Since the Freedom of Information Act in Nigeria is designed to give citizens unfettered access to information required from any public institution (Omeri 2011), the media benefits greatly from this as makes it easier for journalists to obtain information. With the press acting as watchdog and protected by the FOIA, the government and those holding public offices are thus forced to act right.

Enonche (2011) cited by Afolayan (2012) opines that the FOIA will foster openness, transparency and good governance thereby helping the country to tackle one of its greatest challenges, corruption. Enonche is also of the view that this will assist government agencies established to fight corruption such as the Independent Corrupt Practices and Other Related Offences Commission (ICPC), the Economic and Financial Crimes Commission (EFCC), the Code of Conduct Bureau and Code of Conduct Tribunal as well as security and law enforcements

agencies in the discharge of their duties. All these help to strengthen the democratic process in the country.

Challenges to Implementing the Freedom of Information Act in Nigeria

The passage of the Freedom of Information Act 2011 in Nigeria was hailed by many special media practitioners as an opportunity to finally get access to public records without stress or harassment. Ene cited by Afolayan (2012) states that the FOIA among other things guarantees access to information held by public institutions, irrespective of the form in which it is kept and is applicable to private institutions where they utilize public funds, perform public functions or provide public services. It also requires all institutions to proactively disclose basic information about their structure and processes and mandates them to build the capacity of their staff to effectively implement and comply with the provisions of the Act.

However, since the passage of the FOIA in Nigeria seven years ago, certain challenges have bedeviled its implementation. The Official Secrets Act has been identified as the main challenge to the Freedom of Information Act in Nigeria. Enacted in 1962, the Official Secrets Act is a law which makes provisions for public safety and for purposes connected with it.

In other words, it prevents civil servants from divulging official facts and figures. As Afolayan (2012) notes, the Official Secrets Act makes it an offence not only for civil servants to give out government information but it is also an offence for anyone to receive or reproduce such information. Afolayan also noted that further restrictions are contained in the Evidence Act, the Public Complaints Commission Act, the Statistics Act, the Criminal Code and so on.

Adeleke (2011) cited by Afolayan (2012) laments that the culture of secrecy is so entrenched in Nigerian culture and that the level of secrecy is so ridiculous that some classified government files are those already in the public domain. According to Afolayan, the veil of secrecy is so impenetrable that government departments even withhold information from each other.

Journalists have also been denied access to information due to the Official Secrets Act. When information is requested, a corrupt official could hide behind Section 1 of the Official Secrets Act (Cap 03, law of the Federal Republic of Nigeria 2004) which makes it an offence for anyone to transmit, obtain, reproduce or retain any classified material.

Although lawyers have argued that the Freedom of Information Act has rendered the Official Secrets Act ineffective, the fact that it is yet to be officially repealed is worrisome. Abone and Kur (2014) in their research titled "Perceptual Influence Of Freedom Of Information Act On Journalism Practice In Nigeria" found that one of the challenges journalists identified in the FOIA is Section 11(1) which states that a public institution may deny an application for any information if its disclosure may be injurious to the conduct of international affairs and the defense of the Federal Republic of Nigeria.

The authors saw a potential problem in how to determine and who determines information that the disclosure of particular information is injurious to the conduct of international affairs and defense of the country. They raised the concern that government sources could hide under this provision of the Act and deny journalists vital information. Although Section 11(2) of the FOIA seemed to take care of the issue by providing that information on the conduct of international affairs and national security could be disclosed if such information is of public interest, Abone and Kur see 'public interest' as a nebulous term

that creates another challenge to the practice of journalism as it is difficult, if not impossible, to define.

A report titled “Undermining Freedom of Information Act” highlighted instances when the FOIA had not guaranteed access to information. According to the report, constitutional lawyer Femi Falana in 2013 requested the details of the purchase of the 225 million dollars bullet proof car by then minister of Aviation Stella Oduah. The Nigeria Civil Aviation Authority declined the request. The Socio-Economic Rights Accountability Project, SERAP also had a request about funding terrorism turned down by the Central Bank of Nigeria. SERAP also had to drag the two main political parties – the People’s Democratic Party. PDP and the All Progressives Congress, APC to court over their failure to disclose sources of their spending and other operations linked to the February 2015 elections (www.serap-nig.org). SERAP had requested for the information under Section 1(1) of the Freedom of Information Act 2011.

The *Daily Trust* newspapers also using the FOIA, applied to the Nigeria National Petroleum Corporation, NNPC for details of its 2012 recruitment. It was turned down. Another challenge to the implementation of the Freedom of Information Act in Nigeria is conflicting rulings from the judiciary on the applicability of the law. As a result, some state governments claim that the law is yet to be domesticated in their states. For instance, in 2014, the Socio-Economic Rights Accountability Project, SERAP contesting the right of the public to know, challenged the Lagos State Government in court to explain how it spent a 90 million dollars World Bank facility for the improvement of its schools. The state Attorney-General Ade Ipaye however, told a Federal High Court that the Freedom of Information Act 2011 under which SERAP wanted it to disclose the information was a federal law and not binding on the state. The Lagos State Government argued that the power of make laws on public records was concurrently shared between the National Assembly and the State Assemblies.

An Editorial of the *Vanguard* on February 14, 2014 titled “Where FOIA does Not Apply” pointed out that the position of the Lagos State Government contradicts the constitutional provision that the National Assembly should make laws for the entire federation. The editorial quoted Section 4(5) of the constitution to buttress:

If any law enacted by the House of Assembly of a State is inconsistent with any law validly made by the National Assembly, the law made by the National Assembly shall prevail and that other law shall, to the extent of the inconsistency, be void

The Editorial also cited Section 12 (1) of the constitution to argue that domestication of laws applies to treaties between Nigeria and other countries and stressed that states were appropriating domestication to desecrate the constitution. A landmark decision by a Federal High Court seating in Enugu in April 2014 ruled that the Freedom of Information Act 2011 is applicable in all 36 states of Nigeria and the Federal Capital Territory, Abuja. The ruling was given by Justice D.V Agishi who presided over a matter brought before the court by the Civil Liberties Organization, CLO against the then Enugu State Commissioner for Health, George Eze. The CLO went to court after its request using the FOIA to disclose records and documents in respect of the contract awarded for the building and completion of the Diagnostic Centre, Enugu. The Enugu State Government argued that it had no obligation under the FOIA to provide the information sought by the CLO as the state had not adopted the Act or enacted it as law.

The judge however rule that the Freedom of Information Act was applicable across all states of the country and all public officers are subject to it like the Economic and Financial Crimes Commission, EFCC Act among others.

Lack of awareness of the provisions of the Freedom of Information Act is also a problem to its implementation across the world. In a 2013 report, the Centre for International Media Assistance (CIMA) said most of the Freedom of Information Laws in the world were only exemplary on paper. According to CIMA, citizens, national and local public officials and journalists are unaware that freedom of information laws even exist, much less how they work (www.thecitizens.com).

Desearch Design:

The study employed sample survey research method to get comprehensive data from respondents. According to Okwechime (2011, p.29), the sample survey helps to find out opinions, attitudes, preferences and knowledge levels of a people. Since the study is about journalists, the survey method was effective in getting relevant information. This was achieved through administering copies of the questionnaire to randomly selected registered journalists practicing in Port Harcourt.

Population of the study:

Practicing journalists in Rivers State were the target of this study as they are likely users of the Freedom of Information Act to access information. According to the records of the Nigeria Union of Journalists, Rivers State Chapter as at July 2019, there were three hundred and fifty-five (355) registered journalists in Rivers State.

Data Presentation, Analysis and Discussion of Findings

This study set out to assess journalists' awareness level of the Freedom of Information Act and use in sourcing information in Rivers State. This chapter focuses on the presentation and analysis of the data collected during the study and discussion of the findings. The data collection instruments used were the questionnaire and in-depth interview conducted on information officers of six public institutions.

The questionnaire was administered to 188 journalists randomly sampled from the population of 355 registered journalists practicing in River State. Data collated from the study were tabulated and interpreted using frequency and percentage scores while the responses from the information officers to questions were also presented. The study basically intended to answer the following research questions.

1. What is the level of awareness among journalists in River State on the Freedom of Information Act?
2. What challenges do journalists in River State encounter in eliciting information using the FOIA?

Data Presentation and Analysis

This section deals with data analysis generated for the study in two sub-sections. The first sub-section presents Rivers State journalists' perception and awareness levels of the Freedom of Information Act. Out of the 188 journalists sampled, 156 respondents returned the questionnaire, practicing members of the Nigeria Union of Journalists, Rivers State Chapter, their knowledge of the Freedom of Information Act, and residence in Rivers State. Out of the

156 questionnaire returned, 147 were considered useful for analysis. This represents 94.3% return rate, which was good enough for analysis. Nine copies of the questionnaire were not returned. The administration and collection of the research instruments was carried out from October 5 to November 7, 2019.

The second sub-section presents the responses of information officers of selected public institutions in Rivers State. They answered questions on awareness of the Freedom of Information Act, journalists' request for and access to public officials and records, how much information disclosed to journalists as well as what can be done to improve access to information.

Showing respondents awareness level of the Freedom of Information Act

| Responses | Frequency | Percentage |
|------------------|------------------|-------------------|
| Highly aware | 57 | 38.7 |
| Aware | 84 | 57.1 |
| Vaguely aware | 2 | 1.4 |
| Unaware | 4 | 2.8 |
| Total | 147 | 100 |

Table 1 above presents responses to journalists' awareness level of the Freedom of Information Act. Data generated indicate that a huge majority of the respondents know about the Act as 84 out of the 147 sampled representing 57.1% are aware. An additional 57 which is 38.7% of the respondents said they are highly aware of the Act. This means that 141 respondents, representing an impressive 95.8% have an awareness of the Freedom of Information Act.

Of the 147 respondents, only 2 representing 1.4% said they were vaguely aware of the Freedom of Information Act while 4 which is 2.8% were unaware of it. It means therefore that only 6 respondents representing 4.2% did not have a strong awareness level of the Freedom of Information Act.

It can be deduced from the responses that journalists in Rivers State have very good awareness levels of the Freedom of Information Act.

Showing respondents awareness level of the provisions Freedom of Information Act

| Responses | Frequency | Percentage |
|------------------|------------------|-------------------|
| Very High | 64 | 43.6 |
| High | 43 | 29.2 |
| Low | 33 | 22.4 |
| Very low | 5 | 3.4 |
| Unsure | 2 | 1.4 |
| Total | 147 | 100 |

Although being aware of the Freedom of Information Act is excellent, this study also sought to know if journalists were aware of the provisions of the Act. This means having in-depth knowledge of what the Act is about and how to use it.

The responses from table 2 above shows that 64 respondents, representing 43.6% have a very high awareness level of the Freedom of Information Act. The respondents who had a

high awareness level of the Act were 43 which is 29.2%. It means that altogether, 107 respondents or 72.8% had a high awareness level of the provisions of the FOIA.

The respondents with a low awareness level of the provisions the Act were 33 which represent 22.4% while 5 representing 3.4% said they had a very low awareness level of the provisions. Taken together, it means 38 respondents or 25.8% of the 147 respondents had a low awareness level of the provisions of the Freedom of Information Act.

The analyses from tables 1 and 2 indicate that although an overwhelming majority of the respondents, 95.8% are aware of the Freedom of Information Act, a sizeable number 25.8% are not aware of the provisions of the Act.

Showing respondents' views on whether journalists encounter challenges using the Freedom of Information Act

| Responses | Frequency | Percentage |
|-------------------|------------------|-------------------|
| Strongly agree | 31 | 21.2 |
| Agree | 77 | 52.3 |
| Strongly disagree | 2 | 1.4 |
| Disagree | 13 | 8.8 |
| Undecided | 24 | 16.3 |
| Total | 147 | 100 |

The responses from table 8 show Respondents views on whether journalists encounter challenges using the Freedom of Information Act. The respondents who strongly agreed were 31 or 21.2% while 77 representing 52.3% agreed.

Only 2 respondents representing 1.4% strongly disagreed that journalists encounter challenges using the Freedom of Information Act with 13 of them which is 8.8% disagreeing and 24 representing 16.3% undecided.

From the above, most of the respondents are of the opinion that journalists encounter challenges using the FOIA as 108 or 73.5% of those sampled agreed.

Showing respondents' views on the challenges journalists encounter using the Freedom of Information Act

| Responses | Frequency | Percentage |
|--|------------------|-------------------|
| Lack of knowledge of the Freedom of Information Act | 50 | 34.1 |
| Refusal of Civil servants to release information despite the Act | 68 | 46.2 |
| Others | 24 | 16.3 |
| None | 5 | 3.4 |
| Total | 147 | 100 |

Table 9 presents respondents' views on the kinds of challenges journalists encounter with the Freedom of Information Act.

Respondents who felt that lack of knowledge of the Freedom of Information Act was a challenge that journalists encounter were 50 which is 34.1% of the respondents.

A sizeable number, 68 representing 46.2% opined that the refusal of civil servants to release information despite the Act was a challenge while 24 respondents or 16.3 said journalists faced other challenges. Only 5 of the respondents believe that journalists do not encounter any challenges using the FOIA.

Showing respondents' views on the biggest challenges to the implementation of the Freedom of Information Act in Nigeria

| Responses | Frequency | Percentage |
|------------------|------------------|-------------------|
| Government | 118 | 80.3 |
| The Constitution | 11 | 7.5 |
| The judiciary | 3 | 2.0 |
| The media | 2 | 1.4 |
| The society | 13 | 8.8 |
| Total | 147 | 100 |

The data in table 10 above shows respondents' opinion on the biggest challenges to the implementation of the Freedom of Information Act in Nigeria. From the analysis, 118 respondents which is 80.3% believe government is the biggest impediment to the implementation of the FOIA, 11 or 7.5% said the constitution while 3 or 2.0% pointed to the judiciary.

The media was seen by just 2 respondents or 1.4% of the population as the biggest challenge while 13 representing 8.8% blamed the society. It is apparent from the above that an overwhelming majority of the respondents i.e. 118 or 80.3% see the government as the biggest challenge to the implementation of the FOIA in Nigeria.

Research Question 1. What is the level of awareness among journalists in Rivers State on the Freedom of Information Act?

This question is answered by the analysis provided in Tables 1 and 2. The responses in table 1 revealed that journalists in Rivers State have a high awareness level of the Freedom of Information Act as an overwhelming majority of respondents were either highly aware or aware of the Act. This is similar to the findings of the three studies used in the empirical review of this study. Uzoma and Onwukwe (2014) in their study of South East media practitioners found that most of the journalists in Abia, Anambra, Ebonyi, Enugu and Imo states exhibited a very high awareness level of the Freedom of Information. The same discovery was made by Nnadi and Obot (2014) who undertook a study of Akwa Ibom State journalists' reaction to the Freedom Of information Act and Malayo (2012) who examined the level of awareness among Nigerian journalists on the Freedom of Information Act in Port Harcourt, Rivers State. All three studies like this one found that most of the journalists had high awareness levels of the Freedom of Information Act.

The data from Table 2 analyzed journalists' awareness level of the provisions of the Freedom of Information Act. In other words, more respondents were aware of the Act than those with high awareness level of its provisions. Similarly, the number of respondents with a low awareness level of the provisions of the Act in table 2 increased compared to the number of respondents who were not aware of the Freedom of Information Act in table 1. The analyses

of tables 1 and 2 show that the respondents with low awareness levels of the provisions of the Act is more than those who did not have a good awareness of the Freedom of Information Act.

The answer to research question 1 therefore is that most journalists in River State are aware of the Freedom of Information Act and a majority of them are also aware of the provisions of the Act. However, the number that is aware of the Act is lower than the number which has knowledge of its provisions. This is the same finding reached by Nnadi and Obot (2014) in Akwa Ibom State. They found that while all respondents surveyed were aware of the Freedom of Information Act, less than half of them had actually read it. This finding also finds support in the work of Uzoma and Onwukwe (2014) which found that although media practitioners in the South East had knowledge of the Freedom of Information Act and its provisions, there was a huge knowledge gap among the practitioners on the provisions of the Act.

Research Question 2. What challenges do journalists in Rivers State encounter in eliciting information using the FOIA?

The data from tables 8 and 9 answer research question 5 which is concerned with the challenges journalists encounter while seeking information using the Freedom of Information Act, answer research question 5. In presenting the data, it is important to first establish whether journalists encounter challenges. From the analysis of the responses in table 8, most of the respondents opine that journalists encounter challenges. Having established this, the information available in table 9 showed the respondents' views on the types of challenges they faced. Most of the respondents identified the refusal of civil servants to release information despite the Freedom of Information Act as a challenge. This implies that government officials deliberately withhold information from journalists even though they are aware that the Freedom of Information Act obliges to do so. Previous studies have attempted to explain why this is so. Afolayan (2012) citing Adeleke (2011) noted that the Official Secrets Act prevents civil servants from giving out government information by making it an offense for anyone to receive or reproduce such information. Afolayan observed that further restrictions are contained in the Evidence Act, the Public Complaints Commission Act, the Statistics Act, the Criminal Code etc.

However, some respondents put the blame on journalists. According to their responses, the journalists' lack of knowledge of the provisions of the Freedom of Information Act is the problem. The implication of this is that such journalists would not know that the Freedom of Information Act guarantees a right of access to information to everyone. This is supported by the findings of the studies of Malayo (2012), Uzoma and Onwukwe (2014) and Nnadi and Obot (2014) which all revealed a drop in the number of journalists who were aware of the provisions of the Freedom of Information Act compared to those who were only aware of the Act.

Another problem identified by Abone and Kur (2014) is the presence of sections in the Act which are nebulous. For instance, Section 11(1) states that a public institution may deny an application for any information if its disclosure may be injurious to the conduct of international affairs and the defense of the Federal Republic of Nigeria. The authors explained that government officials may deny journalists access to information by claiming that such information falls into this category.

What is apparent from the above is that most of the respondents consider the refusal of civil servants and government officials to release information despite the FOIA as a challenge

journalist's encounter. This may however be resolved if the journalists had a high awareness level of the provisions of the FOIA which empowers them to seek for information by approaching a court of competent jurisdiction to test the law.

Summary

This study assessed journalists' awareness level of the Freedom of Information Act in Rivers State. Specifically, the study examined the level of knowledge among practicing journalists in Rivers State on the Freedom of Information Act and their awareness levels of the provisions of and use of the Act. The assessment was based on the journalists' access to public records and the level of disclosure of public information by government officials most times through information officers who are spokespersons of public institutions.

The study was necessitated by the desire to find out if journalists in Rivers State were aware of the Freedom of Information Act since its passage into law following the huge clamour all over Nigeria for such legislation. There was also a necessity to examine the perception of journalists in Port Harcourt regarding the protection the Freedom of Information Act offers them while carrying out their professional duties, the challenges they encounter and if the Act has enhanced the practice of journalism.

The following six research questions were raised to help resolve the objectives the study set out to achieve:

1. What is the level of awareness among journalists in Rivers State on the Freedom of Information Act?
2. To what extent do journalists in Rivers State have access to information from government officials?
3. How much information do information officers of public institutions disclose to journalists?
4. How much aid does the Freedom of Information Act offer to journalists in the course of carrying out their duties?
5. What challenges do journalists in Rivers State encounter in eliciting information using the FOIA?

Two instruments of data collection were used for this study – the questionnaire and in-depth interviews with information officers of public institutions. The questionnaire was administered on randomly selected journalists working in Rivers State on the basis of their being registered members of the Nigeria Union of Journalists, Rivers State chapter. A sample of 188 respondents, representing 53 percent of the target population of three hundred and fifty five (355) registered journalists was adopted as sample for the study. The sample was arrived at using Taro Yamane's formula for determining sample size from a given population.

Summary of Findings

The analysis of the data generated, presented and analyzed show that the study met the objectives it set out to achieve. These are the findings:

1. Journalists in Rivers State are aware of the Freedom of Information Act with an overwhelming 95.8% being aware or highly aware of the Act.
2. Journalists in Rivers State encounter challenges while seeking information. The challenge most usually faced is the refusal of government officials to disclose information despite the existence of FOI act. Journalists' lack of knowledge of the Freedom of Information Act constitutes another major challenge to journalists.

Conclusions

The following conclusions were reached based on the findings above:

High awareness levels of the Freedom of Information Act does not translate to being aware of the provisions of the Act as some who have a high awareness level of the Act, had no idea what its provisions were. Only a very small percentage of journalists in Rivers State, 21.8% have actually used the Freedom of Information Act. It means that many of those who are aware of the provisions of the Act have not been using it. Information officers of public institutions and journalists disagree on access to government officials and level of disclosure of public information. While the information officers insist that the access and disclosure of public information is adequate, the journalists perceive it as inadequate.

Many journalists feel safer in carrying out their duties with the Freedom of Information Act now a law in Nigeria compared to the past when they did not perceive they had any protection while reporting on certain issues. If the number of public officials who are willing to release information to journalists do not increase, journalists will continue to encounter challenges in their information gathering quest.

Recommendations

Following the findings and conclusions reached in the study, these recommendations are proposed:

1. The Nigeria Union of Journalists and media organizations should make efforts at moving their members beyond just being aware of the FOI act; they should also be properly informed about the provisions of the act.
2. Government should encourage their offices and parastatals to always abide by the FOI act and provide information to journalists on request. Also, the Nigeria Union of Journalists should organise trainings, seminars and workshops to keep them abreast of the FOI act and how they can leverage on it.

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