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FREEDOM OF INFORMATION BILL, ITS RELEVANCE AND CHALLENGES IN NATIONAL DEVELOPMENT: THE NIGERIAN EXPERIENCE

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Abstract

The availability of timely and accurate information from authentic sources is a booster to national development. Freedom of information is a necessity in order to salvage the nation Nigeria and move it towards the part of economic and social transformation. The focus of this paper is to x-ray the Nigerian freedom of information bill, its relevance and challenges in the scheme of national development. The relevance of the information bill is that it give room to openness and transparency in government and strengthen the democratic structure with the end results of creating values. As good as the Act may seem, the cardinal challenge is the implementation process because Nigerian governments has been known for making good policies that never benefits the citizens in view of the fact that the implementation process has always remains a mirage. The stand point of the paper is that the Nigerian nation will definitely grow into an egalitarian society because the Act has the capacity to facilitate social and economic development of the country.

KEYWORDS: **FREEDOM, INFORMATION BILL, NATIONAL DEVELOPMENT, NIGERIA**

Introduction

Over the past decades, several civil society organizations and journalist fought tirelessly for the enactment of Freedom of Information Act. The purpose of the Freedom of Information Act 2011 is to make public records and information freely available to the public, protect public records on grounds of public interest and personal privacy as well as project public officers who provide such information without authorization.

Freedom of Information legislation comprises laws that guarantee access to data held by the state. They established a "right to know'' legal process by which requests may be made for government-held information, to be received freely or at minimal cost barring standard exceptions. Also referred as open records governments are also typically bound by a duty to publish and promote openness. In many countries there are constitutional guarantees for the right to access to information but usually these are unused if specific support legislation does not exist. A basic principle behind most freedom of information legislation is that the "Burden of proof" falls on the body asked for it. (Wikepedia, 2011). Freedom of Information means walking into any government ministry or and government establishment requesting to view certain Information like contracts awarded and tenders etc. Freedom of Information guarantees the right of an unhindered access to public Information Including Information held by all Federal government branches and agencies, as well as private institutions in which any Federal, State or Local government has controlling interest and those private institutions performing public functions. In addition the freedom of information required these Institutions to take unilateral steps to become more transparent as part of this provision, the institutions will be required to make public data on the programmes and functions of their

divisions, internal manuals used by employees in executing their functions, their finances and their names, title and income of all their employees (Goitom, 2011).

Virtually all government information in Nigerian is classified as top secret and this veil of secrecy makes it difficult to obtain information from any state agency. Anyone who wants useful information from a government department, will be denied the information. They will tell you about classified Information. A Plethora of laws prevent civil servants from divulging official facts and figures, notably the official secrets act 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. Further restrictions are contained in Evidence Act, the public complaints Commission Act, the Statistic Act and the criminal code among others. Public servants are made to swear to oath of secrecy when employed and the general consequence of these is an entrenched culture of secrecy and arbitrariness in government institutions. Nigeria has no law that guarantees citizens access to public records and information. On the contrary many Nigerian laws have secrecy clauses prohibiting the disclosure of information as official secret Act, the criminal code, the penal code e.t.c.

The idea behind these laws is to protect vital government information but the level of secrecy is so ridiculous that some government files contain ordinary information like Newspaper cuttings which are already in public domain. So impenetrable is the veil of secrecy that government departments withhold information from each under the guise of official secret legislation. There are also instances where civil servants refuse to give the National Assembly Documentation after being asked to do so. The result of this is those journalists are denied access to information that is critical for accurate reporting and unraveling the web of corruption in Nigeria. “when you are in public office and have soiled your hand in the pot of

corruption, you will try to prevent your being exposed by classifying as top secret documents that can implicate you"(IPS, 2011). Student also find themselves bared from reading documents necessary for their research. In the name of official secrets, somebody sits on information that will benefit millions of people. If these secret laws are not there people will sit up. If a public servant knows the public will get access to his fraudulent acts, he will be careful (Olukoya, 2011)

Anyone requesting information need not demonstrate a special interest in the information. The bills sets time limit within which government and public bodies must release information requested and provides for judicial review where access to information is denied. There are certain categories of information that are exempted from the general right access and these include such information as defense/security matters, the conduct of International affairs, law enforcement Investigation, trade secrets financial, commercial and technical and scientific information of economic value.

What is freedom of information?

Freedom of information also known as right to know or access to information refers to the right, which members of the public in any society have, to access information held by government officials and institutions (Denedo)

According to the philosophy underlying the freedom of information as captured by article IV (i) of the Declaration of Principles on Freedom of Expression in Africa which states that *"Public bodies hold information not for themselves but as custodians of the public good and everyone has a right to access this information subject only to clearly defined rules established by law"*.

The Freedom of Information Act made it clear on how information records can be obtained such as right to access records, application for access to records due to refusal by Head of government to public institution to disclose records.

History of Freedom of Information Bill in Nigeria

This law was first submitted to the National Assembly when Nigeria returned to democratic rule in 1999, following a succession of military dictatorship. However, the legislatures four year term passed without the bill being voted on. The bill was later re-submitted after the previous national Assembly was inaugurated. Over a hundred media groups, business interests and human rights organizations joined forces to press for the introduction of the bill. The International Press Centre (IPC), an NGO that supports independent media in Nigeria ran a campaign that urged all interested parties to send text messages to legislators in support of the bill (Olukoya, 2011). On may 24, 2011. Both houses passed a harmonized version of the freedom of Information bill that came out of a 12 member harmonization, bringing the legislation a step closer to taking effect (Nigerian Observer May 25 2011).

On Saturday, May 31, 2011 Nigerians leader, president Goodluck Jonathan signed into law, the freedom of Information Act as passed by the National Assembly. That was one day after a copy of the bill was delivered to him by the clerk of the National Assembly Salisu Maikasuwa. In theory, the 18 page document has become official freedom of Information law by which Nigerian citizens can seek access to official information, but it remains to be tested.

This bill which first made an appearance in the National Assembly in 1999, languished there in the years that followed as squabbled it and president Olusegun Obasanjo expressed an open hostility to it. It made progress early in 2007 and was passed by both

houses but it was vetoed by the president Obasanjo. After Obasanjos departure, the bill finally achieved some success despite many other hurdles. It was during this Goodluck administration passed after being watered down considerably. Among other things, the legislators claimed it would compromise national security.

In a joint statement in Abuja, the right to know Initiative, Media rights Agenda and open society foundation celebrated the FOI law as a victory for democracy, transparent, justice and development (Sahara Reports, 2011)

Relevance and Challenges of the Information Bill to National Development

This law is seen as victory for democracy. With the new law, Nigerians finally have vital tools to uncover facts corruption, and hold officials and institutions accountable. The new law will profoundly change how government works in Nigeria "Now we can use the oxygen of Information and knowledge to breathe life into governance. It will no longer be into governance, it will no longer be business as usual" Sahara Reporters, 2011). The new law is a testament to the staying power of the civil society, demonstrating how committed groups can work together to ensure laws which support the right of the people. In a statement in Abuja by Abuah who is of the office of the special Adviser to the president on media and publicity, the objective of the Act is to make publics records and information more freely available… and to protect public records and information to the extent consistent with the public interest of personal privacy" (Sahara Reports 2011).

The new law is expected to protect serving public officers from any adverse consequences of disclosing certain kinds of official Information without authorization.

Section 4 of the law provides that when a public institution receives an application for information, it shall make such information available to the applicant within 7 days, if such an

institution feels that such information cannot be granted, it will inform that applicant in writing stating the reason for such a decision and the section of the law under which the refusal is made.

With the (FOI) bill becoming law, there is no more hiding place for institutions like the NNPC, Nigerians will now have details of the offshore companies and offshore secret accounts they operate. The public will now know how our money and wealth have been vandalized by a few. Nigerians will now know who owns the secret accounts and who operate them. Nigerians will also know what they have been doing with the crude oil and their foreign collaborators will now be exposed.

Freedom of Information Act Guarantees the right of access to information held by public institution 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 requires all institutions to proactively disclose basic information about their structures and processes and mandates them to build the capacities of their staff to effectively implement and comply with the provisions of their Act.

i. It provides protection for whistle blowers. It is now easy to identify public servants who are not doing the right thing.

ii. It makes adequate provision for the information need illiterate and disabled applicants.

iii. It recognizes a range of legitimate exemption and limitations to the public rights to know, but it makes these exemption subject to a public interest test, that in deserving cases may override such exemption.

iv. It creates reporting obligations on compliance with the law for all institutions affected by it. These reports are to be provided annually to the Federal Attorney Generals office which will in turn make them available to both the national Assembly and the public.

v. It requires the Attorney General of the Federation to oversee the effective Implementation of the Act and report on the execution of this duty to parchment annually.

With the new law, Nigerians fight corruption, and hold officials and institutions accountable. The new law will profoundly change how government works in Nigeria. The signing of the bill into law is the clearest demonstration of the power of civil servant working together to influence public policy and initiate reform.

This new law supersedes the official secret Act, provides immunity to public officers who disclose information in good faith, and expects public institutions to keep organized information and records to facilitate early access. The act also presents how to file a request, fees and the responds time to provide the information needed, it also provide exceptions to disclosure like issues of national security and International affairs right to privacy, law enforcement records, commercial or financial Information and enforcement by the courts.

Though the law seems too overly protective of issues relating to “commercial” and “Financial” informational, it is nonetheless a good beginning, Freedom is never absolute. Some of the provisions will be tested as the law is operated.

Even with all its weaknesses the law contains far reaching provisions capable of transforming government bureaucracy and by extension our lives as a people. It will make a lot of difference on how government is run. This act will encourage openness and

accountability in government, checkmate corruption and indeed free some of the money stolen by public officials for development projects. It will encourage excellence in journalism as it will ensure accurate reporting of events and the public informed as reporters are expected to get information cross checked before Publication. (AllA frica.com,2011).

Freedom of Information is a multifaceted right that includes not only the right to express or disseminate information and ideas but also encapsulate the right to seek information and the right to received information and the right to impart information and ideas. International regional and state standards recognize that freedom of expression/speech include any medium be it oral, written, through internet or in print.

Moreover, all the counters that practice freedom of information have experience unprecedented growth and development. This is possible because there is hindrance to access to Information with the result that government officials will refrain from shoddy deals that have been the bane of economics development. Public servants who pretend that they are protecting their oath of keeping government documents secret have siphoned huge amount of tax payers' money from government coffers. The freedom of information bill will encourage accountability since the public servants are aware that citizens are now free to look into their documents to see what they are doing. They are also aware that they could be questioned on areas that are not clear. Moreover, the journalist are now free to obtain accurate information's from public institutions. In other words, they will now be in the position to feed the citizens with authentic, data and information that could authoritatively be used for research work and development purposes. Hitherto the passing of the freedom of Information Act, some journalists were publishing junk and inaccurate information that were misleading. The journalist should not be blamed because the various government establishments made it

impossible for the press and even researchers to obtain current and authentic information. The government officials were saying they were protecting their oath of secrecy. Although there are some aspects of the information that were not covered in the bill but the fact remains that the passage of the bill will facilitate national development as civil servant will now be alive to their responsibility. The civil servants who were enriching themselves through the said secret documents will now refrain from acts.

The public servants are now aware that in line with the provisions of the freedom of Information Act, they could be prosecuted in the law court if they refuse to provide information and data to those that need them.

The act provides that the Information user should put his need in writing and that the government establishment should also state clearly their reason for not making the information available to the user. In other words, there is evidence to prove that the information's was either provided or not to the user. It is therefore possible to identify government's establishment that complied to the law and those that refused to act in accordance with the law. The attorney General is expected to report level of compliance to the parliament. This law is really a victory for democracy, transparency and good government because it is now possible to track down corrupt officials who have contributed to the economic woes of the country.

This law takes adequate care of non literates and the physically challenged citizens. Applications could be made for this group of people and the Information will be provided for them.

But many Nigerians have good cause to fret about the legislation as there are still fundamental obstacles like "how will the law be implemented" Although the National

Assembly is empowered to make laws for the good of the entire nation the law as it is presently constituted is a Federal law applicable to federal institutions and agencies. The states, many of them bastions of corruption, will continue to run government as secret and private business if the law is not demonstrated.

The civil organizations, the Newspapers proprietors Association of Nigeria (NPAN) the Nigerian Union of Journalists (NUJ) and the media should continue to mount pressure on the state houses of assembly to localize the laws governing access to public documents. The Governors forum should use the platform to canvas passage of Freedom of Information Act in the various states.

The Academic staff Union of Universities (ASUU), National Association of Nigerian Students (NANS) and other organizations should mount pressure on the various states to pass the freedom of Information bill in their domain. Dubious governors and many other state functions are not happy with this law because the possibility of exposing them.

One of the major challenges of this Act is implementation. Nigerian government are known for passing laws that are not implemented. In Nigerian, there are many secret cows who are above the law. The law is specifically made for the poor and the less privileged.

Furthermore, many areas of interest were removed from the bill on the ground of National security. The bill was emasculated in process of removing keys areas that are important to Nigerians.

Conclusion

The enacting of Freedom of Information Act is a right step in the right direction. It shows that Nigerian is making progresses in the democratic set up in the country. If the information and data are not prohibited by law made available to researchers, Journalist and other users Nigerian

will definitely grow into an egalitarian society in the real sense of the word, the Implementation of this Act will facilitate social and economic development of the country. The Freedom of Information Act bill provides a great opportunity, therefore, to correct a past anomaly while opening fresh vistas for the dissemination of information to the widest segments of the populace.

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