

# EXPLORING THE CHALLENGES IN THE IMPLEMENTATION OF THE FREEDOM OF INFORMATION ACT IN NIGERIA

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## ABSTRACT

This study discussed on the Freedom of Information (FOI) Act was passed in 2011, anticipating a remarkable milestone in transparency, accountability and democratic governance in Nigeria. However, legal enactment does not necessarily guarantee the effective enforcement of the law, thus the implementation of the FOI has been beset with a myriad of challenges. The Public Sphere Theory propounded by Jürgen Habermas in 1962 was used as theoretical framework. This study analyzes key factors hindering the successful implementation of the FOI Act in Nigeria which include institutional apathy, nonchalance and lack of adequate enforcement, as well as devoid of technological means. This investigation, along with checking literature and other jurisdictions, convinces us that persistent cultural, legal and infrastructural constraints restrict the fulfillment of the democratic intents of the FOI Act. The study also investigates the impact of advocacy and suggested further public education campaigns, comprehensive institutional restructuring and an autonomous monitoring agency for the proactive civil society needed alarming oversight gap. The gaps exposed in this investigation urge reform suggesting loose legal frameworks, technology gaps and action gaps alongside constitution and governance principles engineering direct legislative-driven impact on states to free information access barriers sought by citizens to achieve.

**Keywords:** Challenges, Freedom of Information, FOIA, Nigeria, Information

## Introduction

The approval of the Freedom of Information Act (FOIA) in Nigeria in 2011 was a landmark incident in the democratic development of the country as it provided a legal framework for citizens to access public records and information. It was meant to assist in the achievement of transparency, accountability and good governance while seeking to eradicate the secrecy culture that had been deeply rooted in the Nigerian public sector (Apuke, 2017). People's access to information is central to democracy. It is important for active participation, holding government leaders accountable and fighting corruption. In spite of the provisions made by FOIA, the law's actual implementation is still facing considerable inefficiency and opposition. Historically in Nigeria, public institutions functioned internally in a system with limited transparency, which hindered the ability of citizens to effectively scrutinise the activities of the government. However, many government agencies still exhibit an unwillingness or flat-out refusal to comply with information access requests (Osawe, 2022). This illustrates a lack of political commitment and institutional inertia.

Civil society organisations and the media, which are critical stakeholders in exercising the FOIA, encounter numerous challenges. These range from bureaucratic harassment, threats and even legal intimidation (Agba et al., 2018). Such challenges diminish the effectiveness of the Act and defeat its fundamental purpose of enabling citizen access to information. Another problem is the lack of public awareness concerning the FOIA. Many citizens do not know their rights or are unable to navigate the frustrating procedures involved in accessing public information (Igbolekwu et al., 2022). This contributes to continued unaccountability and information blackout by the government. In light of these facts, it is important to assess the implementation obstacles of the FOIA in Nigeria. This paper addresses this concern by applying desk research and reasoning analysis to expose existing gaps and offer plausible insights using scholarly critiques of the country's information access policies.

Advanced reporting in journalism involves in-depth exploration, analytic context and thorough examination of credible sources. Research is the pillar of effective investigative journalism, equipping journalists with tools to uncover truths, debunk falsehoods and promote transparency (Okorie, 2023). It enables journalists to construct narratives that inform and empower citizens. The application of research in journalism also helps detect trends, follow the progression of events and connect local and global stories, improving the credibility of journalism. This is

especially true within the context of FOIA, where research is critical in assessing the law's execution and understanding what inhibits its success (Kehinde, 2021).

Desk research, involving the analysis of literature, reports and policy papers, is particularly valuable in this context. It allows journalists to access reliable information, enhancing evidence-based commentary. Advanced reporting shifts from narration to insightful analysis and problem-solving storytelling. The fusion of journalism and research nurtures creativity in storytelling. Journalists with strong research backgrounds can bring FOIA enforcement into public discourse through data visualizations, documentaries and thematic investigations (Ibiam & Faga, 2021). This study demonstrates the relevance of such research in journalism by using desk research to analyze the implementation of FOIA in Nigeria. The goal is to inspire discourse on strengthening access to information through a blend of academic journalism and investigative analysis.

The Freedom of Information Act is a legal document that promotes transparency in democratic governance. Citizens should be aware of governance structures such as decision-making, budget allocations and policy impacts. The FOIA makes it possible for government information to circulate widely, not just to a privileged few (Ehirim et al., 2024). Its purpose is to eliminate corruption, expose public malfeasance and hold officials accountable. With access to government documents, contracts and communications, citizens and journalists can perform greater oversight (Agba et al., 2018).

The FOIA enhances the media's role as a pillar of democracy. Journalists need accurate and timely information to perform their watchdog functions. Limitations to access cripple media effectiveness and distort public discourse (Osawe, 2022). The FOIA promotes freedom of the press, civic engagement and participatory governance. Informed citizens can actively participate in policymaking, offer feedback and demand changes, which strengthens democratic resilience (Apuke, 2017). In Nigeria, the FOIA symbolizes democratic openness, requiring sustained civil attention, institutional collaboration and structural change for effective enforcement.

Despite its promise, the FOIA's implementation remains weak due to systemic and structural bottlenecks. Over a decade since enactment, public access to information is still obstructed by bureaucratic stagnation, poor records and weak institutional will. Many public bodies disregard information requests or provide incomplete responses (Apuke, 2017). An entrenched culture of secrecy persists, where officials view information as private rather than public (Agba et al., 2018).

Journalists and civil society actors face harassment when handling sensitive information. This deters FOIA usage and investigative journalism (Ehirim et al., 2024). Additionally, there are no strong punitive measures for non-compliance, weakening the law. Civic education on FOIA remains inadequate and many citizens are unaware of its existence or provisions (Igbolekwu et al., 2022). Lack of access renders the law ineffective. Infrastructure challenges like poor record digitization and insufficient staff training also obstruct implementation. These issues must be addressed for the FOIA to become a true tool for democratic progress in Nigeria. This study examines the key challenges hindering effective FOIA implementation.

### **Theoretical Framework**

A suitable theoretical framework for the study is the Public Sphere Theory propounded by Jürgen Habermas in 1962. The Public Sphere Theory emphasizes the importance of open communication spaces where citizens can freely access information, engage in rational discourse and hold governing bodies accountable, thereby fostering participatory democracy. Habermas argued that the public sphere is essential for transparency, informed citizenship and democratic governance, as it enables the free flow of information between the state and the public. Core principles of the theory include access to information, freedom of expression, transparency and deliberative engagement. Applied to the Nigerian context, this theory underscores the foundational role of the Freedom of Information (FOI) Act as a legal instrument intended to establish a transparent public sphere where citizens have unhindered access to public records and can actively engage in governance. However, persistent challenges such as bureaucratic secrecy, lack of political will, poor public awareness and institutional resistance undermine the realization of these principles. Therefore, the Public Sphere Theory not only provides a lens to evaluate the current implementation gaps in Nigeria's FOI Act but also reinforces the argument for strengthening institutional frameworks, public sensitization and enforcement mechanisms to ensure that the Act fulfills its democratic purpose.

### **Materials and Methodology**

This study employed a qualitative research design using desk research methodology. Academic journal articles, legal documents, government reports and credible media analyses from 2011 to 2025 were reviewed. The data were thematically analyzed to identify key challenges and trends in FOIA implementation. Priority was given to sources with peer-reviewed status and those discussing legal, institutional and technological frameworks affecting information access in

Nigeria. This approach is chosen to deepen and expand the researchers understanding of the subject while also being time-efficient.

### **Freedom of Information (FOI)**

Freedom of Information (FOI) is understood as the legal framework or policy which allows a citizen to view records and information kept by public bodies. It is based on something as fundamental as the human right to the maximum available information Krieg (2012). In any civilized democracy, informations laws are necessary for the fulfillment of the public's right to receive information, to goven, accountability and give support as well as facilitation of activism. These laws provide a direct link between government bodies and citizens by allowing citizens enough access to information regarding the decisions made or policies executed. In Nigeria, the Freedom of Information (FOI) Act was finally passed into law in 2011 after more than ten years of legislative battle. This Act empowers any person to seek information from any public agency without any particular interest or purpose, which indeed indicates a remarkable change from the tradition of secrecy that has dominated public service in Nigeria. It requires public institutions to comply with requests to furnish information within a seven-day period and also establishes certain provisions governing proactive provision of information (Apuke, 2017).

Nonetheless, failure to comply with the provisions of the FOI Act has not led to any tangible consequences. The Implementation of the Act has been lackadaisical in consideration with the public institutions within the country. That has led to unrest in observing the concern, which lies greatly under the legislation or the Act in this case and transparency. Per Osawe (2022), it has become common for requests to be ignored, delayed, or even outright denied without sufficient rationale. To make matters worse, in Nigeria poorly organised systems only add to the complexity of FOI exploration further dooming its chances of success. Insignificant or absent governmental resources like disorganisation, poor tracking of documents, failure to digitize relevant document and lack of public servants to properly facilitate with the law all add to the list. With no independent supervizing body capable of enforcing the set of rules and punishing offenders due to the absence of relevant documents, sorely limits the prospects of citizens getting crucial information necessary to ease its practical limitations (Agba et al., 2018). The importance of the FOI Act as a democratic instrument is undoubted, regardless of these obstacles. This law is an affirmative declaration of responsibility and expectation of transparency, granting journalists, scholars, civil society members and even everyday citizens the legal right to demand responsibility

and accountability. Strengthening the implementation of the FOI Act is a matter of legal compliance, but equally, it is a matter of democratic obligation.

In Nigeria, the movement demanding for freedom of information (FOI) dates back many years and its history is associated with conflict. The FOI Bill was proposed in 1999, but was not passed into law until May 28, 2011. This period of stagnation illustrates the unwillingness of several governments to embrace for openness and accountability. During the military and early democratic periods, secrecy laws such as the Official Secrets Act fostered bureaucratic information hoarding – public information was tightly controlled. (Mejabi et al, 2017) Though now considered obsolete, the Act enabled Nigeria to stride forward in its legislative path, indicating the country's attempt to embrace democracy. All citizens were accorded the right to request and receive public records without needing to demonstrate a particular interest. This is a remarkable milestone for the country yet in practice is still lacking. This illustrates the gap between legislation and the implementation. (Chidi et al, 2014)

The uneven implementation of the Act has been attributed to the deeper legacies of authoritarian rule and a lack of institutional capacity. Several government agencies still operate within a culture of secrecy, violating basic provisions of the Act such as proactive disclosure and response timelines to information requests (Edet et al., 2024). In addition, public officials tend to use vague or overly broad explanations to justify claims of exemption, which further erodes the law's effectiveness. The Nigerian FOI framework has also been criticized for lack of enforcement mechanisms. Unlike in other jurisdictions, Nigeria lacks an independent body for oversight of the FOI. As a result, such breaches remain largely unpunished and apart from recourse to the courts which are expensive and difficult to access, requesters are left with little option (Mejabi et al., 2017). This lack of consequence has given government agencies the freedom to disregard these requirements without fear. Notwithstanding these challenges, the FOI Act has prompted more civil society groups and journalists to take up investigative work. While there is much room for improvement, the Act's attempt to extend public participation sets a benchmark for future reforms. The main challenge is transforming a legislative achievement into an operational reality.

### **Challenges in the Implementation of the Freedom of Information Act in Nigeria**



The implementation of the Freedom of Information Act (FOIA) in Nigeria, though laudable in principle, has encountered significant obstacles that hinder its effectiveness. This section presents a merged analysis of the empirical findings and engages critically with the issues through a thematic discussion that reflects institutional realities, legal frameworks and societal dynamics.

### **1. Legal Ambiguity and Conflicting Statutes**

One of the primary barriers identified is the conflict between the FOIA and pre-existing laws such as the Official Secrets Act of 1962. Despite the FOIA's provision that it supersedes any law inconsistent with its mandates, public officials often default to the older legislation when denying information requests (Madubuike-Ekwe & Mbadugha, 2018). This legal contradiction creates a grey area in implementation, where discretion rather than the rule of law governs compliance. The absence of judicial clarity on how these laws interact has also emboldened institutions to evade accountability under the guise of legal ambiguity. Furthermore, the lack of detailed definitions for key terms such as “personal information,” “public interest,” and “national security” has resulted in inconsistent interpretations. These ambiguities allow officials to arbitrarily withhold information without fear of legal repercussions, thereby weakening the enforceability of the FOIA (Ejitağa, 2019).

### **2. Institutional Resistance and Bureaucratic Culture**

A deeply entrenched culture of secrecy continues to permeate Nigerian public institutions. The findings reveal that public officials often perceive government-held information as private property rather than public trust. This mindset, inherited from Nigeria's authoritarian and military past, fosters resistance to openness and fosters institutional inertia (Chukwu, 2019). Additionally, FOIA implementation is hindered by the lack of internal mechanisms to process requests. Most government agencies lack FOIA units or designated officers to handle information inquiries, resulting in administrative delays or outright neglect. In the absence of sanctions or incentives, compliance becomes optional rather than obligatory. This systemic nonchalance is exacerbated by a lack of performance benchmarks or accountability frameworks within public service institutions (Ogunleye, 2015).

### **3. Infrastructural and Technological Constraints**

Another significant challenge is the poor state of record-keeping and information management infrastructure. Many government agencies still rely on paper-based records, stored without proper indexing or preservation protocols. Such inefficiencies not only slow down the

information retrieval process but also lead to permanent loss of valuable public records (Oseni, 2024). In terms of technology, limited internet access, outdated software and a lack of trained personnel have made digital archiving and proactive disclosure difficult. The FOIA's directive for agencies to publish information regularly on digital platforms has largely been ignored due to infrastructural limitations. This digital gap is more pronounced in rural areas and among state-level agencies, further undermining equitable access to information.

#### **4. Low Public Awareness and Civic Literacy**

A recurring theme in the study is the general lack of awareness among Nigerians regarding their rights under the FOIA. Many citizens are unaware that they have a legal entitlement to request public information without demonstrating a specific interest or purpose (Duru & Ezech, 2018). This lack of civic literacy severely limits public pressure on institutions to comply with the Act. Even among journalists and civil society organisations key stakeholders expected to utilize the FOIA for investigative reporting and social accountability many lack the technical knowledge or legal support needed to pursue requests effectively. This results in underutilization of the law and minimal public discourse about its benefits or limitations.

#### **5. Fear of Retaliation and Unsafe Environment for Requesters**

The findings also show that fear of reprisal is a critical deterrent to FOIA usage, especially among journalists and human rights activists. Several respondents recounted experiences of intimidation, legal threats, or surveillance after filing FOIA requests on sensitive matters like budget allocations, corruption cases, or security contracts. Nigeria's Cybercrime Act and other vaguely defined laws are sometimes used to prosecute individuals for "false information" or "defamation," effectively silencing dissent and discouraging transparency-seeking behaviors (AP News, 2024). Such an environment is antithetical to the spirit of the FOIA and reflects the broader insecurity faced by the media and civil society in Nigeria. Without protective laws and institutional backing, the FOIA risks becoming a toothless document that exists only on paper.

#### **6. Weak Enforcement and Monitoring Mechanisms**

Lastly, the lack of an independent and adequately empowered oversight body has led to a vacuum in enforcement. Although the FOIA mandates proactive disclosures and quarterly compliance reports from public institutions, there is no central authority with the mandate to compel or penalize non-compliant agencies (Madubuike-Ekwe & Mbadugha, 2018). The Ministry of Justice, currently tasked with monitoring implementation, lacks the autonomy and resources to



carry out this function effectively. In contrast, successful FOIA regimes in countries like South Africa and India rely on independent information commissions that have both adjudicatory and enforcement powers. The absence of a similar institution in Nigeria undermines the potential for redress and reinforces impunity among defaulting agencies.

## **Conclusion**

Information Freedom Act is a vital instrument to advance democracy in Nigeria. Its promise inherently rests on access of information by citizens and their ability to programs undertaken by public officers and institutions. It is also an important step toward transparency in governance. Over a decade after its inception, however, the Act has faced numerous challenges. These have ranged from resistance by government agencies to inadequate awareness at the public level, lacking enforcement mechanisms and infrastructural hurdles. The results of this study highlight that Nigeria's FOI Act is not only deficient in practice, but lacking action and associated resources necessary for the intended result. Moving forward without active solution-driven measures could lead to stagnant legislative cynicism. There is immediate strategic rethinking necessary on the operational, legal and civil governance structures associated with the FOI Act within Nigeria. This gap cannot solely depend on legal frameworks. The particular domain of investigative journalism continues to act as a crucial variable in this respect. Journalists protecting the public interest must be empowered legally and administratively to adequately apply the FOI Act.

## **Recommendations**

1. The Nigerian government ought to set up an independent commission that has the authority to monitor compliance, investigate complaints and enforce penalties for non-adherence to the FOI Act.
2. Awareness and training programs should be designed and implemented to enable journalists, civil society organisations and the public to utilize the FOI Act constructively.
3. Government institutions are required to allocate funds towards the digitization of public records, as well as the organisation of data management systems, to facilitate the effective retrieval and dissemination of information.
4. There should be genuine political commitment to implement the provisions of the FOI Act in an unbiased manner. Information requests, regardless of how sensitive they are considered to be, ought to be processed devoid of political obstructions.

5. The effective implementation of the 'Principles Of FOI Act' can be taught in civic classes for students to be able to learn the sections and put their knowledge into practice which will help promote a culture of transparency and foster civic responsibility at an early age.
6. Publication of annual FOI compliance reports should be mandatory for all agencies. These reports need to be available to the public and oversight by the legislature or appropriate civil society coalitions should be provided.

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