

**THE NIGERIAN FREEDOM OF  
INFORMATION ACT 2011: A  
VERITABLE TOOL, FOR GOOD  
GOVERNANCE**

# INTRODUCTION

- In 2011, the Nigerian government passed the Nigerian information Act, thereby becoming the ninth country in Africa and among 90 countries in the world to enact the law.
- Freedom of information, is very vital to the proper functioning of a democracy as it curbs executive, judicial and legislative recklessness. The Act under discourse makes provision for the disclosure of information held by public authorities or by persons providing services for them. (Robert, 2000).

## **2) EMERGENCE OF NIGERIAN FREEDOM OF INFORMATION ACT 2011**

- The modern concept of freedom of information Act is traceable to the United Nations Universal Declaration of Human Rights (UNDHR), Article 19 of 1948 to be precise.

- Nigeria prior to 2011, enshrined the right to freedom of speech in section 39 of her constitution. However, there were other laws in our legal system which restricted the media and public from access to records of government and vital information that were classified as official. Examples of such laws are

- 1) Nigerian Official Secrets Act
- 2) Section 190 and section 191 Evidence Act.
- 3) The Nigerian Criminal and Penal Codes made it a crime for someone to divulge vital government information.

After a 5-year journey through the legislative process, the Freedom of Information Act was passed on 28<sup>th</sup> May 2011.

### **3) SALIENT INNOVATIONS OF THE ACT**

- It effectively jettisoned official secrecy backed up by law.
- Section 10 criminalizes destruction of records
- Public institutions are mandated under the Act to proactively disclose information within its custody. (section 2(4))
- It protects “whistle blowers” in public service
- Section 13, makes provision for appropriate training of government officials on public’s right to access information held by government.
- It creates annual reporting obligation by government institutions
- The Act recognises a range of legitimate exemptions and limitations to the public right to know, under sections 11(1), 12(1) and 16 of the act.
- Denial of right to know is now actionable under section 20 of the FoI Act.

#### **4) AN OVERVIEW AND LEGAL ANALYSIS OF JUDICIAL DECISION OF FoI ACT AFTER 4 YEARS OF IMPLEMENTATION .**

•In *Okezie v central bank of Nigeria*, the Nigerian Federal high court in 2012 had the first opportunity to interpret and apply foI Act. It held that the central bank on a public institution has duty disclosure information requested by the plaintiff.

•In 2014, in the case of legal defence and assistance project against some states of federation, the Lagos federal court passed a very disturbing judgment to the effect that the foI was not binding on the 36 states of the federation.

•However, in a newer case, the Enugu state federal high court, in a case filed by liberties organization against Enugu state health commission held the states are bound by foI Act.

## 5) **CHALLENGES HINDERING THE FULL IMPLEMENTATION OF FOI Act 2011**

- Non-domestication of FoI Act by the federating states of Nigeria.
- Exemption of certain information from public disclosure
- Increased violent attack of journalists.
- Unwillingness of public officials to divulge government information
- Lack of awareness of the import of the Act by a majority of the public.
- Non-compliance with proactive disclosure of information by the public institution
- Poor record keeping by public institution
- Low compliance with yearly mandatory reporting obligation by public institution
- Protracted and Expensive cost of litigation

## 6) **RECOMMENDATION AND CONCLUSION**

• Access to information is crucial to the health and development of democracy for journalists, it is a veritable indispensable tool. However many constraints have been observed in its 4 years implementation in Nigeria. It is very imperative that these challenges are dealt with decisively, to this extent the paper proffers the following recommendations :

- Public institutions should proactively disclose all classes of information mandated by FoI Act
- Public institutions should create and update their websites at very frequent intervals
- Public institutions should ensure non-destruction of government record
- Public institutions should expeditiously comply with all the requirement of the FoI Act.
- The Attorney – General should ensure public institutions are on their toes concerning compliance with the provisions of the Act.
- The Court of appeal should come up with specific pronouncement on the applicability of the FoI act to every state in Nigeria.
- The Nigerian government should beef up security in the country in order to stem the tide of violence that often follows the reportage of sensitive government information.
- Public institutions should expeditiously disclose information requested by the public.
- All the records of public institutions should be computerised and updated at regular intervals.