

Analysing the Freedom of Information Bill

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The passage of the FOI Bill will help government to achieve openness and feedback of its operations as well as help in the rationalization of the system of information collection, collation, storage and dissemination. And this will in turn help boost government's efforts towards eliminating secrecy in the public sector.

The current state of access to information in Nigeria is rather very poor. Most government institutions are enmeshed in the culture of secrecy, which insulates governments and their actions from public scrutiny. In fact, there is hardly any law which permits access to official information. On the contrary, there are numerous legislations containing clauses forbidding the disclosure of official information by public servants. And there are penal sanctions for the breach of these laws. Some of these laws with secrecy clauses include The Evidence Act, The Federal Commissions (Privileges and Immunities) Act, The Public Complaints Commission Act, The Architects (Registration etc) Act and The statistics Act.

Other means by which the government perpetrates secrecy include the use of official secrets Acts and Criminal Code, which require documents to be marked "Classified," "Secret" "Top Secret" or "Confidential". In addition, certain categories of government officials are required upon appointment to subscribe to an oath of secrecy under which they undertake not to disclose any information which comes to them in the course of the performance of their official duties unless specifically authorized to do so. Even the courts of law are often precluded from compelling the disclosure of such information.

This official culture of secrecy has undermined the right and ability of the citizens to have access to information about governmental activities, programs and policies. The freedom of information Bill provides that every Nigerian has the right to request information from government bodies as well as private organizations that carry out public functions. The Bill applies to all arms of government- the Executive, Legislature and Judiciary as well as to all tiers of governments namely federal, state and local governments. Also, the Bill provides for judicial review in a situation where access to information is refused.

Of course, certain categories of information are exempted from the general right of access. The information exempted include those relating to defense matters, the conduct of international Affairs, Law enforcement investigations, trade secrets, technical and scientific information of economic value, personal information, third party information, information covered by solicitor/client privilege, examinations texts, questions etc.

Another highlight of the Bill is the provision of protection to public officer who discovers the perpetration of a fraudulent act and reveals it, thereby discouraging corruptions by public officers. However, it is important to note that the FOI Bill will not give too much power to the journalists as some opponents of the bill seem to suggest. But will only make information more freely available to journalists in the same way that it will be available to every other person who may request for it.

The current reform program of the Federal Government is partly anchored on the right of access to information for the members of the public. The other is the Fiscal Responsibility Act, which also is pending before the National Assembly. The passage of the FOI Bill will help government to achieve openness and feedback of its operations as well as help in the rationalization of the system of information collection, collation, storage and dissemination. And this will in turn help

boost government's efforts towards eliminating secrecy in the public sector transactions and encouraging transparent competitions in all public sector transactions.

The FOI Bill was first introduced into the House of Representatives in 1999 as private member's Bill and published in the federal government's Gazette on 8th December 1999. On February 22nd and March 13th, year 2000, the Bill went through the first and second readings respectively. Thereafter it was committed to the House Committee on Information, which did not hold the usual public hearing because the House had already agreed that the Bill was popular.

The committee presented its report to the plenary session in May 2001 with strong recommendations that the Bill be passed into law. But, for some puzzling reasons, the House was reluctant to pass the Bill, and instead directed that a public hearing be conducted on it. The public hearing was held on 3rd 4th October 2001 during which all speakers were unanimous in their supports for the Bill and urged the House to pass it without further delay. Again, for some absurd reasons, for almost 2 years, the report of the public hearing remained undisclosed and was never presented to the House up to June 2003 when the National Assembly was dissolved following the April 2003 general elections, which saw the elections of new members.

Surprisingly, debates on the report were suspended following incredible complaints by some senators about the committee's report. As a result, the committee Now the crux of the matter, which is critical to the passage of the Bill, is that if by December 2006 the FOI draft is not enacted into law, the frenzies of electioneering campaigns may deprive the senators of the serenity needed to conclude work on it within the life span of the current National Assembly.

Therefore, the Bill is now at its most critical stage; either it is passed and transmitted to the presidency for the presidential assent and becomes a binding law on Nigerians or be thrown into the legislative dustbin from which it may never be recalled. Idris is of Youth Health Promotion Network, Kano.

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