

Reality of the Freedom of Information Act

Since president Goodluck Jonathan [signed](#) the Freedom of Information (Fol) Act sometime this year, the excitement it elicited among members of civil society, the media and human rights groups, is being replaced with frustration and disappointment. In its enthusiastic response to the passage of the Act, the Nigerian Guild of Editors (NGE) stated that: "the president has more than anyone else empowered the citizens to participate in the governance of their own affairs".

Its implementation so far, however, has been far more in the breach of the provisions than compliance by government agencies.

The Fol Act has a tortuous history. Long in coming, the Bill went through one of the most rigorous scrutiny of any piece of legislation in the country, surviving hundreds of amendments through both chambers of the National Assembly. It was first introduced in the National Assembly in 1999 but took more than a decade before it was passed into law.

Since independence, government officials had been reluctant to provide even the most mundane information to members of the public, including the media, hiding behind the Oaths of Secrecy or the Official Secrets Act, a colonial inheritance. This has meant that officials could get away with almost any misdemeanour including corruption, without sanction. It was worse under the military, where rule by decree did not give room for any challenge to the government's authority.

With the passage of the FOI Act it was expected liberalise access to government documents and assist the media in carrying out investigations unhindered by lack of information. It was with that expectation that the NGE enthused that "the signing of the Fol law has expanded the frontiers of press freedom for Africa's most vibrant press. No more will it be permitted for journalists to hurry to press with half-truths and misinformation when they can officially verify their facts."

However, despite the effusive praises heaped on the FOI Act, critics now charge that the final Act has not lived up to expectations. It soon became clear that the law is actually a watered-down version of the original bill. The approved law has more ouster clauses to render it ineffective, particularly in a bureaucracy as lethargic as Nigeria's.

More than a year after its enactment, not much has changed. To date, there is no successful request for information to any significant government agency has been reported. Politicians and government officials tend to pay lip service to good governance; in practice they appear to be more preoccupied with the perks of public office and hiding the facts. They find it unpalatable when questions are asked about transparency and accountability; or when the occasional leaks are made, perhaps by whistleblowers or vigorous media inquiry.

The *Daily Trust* has moved to test the efficacy of the FOI Act earlier this year by requesting the Nigerian National Petroleum Corporation (NNPC) to provide it with information about its recruitment policy. The paper's representatives got a rebuff instead. The NNPC in a letter to the newspaper went as far as stating that it was not bound by the Fol act. The NNPC

has been facing serious allegations of corruption, and bad management practices. The provisions of the FoI Act do not avail the publicly funded corporation the luxury of fudging facts or hiding them, under any guise.

While the FOI Act contains ouster clauses to protect official secrets such as those that concern national security; it at the same time states that "where the interest of the public would be better served by making such records available, this exemption to disclosure shall not apply." In other words public interest trumps every other consideration to withhold information.

Notwithstanding this provision the old instinct of officials is to err on the side of secrecy by concealing as much information as possible on their activities. Concealment of information is not the exclusive preserve of government officials; private sector operatives practice it too. Only recently, the chairman of the Economic and Financial Crimes Commission (EFCC) accused banks of not cooperating with his organisation in tackling corruption.

For the FoI Act to operate effectively, it is necessary for all tiers of government -federal, state and local to abide by its provisions.

It is true that the FoI Act has shortcomings; but these are matters that can be addressed when its provisions are tested in court. Successful prosecutions of officials who flout the law would go a long way in restoring public faith in the Act.

Source: [allAfrica](#)

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