

Freedom of Information Act: A Key to Transparent and Accountable Government in Nigeria

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Abstract: - Transparency and accountability are vital ingredients of democratic governance. Nevertheless, in Nigeria public sector, the state of transparency and accountability has raised concern among the scholars, policy makers, analysts and other stake holders. The rate of corrupt practices and lack of responsive leadership in the public sector has partly been attributed to poor transparency and accountability culture. The study; therefore, examined how effective utilization of the provisions of Freedom of Information Act, 2011, can facilitate accountability and transparency in the public sector management. The methodology of the study is both qualitative and descriptive. Through documentary sources, relevant data were generated and subjected to contextual-descriptive analysis. The findings of the study, among other things, demonstrated that citizens' access to information about government activities empowers them to hold their leaders accountable for their public conducts. This in turn makes the leaders to be open, responsible and responsive to the need of the people in carrying out their public functions to avoid vote of no confidence and criticism from the public. Consequently, the study suggests, *inter alia*, the review of some sections of the Act which deals with non disclosure of certain information; enlightenment of the public on the utilization of the Act; strict compliance to the provisions of the Act as well as a review of any other existing laws that may affect the effectiveness of the Freedom of Information Act.

Key words: Freedom, information, Act, transparency, and accountability

I. INTRODUCTION

In modern-day democratic society, the pervasiveness of transparency and accountability has been on the increase as novel challenges faced by administrations come up. Democracy still remains the hypothesis if those in public offices cannot be transparent and held responsible to account for their act of omissions, commissions, policies and outlay in the conduct of their authorized responsibilities. Since 1960, when Nigeria got its political independence, successive government, both military and civilian have been criticized by public analysts and anti-corruption campaign organizations for the pitiable state of transparency and accountability in public management. The management of public resources during the prolonged military regimes was veiled in concealment owing to restricted citizen participation in governance process and lack of access to information about government activities. Thus, the control of public resources and machinery were entrusted in the hands of military oligarchy cum cabal characterized by dominion system as well as strong repugnance to freedom of information and

accountability. The height of corrupt practices during the military era, particularly under President Ibrahim Babangida and General Sani Abacha, was despicable and appalling.

Unfortunately, the return of the country to democratic regime on May 29th, 1999 has not remarkably reduced the pace of financial misdemeanors and other forms of corrupt practices. Nonetheless, the opening of the political space increased the participation of the citizens in public administration and their unrelenting demand for unhindered access to information about the activities of those in management. The civil society organization, individuals and other stake holders in promoting democracy and good governance in Nigeria, have since 1999, been asking the government to be more transparent and accountable so as to reduce the tempo of financial malpractice which has undermined the development of the country. Besides, global institutes such as IMF, World Bank, Transparency International, African Union, United Nations Organization, European Union and many others have continued to put pressure on various governments to promote transparency and accountability. Article 9 of the African Union Convention on Preventing and Combating Corruption requires all state parties to it to adopt such legislative and other measures to give effect to the right of access to any information that is required to assist in the fight against corruption and related offences. Moreover, Article 13 of the United Nations Convention against Corruption requires government to ensure citizens' participation in anti-corruption fight through: Enhancing the transparency and promoting the contributions of the public to decision-making process; and ensuring that the public has effective right to use information.

Several countries across the globe have recognized the imperative of freedom of information and have enacted laws to that effect. Sweden was the first country to provide freedom of information to its citizens in 1766. The constitutional provision guaranteeing this freedom was adopted in the year as part of the country's Freedom of the Press Act. Other countries that have enacted freedom of information legislation include: Finland in 1951; the United State of America in 1966; Denmark and Norway in 1970; France, Austria and Netherlands in the 70s; Australia, Canada and New Zealand between 1982-3; Bulgaria in 2000; Ireland in 1997; South Africa in 2000; Thailand in 1997 (Roy, 2003). The Freedom of Information Acts in developed democracies according to Bell and Watchirs (1988) have three elemental characteristics:

a legal right of right to use government records without an established need to know; specific exemptions to protect national security, personal privacy, law enforcement and the like; where access is refused, a right of appeal independent of government officials.

In 1999, concerned citizens and non-governmental organizations in Nigeria led by the Media Rights Agenda initiated and spearhead the drafting of Freedom of Information Bill. The bill after undergoing the required legislative processes in the National Assembly was passed by the assembly on May 26, 2011. It was transmitted to President Goodluck Ebere Jonathan for assent on May 27 and was subsequently signed into law on May 28, 2011. The Freedom of Information Act, 2011 as demonstrated in its preamble seek to make public records and information freely available, provide for public access to public records and information; protect public records and information to the extent that is consistent with the public interest and personal privacy; protect serving public officers from adverse consequence of disclosing certain kind of official information without authorization and established procedure for the achievement of those purposes and for related matters. The study, therefore, investigates how effective utilization of the provisions of this Act can facilitate transparency and accountability in public management as well as the fight against corrupt practices in Nigeria.

II. METHODOLOGY

The methodology of the research is qualitative and descriptive in approach. Through documentary sources, relevant data on freedom of information, transparency and accountability were generated and subjected to contextual-descriptive analysis. To ensure the validity and reliability of the data, the researcher relied on data generated from government documents, anti-corruption organizations and NGOs documents, conference papers, periodicals, internet material, journals and book written by renowned scholars and experts on transparency, accountability and good governance. The scope of the study is limited to how efficient use of the Freedom of Information Act, 2011 can enhance public accountability and transparency which in turn will reduce the rate of financial malpractices and other corrupt practices.

III. CONCEPTUALIZING TRANSPARENCY AND ACCOUNTABILITY

Transparency

In contemporary time, transparency and accountability are viewed as core instruments of good governance and a precondition to any democratic management. Nevertheless, the concepts have been subjected to unlike interpretations and meanings by scholars, analysts as well as public administrators. According to Mabillard and Zumofen (2015), the wide spread concentration on the term, transparency, has raised a lot of questions about the way to handle transparency theoretically. Transparency is more often invoked than

defined. Transparency refers to unregulated access to appropriate and reliable information on decisions and performance in public sector management by the citizens. Libich (2006) identified five types of transparency which have effect on the outcome and implementation of policy. Political or goal transparency is concerned with the mission of the organization. It occurs when the ultimate objective is known and is likely to improve when leadership is accountable. Economic transparency occurs when financial institutions make their decision-making instruments open to the public. This type of transparency enhances the credibility of decision once made and provides data about why the financial institution did or did not meet its goals. Procedural transparency refers to the process whereby decisions are made, while operational transparency take place via such activities as performance appraisal and admission of error in planning or meeting goals, all of which enable the public to ascertain the degree to which the institution has attain its objective.

Alt, Lassen and Skilling (2002) explain transparency in terms of principal-agent theory and operationalized it as a viable decision-making which enhances trust in the decisions of government and elected officials by reducing asymmetries of information between political actors and voters, and in turn creating a great degree of public confidence in political leaders. In a similar way Stirton and Lotge (2001) maintain that transparency happens when the organization promote visible decision making, are open to public. Input, allow the public the optimal choice of services, and work in collaboration with other organizations for mutual public interest. The scholars identified four mechanisms to create transparency in organization as voice, representation, information and choice. Voice and representation are concerned with the process of creating service while information and choice have to do with execution and provision of the service. Hirsch and Osborne (2000) see transparency as a means to enhance government outcomes. Transparency enhances administrative effectiveness as well as policy effectiveness. It means greater information for decision-taking and in the end, for the public so that the citizens can support the policy.

From the above succinct review of the definitions and theoretical foundation of transparency, we conclude that transparency mean more than making information available to the public by an organization. It embraces promoting laws and the enabling environment that will give the citizens easy access to such information when the need arises. Transparency demands that the citizens should not only know what the government is doing but also participating in doing it and being in a position to use the available information to evaluate the activities of government for the purpose of promoting good governance.

Accountability

Accountability is one of the quite a few terms that have been central to the study and practice of public management. The concept which is typically taken as the key challenge in the Anglo-America public administration theories have been subjected to contrasting meanings and, interpretations (Hood, 2010; Behn, 2001). As a concept, accountability is rather indefinable and has been employed politically to patch up an incoherent argument, induce image of credibility, fidelity, and justice, or to keep critics at a distance (Bovens, 2005). The classic theories on the liberal-democratic state conceived accountability as a multifarious structure of checks and balance designed to stop the misuse of authority and safeguard of the sphere of liberty and personal development that relates to individuals and society in general. Accountability can be studied using different approaches: political, administrative, organizational, social, professional and legal. As a virtue accountability is a representation for good governance as well as a scheme for blaming. In modern-day public management, accountability relations are crucial avenue for delivery blame in case things go wrong because being accountable means being responsible, which in turn, means having to bear the fault. As a liability, accountability involves three components. First, to be liable, one has to go contrary to some rules by one's actions. Secondly, there normally must be a casual connect between the action or behaviour of the person to be held accountable and things that have gone amiss. Thirdly, the person who is to render account must have had alternative choice. According to Mabillard and Zumofen (2015) the study of the concept of accountability can take the form of mechanism (principal agent theory), function (institutionalist theories), a behaviour (social or cultural psychology) or a relation (moral theory) depending on the author's standpoint.

Conventionally, accountability refers to answerability for one's action or behaviour; officially it involves the development of objective standard assessment to assist the owners of an enterprise to appraise the performance of duties by individuals and units within the organization. It has three crucial elements: a lucid definition of responsibility, reporting mechanisms and a system of review, rewards, and sanction (Olowu, 2002). Accountability flows in various directions; upward, downward between subordinate and superior, and laterally among professional groups. As a social relation, accountability is a social relation in which an actor feels an obligation to explicate and give good reason for his conducts to some significant others. In this context, there are elements such as the actor or the accountability forum. The interaction between the actor and the forum, that is the person to be held accountable and the people he is answerable to, usually involves at least three stages. First, office holder (actor) must feel indebted to inform the public, organization (Forum) about his action, by providing different sorts of information about the performance of his roles, about the results or about procedures. In the event of failures, good reason is required. The provision of this information enables

the forum; that is community or organization, to query the public officer and interrogate the suitability of the information or the validity of the conducts. This second phase is the data base stage. Thirdly, the forums usually give verdict on the conduct of the office holder. The forum may sanction an annual account, renounce a policy or publicly disparage the behaviour of the officer or agencies. In given undesirable verdict, the forum often imposes some kind of reprimand on the officer. These sanctions may be much formalized such as punitive measure or even penal sanctions, but often the punishment will only be implicit or informal, such as giving the account in front of television-cameras or having the officer's public image damaged by the adverse publicity that stems from the process. Therefore to qualify a social relation as a practice of public accountability, the public officer should at least have the obligation to publicly explicate and give explanation for his conduct to a specific forum (Bovens, 2005).

From the above, it is discernable that accountability embraces holding public or private officers responsible for their acts of omission or commission in the discharge of official responsibilities. It deals with the power of the citizens, in case of public sector, to demand explanations from their leaders on how they utilize the resources and power entrusted on them. For accountability to achieve its objective there should be transparency because it is only when the citizens have information about the available resources and activities of their leaders that they can successfully evaluate their account leadership.

IV. FUNCTIONS OF ACCOUNTABILITY

Accountability is not just the trademark of democratic governance but also a sine qua non for democratic governance. Present-day representative democracy operates on the basis of principal-agents relation. In this perspective, the citizens are the principals who delegated their sovereign power to the elected representatives who in turn are expected to be liable to citizens. The citizens, the primary principal in a democracy, transfer their sovereignty to political representatives, who in turn (at least in a parliamentary system) confined their confidence in a cabinet. The cabinet ministers, consequently, delegate or mandate some of their authority to the civil servants at the ministry, which in its turn; transfer authority to independent agencies and public organizations. The agencies and civil servants undertake the execution of public policy and programmes.

Accountability is essential for the efficient functioning of all organization, principally state owned organizations in a democratic system. Accountability structures in the public sector are surrogates for market forces in non market conditions and they help to reflect the preferences of the public as citizens and consumers in the public realm. Accountability is a quality control instrument. Public accountability demands that those who are entrusted with public resources account for the use of the resources

entrusted on them. Therefore, public accountability emphasizes the preeminence of public interest over private interest of those that are involved in the management of public resource. Accountability in public service functions as democratic control apparatus. Bovens (2005) noted that each of the principals in the sequence of delegation wants to control the exercise of the transmitted power by holding the agent accountable. At the end line of accountability relations are the citizens who appraise the performance of the government and can reprimand those with pitiable performance by voting them out in the next election. Thus, public accountability is essential condition for democratic practice because it offers elected representatives and electorate with necessary inputs for assessing the fairness, effectiveness and efficiency of government. Accountability is closely associated with the enjoyment of democratic life because democratic governance upholds the supremacy of citizens in the process of governance.

Besides, public accountability enhances uprightness of public governance. Public accountability is a device for combating corruption, discrimination, abuse of power and other forms of misconducts in the public sector. Accountability discourages government officers from clandestinely abusing their powers because of probable sanction from the public. Attention to public accountability is motivated by general feeling that state cum government sector management is by and large improvident. Olowu (2002) noted that this misuse is viewed in two dimensions. One is the unproductive utilization of public resources in service delivery to the citizenry; and the perception that majority of political office holders are fraudulent and that many civil servants conspire and in some instances might become a part of the rent-seeking elite. The demand for accountability has been heightened by the sharp reduction in resources available to government regardless of rising expectation from the citizens who want to get utmost value for their money cum public resources.

Thirdly, public accountability improves performance and is instituted to cultivate institutional learning. Accountability is not only intended to control but also to check. In other words, accountability is both control and deterrent device. Through public accountability, public officers can learn to improve their performance via public condemnation and commendation. The public officer who gives account is reminded through established norms, the standard he must hold fast in the discharge of his mandate. Norms are created, internalized and where obligatory adjusted through accountability mechanism in organization. Public officers who are held accountable gain knowledge from their mistakes and amend their behaviour, policies and procedures.

Another task of accountability is legitimization of government. Legitimacy, citizens' empowerment and participation, efficiency, rule of law, transparency, predictability, responsiveness and accountability are all norms of good or better government. Governments in advanced

democracies encounter critical citizens and as such the exercise of public power is taken seriously. Public accountability, in the sense of transparency, responsiveness and answerability, enhances the citizens' trust in government and close the gap between the citizens and representatives and between the government and the governed.

V. FUNCTIONS OF TRANSPARENCY

The values of uprightness, transparency and accountability in public administration have enjoyed renaissance in recent times globally (Armstrong, 2005). Sound public administration involves public confidence. The people expect public officers to serve national interest or public interest with fairness and to manage public resources astutely. Transparency inspires public confidence and is bedrock of good governance. Globalization has made achievable a brisk dispersion of ideas and practice, enabling the citizens to demand higher standard of transparency in the public sector. Transparency is a desideratum for democratic governance. It offers the citizens opportunity to have knowledge of government activities and the actions of those entrusted with public resources. Access to knowledge of government dealings enhances accountability. When citizens are alert of what government officials are doing, the involved officials tend to abide by the conventional norms and standard to avoid public sanction. Transparency is open government. Open government allows citizens' participation in governance process. When citizens participate in governance by gaining access to government data and analyzing the data, it offers them with the opportunity to make input that is capable of enhancing performance. Transparency allows the citizens to assess properly government performance and offer useful criticism or advice. Transparency is a key to better decision making and programme execution.

Transparency is an element of strategic negotiation because the degree of openness in conveying information is viewed as an instrument for signaling the trustworthiness of the parties in negotiations. Increasing the rate of openness in government decision making increases the possibility of democracy and citizens' participation. Transparency, at least, make decision making process of non-democratic government more accessible to the citizens. For democracy to be meaningful and effective, the government should be transparent because democracy entails responsiveness, rule of law, accountability, right to information, popular participation, public opinion, public debate etc. Without transparency it will be thorny to achieve other goals of democratic governance. Thus transparency strengthens democracy and enhances good governance. As noted by Summer and Nowicki (2006) transparency is a string of activities creating governance systems, visible performance measurement systems, and readily available decision-making data about pricing of service and the amount of charity care. Greater access to government information armed the citizens with data to adequately assess the performance of the government and pass verdict. Transparency functions to enhance integrity in public governance. It is a good strategy

for combating and preventing corrupt practices and abuse of public offices by public managers. A government that operates in secrecy is more vulnerable to corruption than government that adheres to transparency (Roy, 2003). The scholars of transparency in public policy consider transparency as a given element of public policy and that transparent policies are better than opaque policies (Finkelstein, 2000). Good transparent policy entails mechanism of accountability. Transparent policies make available information to the public and improve the ability of the citizenry to make choice about the services they received. A transparent policy is viewed effective when the citizens act on the information the policy offered. Transparency therefore associates with inputs, outputs and outcomes of decisions. Transparency is a means of improving government outcomes. Thus, transparency enhances administrative effectiveness as well as policy effectiveness. It means greater information for decision taking and in the end for the citizens, so that the people can support policy decision. Consequently, transparency enhances the legitimacy of public policy and governance. The people tend to support open government that empowers them with information about what government is to do and how it is going to do it as well as how it is doing it. This information allows them to make input and have sense of belonging.

In summary, transparency is a mechanism for improved performance; competing and preventing corruption; legitimizing public policy and governance; enhancing citizens' confidence in government; enhancing citizens' participation in decision making; enthroning good governance and democracy; enhancing accountability and integrity in public governance.

VI. AN OVERVIEW OF THE FREEDOM OF INFORMATION ACT, 2011

Access to information in the guardianship of public authorities is a key building block of freedom of expression guaranteed under section 39 of the 1999 constitution of the Federal Republic of Nigeria. Accessibility to information is a top ingredient of the global guarantee of freedom of information which embodies the right to seek and receive as well as to impart information (Dawodu, 2016). The right is enshrined in Article 19 of the Universal Declaration of Human Right and protected in International Human Rights treaties such as ICCPR, 1986, that is Covenants on Civil and Political Rights which came into action on 21 October, 1986. This article 19 of the International Covenant on Civil and Political Right, which is an international human right agreement aimed at promoting and defending human freedoms and indispensable rights in Africa, provides that every person shall have the right to hold opinion without intrusion; that every person shall have the benefit of freedom of expression which shall include freedom to seek, receive and convey information and ideas of all categories, not regarding frontiers, either in writing, print, oral, form of art or through any other media preference. The United Nations Convention against

Corruption (2003) in its article 13 urges government to guarantee citizens input in combating fraudulent practices via enhancement of transparency and promotion of citizens partaking in public decision making process as well as ensuring that the public have ample access to information. In its 2nd ordinary session held in July 2003, the African Union Assembly adopted the African Union Convention in Preventing and Combating Crime. Article 9 of the convention requires all state parties to the convention to adopt legislative and other measures to give effect to the right of access to any information that is considered necessary to enhance fight against corruption and other related offences.

Historical Background of Freedom of Information Act in Nigeria

The history of freedom of information Act in Nigeria dates back to 1859 when the first newspaper known as Iwe Irohin was established. This marked evolvement of press liberty in the country. The paper circulated between 1859 and 1867 and other newspapers began to come into sight on the 1880s (Ayodele Cited in Dawodu, 2016). The colonial government later became uncomfortable with the press and thus established regulation that hampered press freedom. The Newspaper ordinance No. 10 of 1903 and the Seditious Offence Ordinance of no. 10 of 1909 were enacted to check the inquiry and disparagement of the press toward colonial government. For the first time, the 1960 Constitution of the Federal Republic of Nigeria provided for freedom of information by guaranteeing right to expression and speech. Regrettably, the Official Secret Act of 1962 still imposes some constraint to accessing public information. The intrusion of the military in Nigeria politics caused a major setback to quest for freedom of information. The military did not only suspend the constitution but promulgated certain decrees that infringed freedom of expression and speech.

Besides military decrees and edict that constrained public access to public information, there are other legislations that prohibit public officials from making public official facts and figures, principally the Official Secrets Act which makes it an offence for a civil servant to give out government information and for any person to receive or reproduce such information. Other provisions that curb access to public information are contained in Evidence Act, the Public Complaint Commission Act, the Statistics Act and Criminal Code Act (Dawodu, 2016; Ayode, 2011). While it has been argued that the objective of these legislations is to guard important government information, Adeleke (2011) maintains that the level of concealment is so bizarre that some government files that fall under classified document contain normal information which is open to the public. He states that the veil of concealment is so impenetrable that government units and agencies hide information from one another under the excuse of Official Secret Act. The corollary of all these restraints to information provisions is that citizens, groups and media organization are deprived access to data that are critical for precise coverage and exposure of corrupt practices in

Nigeria. This among other unconstructive upshots inspired some disturbed citizens and non governmental organizations led by the Media Rights Agenda to initiate and forefront the drafting of the Freedom of Information Bill, which after enactment became Freedom of Information Act.

After drafting the bill which passed through several appraisal processes, it was presented to the then President, Olusegun Obasanjo in June 1999, just immediately after Nigeria's return to democratic government in May, 1999. The optimism that the bill would straight away be forwarded to the National Assembly by the President was dashed when the President advised the Media Rights Group to take it to the National Assembly and champion the course of its enactment. As a result, the bill was forwarded to the National Assembly by the group in 1999 but the National Assembly with the four years of the then legislators could not vote on the bill. The bill was re-submitted some years later after the inauguration of the 6th National Assembly. The bill passed through legislative processes in the Senate and House of Representatives and the harmonized version of it was passed by both legislative houses on May 26, 2011. The bill was transmitted to President Goodluck Eberé Jonathan on May 27, 2011 and was assented on May 28, 2011.

An Appraisal of the Provisions of the Freedom of Information Act, 2011

The Freedom of Information Act 2011 enacted by the National Assembly of the Federal Republic of Nigeria has thirty (30) sections. The preamble of the Act stated its objective. According to the preface, it is an act to make records and information more freely available, provide for public access to public records and information, protect public records and information to the extent inconsistent with the public interest and the protection of personal privacy, protect serving public officers from adverse consequences of disclosing certain kinds of official information without authorization and establish procedures for the achievement of those purposes and for related matters.

Section 1 of the Act provides that any person has the right to access or request information which is in the custody or possession of any public official, agency or institution. The application for the information can either be in writing or orally and applicant is not expected to show any specific interest in the information being applied for. Interestingly, section 1 (3) empowers any person entitled to the right of information under the Act with the power to institute proceedings in the court to compel any public institution to comply with the provision of the act. Section 2 provides for proper record and information management by public institutions and the categories of information and records to be kept and made available under the Act. Section 2 (4) states that public institution shall ensure that information referred to in the section 2 is widely disseminated and made readily available to members of the public through various means, including print, electronic and online sources, and at the

offices of such public institution. Section 2 (7) described public institution to mean all authorities whether executive, legislative or judicial agencies, ministries, and extra-ministerial department of the government together with all corporations established by law and all companies in which government has a controlling interest, and private companies utilizing public funds, providing public services or performing public functions. It is imperative to note that section 1 of the Act is restrictive in the sense that it allows access only to information in guardianship of public official. Information kept by private organizations which is meant for the public is not protected. This is converse to what is obtained in South Africa where citizens are allowed access not to only information in public safekeeping but also to any information in keeping of another person, once the information is needed for the exercise or protection of the citizen's right (section 32 of the Constitution of the Republic of South Africa, 1996 cited in Dawodu, 2016).

Section 3 (3) pronounced that the illiterate or disabled applicant who by virtue of their illiteracy or disability are unable to make an application for access to information or record in accordance with the provisions of subsection (1) of section (3), may make that application through a third party. Section 4 states that where information is applied under this Act, the public institution involved shall subject to sections (6, 7 and 8) within 7 days after receiving the request, make the information accessible and where the public institution considers that the application should be denied, the institution shall give written notice to the applicant stating reasons for denial and the section of the Act under which the denial is made. Section 6 allows for extension of time for granting or refusing information which must not exceed 7 days.

Section 7 of the Act says that an applicant has a right to challenge grounds for refusal of access to information and has it reviewed by a court. Under section 7 (5) of the Act, where a case of wrongful denial of access is established, the defaulting officer or institution commits an offence and is legally responsible on conviction to a fine of ₦500, 000. However, the Act is silent on who shall take possession of the fine; the person denied access to information or the government? According to section 10, it is a criminal offence punishable on conviction by the court with a minimum of 1 year incarceration for any officer or head of any government or public institution to intentionally destroy any records kept in his safekeeping or attempt to doctor or otherwise alter same before they are released to any person, entity or community applying for it. Section (8) states that the fee to be paid by applicant shall be limited to standard charges for document duplication and transaction where necessary.

Although the Freedom of Information Act is aimed at ensuring access to public information, there are some limitations and restrictions to this right. The Act acknowledged that public institution should deny citizens access to certain information. For instance, section 11 prevents a public institution from disclosing information

which may be injurious to the conduct of international affairs and the defense of the Federal Republic of Nigeria. Nevertheless, the Act stated that an application for information under this section 11 shall not be denied where the public interest in disclosing the information outweighs whatever injury that disclosure may cause. Besides, section 12 states that a public institution may deny application which contains records compiled by public institution for administrative enforcement proceedings and by any law enforcement or correctional agency for law enforcement purposes or for internal matters of a public institution if the disclosure will affect pending proceedings or may jeopardize on going investigation/security of such public institution or area touching on privacy. Section 14 prevents the public from gaining access to information relating to personal information and matter bothering on personal privacy while section 15 relates to trade secret and commercial or financial information that are confidential and privileged or where disclosure of such information may cause harm to the interest of third party. Section 16 states that public institution may deny any application for information that is subject to the legal-practitioner-client privilege; health workers-client privilege; journalism confidently privilege and any other professional privilege confidently by an Act. Under section 17, public institutions are allowed to deny an application for information which contains course or research materials prepared by faculty members while section 19 allows public institution to refuse an application for information pertaining to library circulation and records, test questions, scoring keys, examination data relating to public institutions; architects' and engineering plans of public institution building or buildings built with public funds. Section 20 empowers any person denied access to seek a review in court within 30 days of the denial. According to the section, any applicant who has been denied access to information or a part therefore may apply to the court for a review of the matter within 30 days after the public institution denies or is deemed to have denied the application or within such further time as the court may either before or after the expiration of the 30 days fix or allow. Section 27 of the Act protects any whistle blower and public officer who discloses information to the public. According to the section, no criminal or civil proceeding shall lie against any person who discloses information which he reasonably believes to show: mismanagement, gross waste of funds, fraud and abuse of authority or a substantial and specific danger to public health or safety notwithstanding that such information not disclosed pursuant to the provision of Freedom of Information Act. Section 30 of the Act is dedicated to interpretation of key words in the Act.

Prospects and Challenges of Freedom of Information ACT 2011

The enactment of freedom of information Act has been considered a good development for democratic governance in Nigeria. Access to public information enables the citizens to make input and participate in decision making process. The

citizens can now access information obligatory for holding their elected, appointed and permanent government officials liable for their conducts. The recent cases such as Boniface Okezie V CBN and LEDAP V Clerk of the National Assembly have demonstrated that with the Act in force, there will be openness, transparency and good governance which would complement the fight against corruption (Dawodu, 2016). The Freedom of Information Act has caused some Nigerians mostly media and social activists to demand government release of documents relating to public transaction. The National Assembly has been challenged by some analysts and human right activists to make known their allowances and salaries to the public in view of the fact that large proportion of the national budget is appropriated by the National Assembly to itself, yet the public are not aware of the detail disbursement and utilization of the resource. It was as a result of this kind of pressure that Senator Shehu Sani against the wishes of his colleagues disclosed that senators in Nigeria take monthly allowance of more than eleven (11) million naira. This shocking revelation has increased agitation for the reduction of National Assembly members' allowance and making the job a part-time affair. Hopefully, the Freedom of Information Act will, to a large extent, assist government agencies such as National Human Right Commission (NHRC), the Independent Corrupt Practices and other Related Offences Commission (ICPC), the Economic and Financial Crimes Commission (EFCC), the Code of Conduct Bureau and other law enforcement agencies to adequately perform their duty by strengthening their legal capacities to access information vital for prosecution of offenders. It enhances quick dispensation of justice, particularly by making it easier to get public officials as cooperative witness unlike in the past that they were prevented from disclosing information in court cases. The Act when combine with whistle blowing policy will enhance, integrity accountability, transparency, responsiveness and good governance.

Notwithstanding the prospects, there are some challenges. One of the major challenges to effective utilization of the provision of this Act is that many of the sections restrict access to public information under certain conditions. For instance section 11, 12, 14, 15, 16, 17 and 19 in one way or the other deny the public access to certain information. In spite of the fact that the Act stated that exemption to disclosure shall not apply where the interest of the public would be better served by having such record being made available, these provisions have adverse effect because how to determined the condition under which the interest of the public is better served may be a subject for controversy or litigations in some cases. Moreover, there are some prevailing laws that have provisions which negate the objective of freedom of information. Among these laws are the Evidence Act, the Public Complaint Commission Act, the Criminal Code and Statistics Act, and the National security Act. Lawyers and selfish public officers may utilize the loopholes created by these laws to undermine the effectiveness of Freedom of Information Act. Other potential challenges to

proper use of Freedom of Information Act are poor record and information management, poor institutional capacity, bureaucratic bottle neck and illiteracy.

VII. FREEDOM OF INFORMATION, TRANSPARENCY AND ACCOUNTABILITY: THE NEXUS

Freedom of information, transparency and accountability are intimately interlinked and are used together most of the time. They are considered vital factors of democracy and good governance. Freedom of information reinforces transparency and accountability. According to Mulgan (2012) cited in Mabillard and Zumofen (2015) disclosure of information is the foremost step towards transparent and accountable representation in government. Meijer (2014) proposes three dimensions of the relation between accountability and transparency and draws eight lessons from his hypothetical analysis. First, the author corroborate that transparency can enhance horizontal accountability in what he called a “direct rule”. Secondly, in his “indirect route” analysis, transparency can strengthen vertical accountability. Thirdly, the author demonstrated an inverse relation in which transparency reduces the need for accountability as actors can be held accountable through transparency. Meijer however stated that citizens’ accountability through transparency is often a chimera because citizens barely utilize the information to hold public organizations liable for their actions. Nonetheless, he maintained that media and stakeholder accountability through transparency are realities because non governmental organizations and journalists use information more extensively. Transparency and accountability reinforces each other as accountability processes often underscore the limits of transparency, leading to requests for more transparency.

Olowu (2002) opine that freedom of information law establishes the basis for professional and independent media that help to filter through the mass of information in the public sphere of influence and, in a responsible and genuine effort to pursue public interest causes, to use it to expose all forms of corruption in public life. It is increasingly understood that without freedom of information, there are severe limits to holding government answerable. It has been recognized that there is a symbolic association between corruption and secrecy. The more furtively the operation of government is, the more prone the government will be corrupt and unaccountable. For this reason, the right to information has been considered a significant step in empowering people to combat public corruption (Roy, 2003). The freedom of information tends to get rid of pointless secrecy surrounding government business and decision making process, and there by helps to improve the quality of decision-making and responsible leadership in public policy and management. Right to information enables the citizens to know, through transparency, what government has decided to do and on the basis of the information obtained, they can assess government policies and performance. In other words, the information enables them to exercise sound judgement on the merit of

public policies and respond aptly to influence the process of policy formulation and decision-making in public governance.

According to Hood (2010) three types of relations can be identified between transparency and accountability. In the first relation which he called “Siamese twins”, there is no distinction between transparency and accountability and thus they can relate in all circumstances. The second type is called “matching parts” in which transparency and accountability work together, contributing to good governance. Finally, the third possible combination “the awkward” assumes that there are sometimes tensions between the two concepts. Most authors tackle transparency as a dimension of accountability (Bovens, 2007). Some authors such as Gray (1992), on the contrary, believe that the development of accountability increases the transparency of organizations. That is to say that it increases the number of things known, increases the number of ways to which they are made known and in doing so encourages a greater openness. Transparency sometimes is used synonymously with freedom of information or right to information. This stems from the fact that right to information guarantees citizens’ access to public information; that is information in the safekeeping of government institution. Transparency constitutes the demand for information, the ability of citizens to obtain information and the supply and actual release of information by government. Besides, right to information and transparency are antidote to secrecy and facilitators to accountability. Thus, as Hirsh and Osborne (2000) noted, transparency or freedom of information is a means of improving government outcomes. Transparency means greater information for decision-making, citizens’ participation and support for policy decision.

Transparency, therefore, improves administrative effectiveness as well as policy effectiveness. The right to information is an effectual mechanism to strengthen grassroots democracy and ensure peoples’ participation in local governance and development activities. It brings local government officials under public scrutiny and makes them transparent and accountable in their official dealings. James Madison quoted in Roy (2003) states that a popular government without popular information or means of acquiring it, is but a prologue to a farce or a tragedy or perhaps both. Freedom of information leads to transparency and transparency leads to accountability. In the same way, transparency facilitates right to information and the foundation for accountability. Accountability on the other hand, makes available more information to the public. Thus, freedom of information, transparency and accountability are closely associated and reinforce one another as pillars for democracy and good governance.

VIII. FINDINGS

Stemming from the above exploration are the following findings:

1. Freedom of information, transparency and accountability are deeply interrelated and reinforce one another to enhance good governance
2. Freedom of Information Act 2011 of the Federal Republic of Nigeria has the potential to enhance transparent and accountable leadership in Nigeria if properly utilized by government and other stakeholders
3. Freedom of information Act 2011 of the Federal Republic of Nigeria has some provisions that hinder citizens' access to public information
4. There are other existing laws in Nigeria that contravene the objectives of Freedom of Information Act, 2011
5. The public have not made maximum use of the Freedom of Information Act in holding government official accountable
6. Freedom of information is crucial for combating corruption in Nigeria both in private and public sector organization

IX. RECOMMENDATIONS

Consequent upon the findings, the following suggestions are made:

Review of Freedom of Information Act: The Freedom of Information Act should be reviewed to ensure that the sections of the Act which restrict access to certain information do not undermine the key essence of the Act. In other words, the sections of the Act that dwell on non-disclosure of information should be re-examined to ensure that they do not work against the primary objectives of the Act.

Public Enlightenment: The government and other stakeholder should intensify campaign to enlighten the public on the Act and the need to make judicious use of it. This is necessary in view of the fact that many Nigerians, particularly the illiterate ones are ignorant of the Act. Besides, some of the educated ones exhibit indifference attitude to employing the provisions of the Act in making government transparent and accountable. The adoption of grassroots communication method which entails the use of local and traditional mechanism should be used in enlightening the public

Harmonization of Laws Relating to Freedom of Information: There is need for government to review and harmonize other existing laws that some of their provisions undermine the right to information. Such laws include Evidence Act, Criminal Code Act etc

Diligent Prosecution of Offenders: The government should ensure that any public official that selfishly obstruct the effective use of the provisions of the Act by the public, should be duly sanctioned as stipulated in the Act. Such sanction will serve as deterrent to others

Capacity and Institutional Building: The government and other stakeholders for good governance should ensure the sustenance and effective implementation of the provisions of

the Act through human and institutional capacity building. Appropriate regulation and procedure should be instituted to ensure effective implementation of the Act. Through conference, seminar and workshops the relevant stakeholders should be empowered with necessary skills and knowledge for effective participation and execution of the provisions of the Act and capacity building for every stakeholder

X. CONCLUSION

Freedom of information is a veritable tool for accountable and transparent leadership. The three variables are essential pillars of democracy and good governance. The enactment of Freedom of Information Act 2011 will enhance transparency, trust, accountability and integrity in governance in Nigeria if properly utilized. It will as well strengthen the fight against corrupt practices in public management. The government should review the sections of the Act and other laws that restrict access to public information. Besides, there is need for pragmatic enlightenment of the citizens; diligent prosecution of those that obstruct the effective implementation of the act; capacity cum institutional building for stakeholders

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