

## Research Article

# The Freedom of Information Act, and Journalists' Access to Information in Port Harcourt, Nigeria

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**Abstract:** The study was carried out to determine the extent of implementation of the Nigeria's Freedom of Information Act 2011 (FoIA) by journalists in Port Harcourt. The study was predicated on two theories - agenda setting and social responsibility theories. The objectives, among other things, were to investigate and evaluate journalists' access to information in Port Harcourt and the extent of implementation of the Nigeria's Freedom of Information Act 2011. Survey was adopted as the study design, while questionnaire was used to elicit information from the respondents. A sample size of 300 was from the journalists in Port Harcourt. Findings showed that journalists in Port Harcourt applied and accessed information within the framework of Freedom of Information Act, but the extent is low. The study also showed that the extent of implementation of the FoIA by journalists in Port Harcourt is low, amongst others. Based on the foregoing, it was recommended, amongst others, that journalists should painstakingly apply for access to information within the framework of the FoIA, with a bid to increasing the frequency, testing the potency of the FoIA to make government-held information available to the people, and to detect flaws inherent in the FoIA, if any.

**Keywords:** Freedom of Information Act, Journalists, Access to Information.

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## INTRODUCTION

A free press is one of the foundations of a democratic society. According to Lipmann (1922), "A free press is not a privilege, but an organic necessity in a great society" (p.158). Indeed, as society has grown increasingly complex, people rely more and more on newspaper, radio, and television to keep abreast with world news, opinion, and political ideas hence the need for an unhindered access to information. One sign of the importance of a free press is that when antidemocratic forces take over a country, their first act is often to muzzle the press. Jefferson (1787) on the necessity of a free press stated that:

The basis of our government being the opinion of the people, the very object should be to keep that right; and were it left to me to decide whether we should have a government without newspapers or newspapers without a government, I should not hesitate a moment to prefer the latter (p.174).

Freedom to access information is an intrinsic part of a free press, therefore any hindrance to that ultimately affects the good of the state; Blackstone (1765) comment that:

The liberty of the press (to access and disseminate information freely and unhindered) is indeed essential to the nature of a free state; but this consists in laying no pervious restraints upon publication, and not in freedom from censure from criminal matter when published. Every freeman has undoubted right to lay what sentiments he pleases before the

public; to forbid this is to destroy the freedom of the press ... (p.152).

The media's role in the society goes beyond newsgathering and dissemination of information. It also includes moulding and shaping of opinions and attitude of people, through proper and accurate analyses and interpretation of news events. This makes the media an intrinsic part of the society. Lipmann (1922) sees a free press as an organic necessity in a great society. He posits further that same (free press) is not a privilege. Nigerian society has been riddled with vices, which have their root in the lackadaisical way access to information is treated and the attitude of the leaders towards the practice of Journalism and freedom of access to government-held information, which journalists claimed was impossible and difficult due to lack of clear cut laws that guarantee free access to information (government-held information). These seeming impediments led to the struggle and agitation for a freedom of information law.

However, the Freedom of Information Bill was passed and assented to in 2011. It is uncertain whether journalists in Port Harcourt have started implementing the Freedom of Information Act, in terms of access to information, especially information, which fell within the purview of official secrets, confidential and classified information in government and other corporate agencies. What is the level of implementation of the Freedom of Information Act 2011 (FoIA), how has it benefited the press, and what efforts have journalists in Port Harcourt made towards the implementation of the Freedom of Information Act, in view of the press' esteemed position, as the Fourth Estate of the realm (Carlyle 1841, p.96), the mirror of the society (Malemi

2009, p.23), and the privilege accorded to it by the Nigerian Constitution in sections 22 and 39, which inter-alia provides that the Press shall hold government accountable to the people and shall have the freedom to disseminate and impart knowledge to the people, respectively. To this end, this study aims at finding out the level of implementation of the Freedom of Information Act among journalist in Port Harcourt.

## Objectives of the Study

### The Objectives Of The Study Were To:

1. Find out the extent to which journalists in Port Harcourt apply for access to information within the framework of Freedom of Information Act.
2. evaluate the extent of implementation of the FoIA
3. Assess the disposition of Journalists in Port Harcourt towards the implementation of the Freedom of Information Act.

## Research Questions

1. To what extent have journalists in Port Harcourt applied for access to information under the framework of the Freedom of Information Act?
2. To what extent have the journalists in Port Harcourt implemented the FoIA?
3. What is the disposition of Journalists in Port Harcourt towards the implementation of the Freedom of Information Act?

## Theoretical Framework and Review of Related Literature

The study was anchored on two theories – Social Responsibility Theory and Agenda Setting Theory (AST). The Social Responsibility Theory (SRT) is an off-shot of Libertarian Theory propounded by F.S. Siebert, T.B. Peterson and W. Schramm in 1963. Historically, it owes its origin to the Hutchins Commission on Freedom of the Press, set up in the United States of America, in 1947, to re-examine the concept of Press Freedom. The Commission's work became what is known as the Social Responsibility Theory. Peterson interpreted SRT thus: that freedom carries obligation and the press, which enjoys privileged position under the government (Constitution) is obliged to be responsible to the society". He further listed the following as what constitute social responsibility: Servicing the political system by providing information, discussion and debate on public affairs; Enlightening the public so as to make it capable of self-government; and Safeguarding the rights of the individuals by serving as watchdog against government (p.20).

From the foregoing, one could rightly state that it is the social responsibility of the press to utilise the Freedom of Information Act, and to sensitise the Nigerian society on the usefulness and the positive effect of the Freedom of Information Act 2011.

Importantly, too, to educate the people on the need to fully implement and utilise the Act, for the benefit of the Nigerian society; and possibly, if any, draw attention of the people and relevant authorities to the area(s) that may require intervention and amendment.

On the other hand, Agenda Setting Theory presupposes that the press being the watchdog of the society not only informs us, but influences our opinions in diverse ways. The press set in motion a debate on topical society issues. These issues are often important and at the very heart of the society survival. Thus, Cohen (1963) notes that "the new finding is that the media often may not be successful in telling the people what to think, but they have considerable success in telling us what to think about" (p.13). He adds that "by this, we mean that the media through selective presentation and emphasis set both political and social agenda for audience members" (p. 13). Amadi (1998) in support of the above posits that "the media lead the audience, telling them

and creating an agenda for our thoughts and influence us in what seems important" (p. 15).

According to the tenets of the theory, society includes or excludes from their cognition whatever the mass media include or exclude from their content menu. In a similar vein, the level of importance attached to media contents are similar to what the media presents as important. The media via describing and reporting events present their audience with a long list of topics to think on and talk on. Historically, the agenda setting theory was propounded by Maxwell McCombs & Donald Shaw in 1972. It is a media effects theory that seeks to explain how the media raises issues and makes such issues topical for members of society.

Based on the foregoing, it is right to say that the power of the media to set agenda and/or to tell what to think about flows from, among other things, the preponderant of information it has, including the ones elicited through the implementation of the Freedom of Information Act by the journalists in Port Harcourt, and communicated to the people through the media, that shape peoples' thoughts on the array of things to think about.

The concept of free press requires that journalists and media practitioners should have the freedom to probe, obtain and publish news and opinions for public information and knowledge, without hindrance or constraint. This encompasses the right to hold opinions and to receive and impart ideas and information without interference contained in the Nigerian Constitution, particularly, in section 39 of the Constitution of the Federal Republic of Nigeria, 1999, as amended. Undoubtedly, press rights are one of the most fundamental rights to a free citizen. In United States of America (USA), for instance, it is firmly established in the First Amendment to the Constitution of the United States of American, that freedom of speech and the press are accorded priority similar to right to life. Government carries along the opinions and views of their citizens, no matter how foolish or inciting such opinion may be.

Justice George Sutherland, as quoted by Yalaju (2001), corroborated the above in 1935, when he stated that "a free press stands as one of the great interpreters between the government and the people, to allow it to be fettered is to be fettered ourselves." On the need to uphold the fundamentality of the freedom of expression and the press, the first amendment to the USA Constitution, states clearly that "Congress shall make no law abridging the freedom of the press..."

However, in Nigeria, press freedom is enshrined and expressed in section 39(1) of the 1999 constitution (as Amended) it provides as follows:

Every person shall be entitled to the freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference... and operate any medium for the dissemination of the information, ideas and opinions.

The essence of journalism is to provide citizens with reliable information through the discipline of verification; such information cannot be available without unhindered access to information, which scholars argued, play a key role in a system of checks and balances, designed to limit the overreach of powers concentrated in governments, businesses and other entities and individuals. To this end, access to verifiable information gathered by the independent media sources (journalists) adhering to journalistic standards becomes imperative in order to provide to the ordinary citizens information or tools germane to their participation in the political process. In carrying-out this onerous task, Bill Kovach and Tom Rosentiel (2007) opined that journalists' first loyalty should be to the citizenry, obligated to tell the truth and must serve as an independent monitor of powerful individuals and institutions within society. Amadi (2003) in agreement, captured the practical position of the media, especially, the government-owned media.

### He Noted That:

In Nigeria where the mainstream electronic media are almost exclusively owned by the government and just very few privileged collaborators, the bug of lay and hierarchical control are common to the extent that radio and television station managers who engage in any manner of independent editorial initiative are quickly whipped into line with either suspension, outright sack or both (p. 24).

In addition, government has used all manner of things and tactics, including bribery, economic policy, intimidation, harassment, arrest and detention, to get journalists and the media to support it. This is opposed to the postulation of Yalaju (2001) who posits that "the press should have the right to write, inform and educate the public without fear of censorship, intimidation, molestation or restraint to personal liberty of the writer, subject only to existing laws" (p.33). The researcher quips that this seeming conundrum could constitute and imbue lack of independence, courage, objectivity and ethical principles on the part of the Nigerian journalists.

### Empirical Review

Chukwu, J. and Ihejirika, W. (2018) conducted a study on the utilisation of the Freedom of Information Act 2011 by Journalists in Lagos state. The study revealed that the extent of utilisation of the FoIA by journalists in Lagos state was high. Also, Job B. Guyson, Eric Dung Jamo, and Ismaila M. Yakubu (2017) conducted a study on the utilisation of the 2011 Freedom of Information Act in selected States of North Central Nigeria. The study revealed that the Act is not utilised in the region, despite the journalists' enormous knowledge of the legislation. The study also showed that journalists in the north central region have not benefited from the Act.

Similarly, Agbo (2015) conducted a study on the utilisation of the Freedom of Information Act (FoIA) among print media journalists in South -East, Nigeria. The study showed that journalists in the print media in the South-Eastern Nigeria are yet to effectively utilise the provisions of the Act in their practice of journalism.

Further, University College London's Constitution Unit (2009) conducted a research on the United Kingdom Freedom of Information Act 2000 and Journalists' use of the Act. Equally, the study showed that Journalists in United Kingdom, though, happy to have Freedom of Information Act, find the response and appeal process frustrating. It further concluded there were significant disappointment with the operation of the Act, frustration

centered on delays, liberal use of exemptions and longer periods of waiting during the internal review and appeal processes were also part of their findings.

## METHODOLOGY

The study adopted survey research design, while questionnaire was used as the instrument of data collection. A sample size of 300 was drawn from the population of registered journalists in Port Harcourt, Rivers state, which according to the Nigerian Union of Journalists (NUJ) Port Harcourt Secretariat stood at 400, using Taro Yamane's statistical percentage formula. A systematic random sampling technique was used to track the journalists at their meeting venue and respective media establishments (Chapels), where the copies of questionnaire were administered and collected.

### DATA PRESENTATION AND ANALYSIS

**Table 1: Application for information under the FoIA**

Options	Number of respondents	Percentage (%)
Yes	89	31
No	196	69
<b>Total</b>	<b>285</b>	<b>100</b>

The table shows that some journalists in Port Harcourt have applied for information under the Act.

**Table 2: Accessed information under the FOIA**

Options	Number of respondents	Percentage (%)
Yes	63	22
No	222	78
<b>Total</b>	<b>285</b>	<b>100</b>

Table 2 shows that journalists in Port Harcourt accessed information under the Freedom of Information Act.

**Table 3: Frequency of access to information.**

Options	Number of respondents	Percentage (%)
Once	32	51
Twice	18	29
Thrice	13	20
Four times	-	Nil
More	-	Nil
<b>TOTAL</b>	<b>63</b>	<b>100</b>

Table 3 indicates that majority of the information accessed under the FoIA, were accessed once, and that no respondent accessed information under the FoIA four times or more.

**Table 4: Extent of respondents' Awareness of FOIA**

Options	Respondents	Weighted	WMS	Response Result	Percentages
Very high extent	169	845			60
High extent	71	284			25
Some extent	14	42			4
Low Extent	0	0			0
Very low Extent	31	31			11
	<b>285</b>	<b>1202</b>	<b>4.2</b>	<b>HIGH</b>	<b>100</b>

Table 4 indicates a high response result, which implies that journalists in Port Harcourt are aware of FOIA.

**Table 5: Extent of implementation of the FoIA by Journalists.**

Options	Respondents	Weighted	WMS	Response Result	Percentages
Very high extent	42	210			15
High extent	42	168			15
Some extent	115	345			40
Low Extent	29	58			10
Very low Extent	57	57			20
	<b>285</b>	<b>838</b>	<b>2.9</b>	<b>Low</b>	<b>100</b>

Regarding to the above statement, the table indicates a low response result of 2.9 WMS. This means that the extent of implementation of the FoIA amongst journalists in Port Harcourt

is low. The implication of the above is that journalists have started implementing the FoIA, but the extent is low.

**Table 6: Information accessibility is easy under FOIA**

OPTIONS	RESPONDENTS	WEIGHTED	WMS	RESPONSE RESULT	PERCENTAGE
Strongly Agree	50	250			18
Agree	64	256			22
Undecided	92	276			33
Disagree	29	58			10
Strongly disagree	50	50			17
	<b>285</b>	<b>890</b>	<b>3.1</b>	<b>POSITIVE</b>	<b>100</b>

Table 6 indicates that information accessibility under the FoIA is easy.

**Table 7: On whether effort made in accessing information under FOIA is commendable:**

OPTIONS	RESPONDENTS	WEIGHTED	WMS	RESPONSE RESULT	PERCENTAGE
Strongly Agree	29	145			10
Agree	121	484			43
Undecided	71	213			25
Disagree	36	72			12
Strongly disagree	29	29			10
	<b>285</b>	<b>943</b>	<b>3.3</b>	<b>POSITIVE</b>	<b>100</b>

The above implies that the effort made by journalists in Port Harcourt in trying to access information through FOIA is commendable.

**Table 8: Disposition towards implementation of FOIA**

OPTIONS	RESPONDENTS	WEIGHTED	WMS	RESPONSE RESULT	PERCENTAGE
Strongly Agree	42	210			15
Agree	71	284			25
Undecided	100	300			35
Disagree	36	72			12
Strongly disagree	36	36			13
	<b>285</b>	<b>902</b>	<b>3.1</b>	<b>POSITIVE</b>	<b>100</b>

The table above reflects a positive response result regarding to the disposition of journalists in Port Harcourt towards implementation of the FoIA.

## DISCUSSION OF FINDINGS

Findings show that journalists in Port Harcourt applied and accessed information within the framework of Freedom of Information Act, but the extent is low. It also indicates that journalists in Port Harcourt have made efforts in trying to apply the FoIA, although this figure is low compared to the number of respondents that have not applied. However, the positive response result indicated in table 7 showed that the respondents agreed that the effort was commendable. This result corroborates the assertion by Lipmann (1922) that a free press is not a privilege, but an organic necessity in a great society. The efforts of journalists in the application of the FoIA within this time frame tallies with the social responsibility of the press "servicing the political system... and enlightening the people..." as postulated by Peterson, cited by Amadi (1998), and may possibly, extricate the Nigerian society from the culture of secrecy bedevilling our society, and sensitise the people on the need to have implicit confidence and preference for the press, in line with the assertion of Jefferson (1787).

The findings further show that the majority of the journalists accessed information once. This portrays lack of enthusiasm on the part of the press, in spite of the claims that the Act will encourage the journalists to perform the constitutional role provided for, in section 22 and 39 of the 1999 constitution (as amended). This attitude sharply contrasts with the press earlier disposition towards the very law which ostensibly, it has hinged its success on. This trend portends great adverse implication and not in line with Neumann's 1987 postulation of the trigonal decisive factor in the agenda setting role of the press. Also, the assumption here is that this trend (lack of ubiquity), could consequently cause the people to perceive the FoIA as lame-duck, unimportant and not capable of entrenching the much needed press freedom, as espoused in the United States of American's Constitution - First Amendment.

Further, it would stifle the culture of allowing the citizens' to participate intelligently in debate about their nation and free access to information. This result cannot lay the solid foundation upon which the public's right to "discover what the

Federal government was up to" as asserted by Dominick (1999) in support of the American Freedom of Information Act. The researcher further asserts that it is only when the FoIA is tested in a gargantuan proportion and found to be a reliable law or platform upon which demand for access to information/record can be made, that we can indeed say that there is a statutory authority that guaranteed press freedom.

The findings of the study further indicated that the extent of implementation of FoIA amongst journalists in Port Harcourt, regarding to the question two is low. This means that the extent of implementation of FoIA by journalists in Port Harcourt is low. Thus, by implication, indicated that journalists have started utilised the provisions of the FoIA to elicit information, but the extent is low. Supportively, data analysed regarding to the frequencies of access to information, showed that majority of the journalists' accessed information under the framework of the FoIA once. This further adumbrates the fact that journalists in Port Harcourt accessed information through the use of the FoIA legal regime. The finding also indicates a positive response result regarding the extent of awareness of the FoIA amongst journalists in Port Harcourt. This result is in line with, and supports the assertion in the report of the International Commission for the Study of Communication Problem, which posit that "our basic purpose in communication is to become an effective agent to affect others, our physical environment and ourselves" (p.6).

In the same vein, the study outcome also indicates a positive disposition towards implementation of the FoIA. This, by implication, means that journalists in Port Harcourt are disposed to implementation of the FoIA. The researcher quips that this disposition if sustained would cause the press to sensitize, mobilize the people and public opinion in the direction of the FoIA, thereby engendering the same effect Dominick (1999) observed in respect of the United States of America's Freedom of Information Act - "This law gave the public the right to discover what the Federal government was up to" (p.438); and by extension, conform with the press, as revealed by Lipmann (1922) and Blackstone (1765). They, respectively, posit that the press is an organic necessity in a great society; and indeed

essential to the nature of a free state. Also the postulation of Steward (1971), which is to the effect that a proactive press would expose corruption, keep the political process honest, flourish democracy and engender a virile state. Further, these findings support the agenda setting role of the press used in this study and showed that journalists have started implementing the FoIA.

### Conclusion and Recommendations

Based on the findings, the study concludes that journalists in Port Harcourt have applied and accessed information under the framework of the FoIA, but the extent of the application is low. It, therefore, recommends that journalists in Port Harcourt should painstakingly apply for access to information within the framework of the FoIA, with a bid to increasing the frequency, testing the potency of the FoIA to make government-held information available to the people, and to detect flaws inherent in the FoIA, if any.

Also, in view of the low extent result generated regarding to implementation of the FoIA, journalists in Port Harcourt should intensify efforts towards full implementation of the Freedom of Information Act.

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