

THE FREEDOM OF INFORMATION ACT 2011- ISSUES, INDICES AND IMPLICATIONS FOR JUDICIAL REPORTERS IN NIGERIA

BY

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ABSTRACT

This paper examines the issues, indices and relevant matters surrounding the effective operation and implementation of the Freedom of Information Act, 2011 especially by Judicial reporters in Nigeria. It is observed that the media is the veritable watchdog of the society that has the responsibility of keeping the public informed, educated and socialized. Its invaluable role includes making people know the day-to-day activities and dealings of rulers of governments- the executive, the legislature and the judiciary, most especially in effectively reporting judgments held in the courtrooms. Furthermore, since the media helps to ensure that the government knows the feelings and yearnings of those it governs, there should be a freedom of the press as guaranteed by the Freedom of Information Act, 2011. Thus, this paper assesses the critical role of the press in gathering, analyzing and disseminating news and information about people, events, court sitting, judicial reporting, judgments and other issues thrown up by the Act and what they mean for judicial reporters in their important role of effectively and correctly reporting court proceedings and judgments. This desk-based paper finds that freedom of the press remains a human right with a lot of exemptions, limitations and restrictions imposed by law in specific circumstances. The paper concludes by stating that an effective implementation of the FOI Act is required as a sure-footed platform for the objective, factual, fair, accurate, unbiased and balanced reporting of judicial proceedings by judicial reporters

Keywords: Freedom, Information, Act, Judicial, Reporting, Media, Law, Courts.

1.0 Introduction

The media is the veritable watchdog of the society that has the responsibility of keeping the public informed, educated and socialized. Its invaluable role includes making people know the day-to-day activities and dealings of rulers of governments- the executive, the legislature and the judiciary, most especially in effectively reporting judgments held in the courtrooms.¹The statute that enables press freedom is the Freedom of Information Act,(FOI) 2011. The FOI Act 2011 aims to make public records and information more freely available and to protect public records

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¹Soeze Emmanuel, An Evaluative Study of the Freedom of Information Act on Journalism Practice in Nigeria in A.D ObeririNMMC Journal Volume 53, 2016<<https://www.core.ac.uk/pdf>> Accessed 8th July, 2023.

and information, in accordance with the public interest and protection of personal privacy. It also seeks to protect serving public officers against any adverse consequences from the unauthorised disclosure of certain kinds of official information.² It is noteworthy that the Act further regulates conflicts between its provisions and those of other enactments, for instance, the Criminal Code (Amendment) Act 2020, the Penal Code 2004 and the Official Secrets Act 1962 that prescribe criminal penalties for actions connected to the disclosure of information, thus drawing an interesting balance between maintaining the oath of secrecy and confidentiality by public servants with the need to disseminate to the public freely any information of interest to.

The FOI Act also enables citizens to hold the government accountable in the event of the misappropriation of public funds or failure to deliver public services and maintaining press freedom as an internationally acceptable human right of the Nigerian citizenry.³ It is axiomatic that the FOI Act was proposed in the context of international affirmation of the rights of citizens to access information held by public bodies as a fundamental human right.⁴ It is therefore worthy of note that the FOI Act is one of the criteria for gauging a truly democratic state. It goes without saying that democracy is at its best, when the people have all the information that the constitution of the nation permits, including having access to how they are governed, the what, when and how, the rulings made by its courts and experiencing the citizens' rights of access to information of interest.⁵ The topical question then remains whether or not judicial correspondents are fully aware of the provisions of the FOI Act, how it relates to them, the relevance of the Act to ensuring they have access to a fair, accurate, credible and unbiased reportage of court pronouncements and rulings, the internal workings of the Act in stimulating ethical journalistic and media practice, etc. This paper attempts to review some of the relevant portions of the Act as it relates to judicial reporters.

2.0 Reviewing the Freedom of Information Act 2011 ⁶

This paper attempts a review of the Freedom of Information Act, 2011. Section 1 of the Act provides that every citizen whether adult or minor is entitled to have access to any records under

²Ojebode Ayobami, Nigeria's Freedom of Information Act: Provisions, Strengths and Challenges, *African Communications Research*, Vol. 4, No 2, (2011).

³ FOI- National Library of Nigeria, (NLN) <<https://www.nln.gov.ng/foi>> Accessed 11th November, 2023.

⁴Awolowo Obafemi., 'The Press in the Service of the State' *Voice of Reasons* (1981) 174-175.

⁵*Ibid.*

⁶The Freedom of Information Act 2011, S.1.

the control of the government or any public institution⁷ and this will validly include the court records and proceedings. This is why an individual can apply and get a copy of a particular court judgment or ruling. The application for the information can either be in written or oral form and the applicant does not have to demonstrate and/or indicate any specific interest in the information applied for. This is perfectly in consonance with the liberal attitude which Nigerian courts have given to the doctrine of *locus standi* in recent times regarding such matters.⁸ Unlike in the past, an applicant can now initiate a public-interest litigation or request for public information without the fear of confronting an objection based on having a standing to so request. It should be noted that S 3(3) of the Act also allows an illiterate or disabled applicant to request for information through a third party.

Section 1(3) of the Act allows an applicant who has been refused information by a public institution, to institute proceedings in court (Federal or State High Court) to compel the public institution to release the information sought.⁹ By virtue of this section and in conjunction with section 24 of the Act,¹⁰ the presumption of disclosure is in favour of the applicant, whilst the burden of justifying the non-disclosure of the information sought rests on the public institution.

Also, under section 31 of the Act,¹¹ there is a general definition of public institution as:

'legislative, executive, judicial, administrative or advisory body of the government, including boards, bureaus, committees or commissions of the state, and any subsidiary body of those bodies including but not limited to committees and sub-committees which are supported in whole or in part by public funds or which expends public funds and private bodies providing public services, performing public functions or utilising public funds'.

Thus, it is posited that the courts safely come under this umbrella'.

It is important to note that S 2(7) of the Act extends the definition of public institution to include all companies in which government has controlling interest and private companies utilising public funds, providing public services or performing public functions. It can be argued that section 1 of the Act is restrictive in the sense that it only protects access to information kept by

⁷*Ibid*, S.3(3).

⁸*Dada v Sikuade*(2014) 17 NWLR (Pt. 1435) p. 72.

⁹*Ibid*, S.1(3).

¹⁰*Ibid*, S. 24.

¹¹ The Interpretation Section.

public institutions. Information kept by private institutions, which is meant for the public,¹² is however curiously not protected. A good way to cure this defect is to borrow a leaf from the South African constitution which allows citizens to have access to not only information held by the State, but also access to any information held by another person, once the information is required for the exercise or protection of the citizen's rights.¹³ This particular right is further expounded under South Africa's Promotion of Access to Information Act.¹⁴ Section 2(1) of the Act requires a public institution to keep records and ensure that its activities, operations and businesses are known to the public. This section makes it statutorily obligatory for public institutions to create, keep, organise and maintain records/information about their set up, structure, operations, *et al*, in a manner that facilitates public access to such information. Sections 4, 5 and 6 of the Act generally deal with time for granting or refusing an application for information by a public institution. Under S 4, where information is applied for under the FOI, the public institution to which the application is made shall make the information available to the applicant within seven (7) days and in the event that the public institution refuses the application, it must state the reason for such refusal and the section of FOI Act under which the denial is made.¹⁵ Section 6 allows for extensions of time for granting or refusing information, which must not exceed seven (7) days.¹⁶

Section 7 of the Act provides that when a public institution refuses to give access to information applied for, the public institution shall by a written notice state the reasons/grounds for refusing the application.¹⁷ The applicant has a right to challenge the grounds for refusal or to have it reviewed by the court. Under section 7(5) of the Act, where a case of wrongful denial of access to information is established, the defaulting officer or institution will be liable on conviction to a fine of five hundred thousand Naira, (N500,000.00).¹⁸

¹²(e.g. bank statements of government agencies, reports of medical research in the custody of private firms).

¹³Section 32 of the Constitution of the Republic of South Africa, 1996.<<https://www.gov.za>>documents>constitution> Accessed 11th November, 2023.

¹⁴ *Ibid*.

¹⁵*Ibid*, S. 4.

¹⁶*Ibid*, S. 6.

¹⁷*Ibid*, S. 7.

¹⁸*Ibid*, S. 7(5).

Section 10 of the Act¹⁹ also makes it a criminal offence, punishable with imprisonment for a minimum period of one (1) year with no option of fine, for any public officer or head of a public institution to willfully destroy any records kept in his custody or attempt to doctor or otherwise alter same before they are released to any person, entity or community applying for it.²⁰ Section 8 describes the fees to be paid for document duplication and transcription where necessary.²¹

Whilst it is undisputed that the essence of the FOI Act is to guarantee the right of access to information held by public institutions, it is important to note that there are limitations and restrictions to these rights. The FOI recognizes that not all information is for public knowledge. As a result, public institutions, including the courts are allowed to deny or refuse any application for access to certain restricted information.

The following sections deal with the exemptions/restrictions:

- a. Section 11²²: This section prevents a public institution from disclosing information, which may be injurious to the conduct of international affairs and the defence of the Federal Republic of Nigeria. However, it should be noted that an application for information under this section shall not be refused where the public interest in disclosing the information outweighs whatever injury that disclosure would cause.
- b. Section 12²³: An application for information relating to records of public institutions relating to administrative, investigative and enforcement of judicial proceedings may be denied if it will affect pending proceedings or may jeopardise ongoing investigation/security of such public institutions, courts or areas touching on personal privacy. This section is quite wide as it allows a public institution to deny the citizens access to information on the basis that it may affect pending administrative/investigative/enforcement of proceedings of the public institution. However, it is pertinent to note that just like section 11 above, where the interest of the public overrides whatever injury that disclosure would cause, an application under this section shall not be denied.

¹⁹*Ibid*, S. 10.

²⁰*Ibid*.

²¹*Ibid*, S. 8.

²²*Ibid*, S. 11.

²³*Ibid*, S. 12.

- c. Section 14²⁴: This section prevents the public from having access to information relating to personal information and matters touching on personal privacy.
- d. Section 15: This section relates to trade secrets and commercial or financial information that are confidential and privileged or where disclosures of such information may cause harm to the interest of third parties.²⁵
- e. Section 16: Information relating to professional privileges (such as lawyer-client privilege, doctor-patient privilege) or other privileges conferred by law are exempted.²⁶
- f. Section 17: A public institution would be allowed to deny an application for information which contains course or research materials prepared by Faculty members in the academia, basically touching on ethical considerations.²⁷ This is basically because many research might be anonymous, protective of the research findings, guarantee the anonymity of respondents, touch on ethical issues or contain matters which the researcher had elected or signed not to disclose to the public.
- g. Section 19: This section allows the 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 buildings or buildings built with public funds.²⁸ This exemption also protects patented designs and ensures the protection and security of public buildings from external aggression or attacks.

Where an application for information has been denied on the ground that it is information that is exempted from public knowledge, section 20 allows for a judicial review of such denial.²⁹ Under this section, an applicant whose application for information has been denied may apply to the court for a review of the matter within 30 days after the public institution denied or is deemed to have denied the application, or within such further time as the Court may allow for the judicial review.³⁰

²⁴*Ibid.*, S. 14.

²⁵*Ibid.*, S. 15.

²⁶*Ibid.*, S. 16.

²⁷*Ibid.*, S. 17.

²⁸*Ibid.*, S. 19.

²⁹*Ibid.*, S. 20.

³⁰*Ibid.*

According to some writers and many legal practitioners, this is the most important section of the Act as it allows the court to give an authoritative interpretation of any provision of the Act. Section 21 allows for such an application to be heard and determined summarily.³¹ Under section 22, the court shall have access to the information sought to be denied for the purpose of determining whether the information falls within the exemptions provided by the Act and whether the injury of disclosure outweighs the public interest disclosure.³²

Finally, by virtue of S 27 of the Act, whistleblowers and public officers, including investigative journalists and judicial correspondents who release information to the public are protected as no civil or criminal proceedings can be instituted against them for disclosing such information.³³ It is contended by this paper that this is a step in the right direction as the greatest disincentive to whistle-blowing and the public information duties of investigative journalists is the willful, attendant backlash it can generate in the law courts for wrongful disclosure of vital and sensitive information.

3.0 Application of FOI Act 2011

There have been various attempts at invoking the provisions of the FOI Act since its enactment in year 2011 usually to test its practicability particularly in an environment where state business and or governance is known to be shrouded in secrecy. In a bid to ensure transparency in the fiscal policies and appropriation of funds by the National Assembly, (NASS)³⁴ an organization known as the Legal Defence and Assistance Project (LEDAP) invoked the provisions of the FOI Act where by its letter dated July 6, 2011 addressed to the Clerk of the National Assembly, requested for information under sections 2 and 3 of FOI Act on salary, emolument and allowances paid to all senators and members of the House of Representatives from June 2007 to May 2011.

However, following the refusal of the Clerk of the National Assembly to accede to its letter, LEDAP filed a suit asking a Federal High Court sitting in Abuja, the Federal Capital Territory to compel that it be furnished with the requested information. The court overruling the preliminary

³¹*Ibid*, S. 21.

³²*Ibid*, S. 22.

³³*Ibid*, S. 27.

³⁴The National Assembly is the legislative arm of government in Nigeria consisting of the Senate (upper house) and House of Representatives (lower house)- the red and green chambers respectively.

objection brought on behalf of the National Assembly on the ground that the applicant lacked jurisdiction, held that every citizen was entitled to have access to public information under the FOI Act 2011 and ordered the Clerk of the National Assembly to release the requested information within 14 days of the ruling.³⁵

Sequel to the enactment of the FOI Act, the 'Daily Trust' newspaper³⁶ requested that the Nigerian National Petroleum Corporation (NNPC) furnish it with the details of a recruitment exercise, which was alleged to be tainted with fraud and favouritism, invoking the provisions of the FOI Act, 2011.³⁷ It is important to note that this singular act has helped the NNPC to own up to its responsibility as an accountable public institution by coming up with its position on the recruitment exercise.

In a similar vein, a Legal practitioner³⁸ as a result of the aircraft crash that killed over 157 people in Lagos, Nigeria invoking the provisions of the FOI Act 2011³⁹ requested from the Federal Ministry of Aviation, among other things:

- a. Reports of all the air crashes, accidents and or incidents that occurred within the Nigerian Airspace between November 20, 1969 and June 3rd 2012; and
- b. Alternatively, if the report on the crash of 3rd June, 2012 was not ready, information as to when same would be ready should be supplied.⁴⁰

It is important to note that notwithstanding the instances of FOI Act 2011, practical applications/invocations earlier mentioned, much is still needed to be done in a bid to ensure that the Act achieves its desired goals and objectives of uninhibited dissemination of information, ensuring that public institutions, most especially the courts are being managed with openness and transparency and ensuring that courts do not hoard their rulings and proceedings in a way that makes them difficult to be accessed by general members of the public. There is no doubt

³⁵ Nigerian Tribune' Newspaper issue of Tuesday, 26th June, 2012 p. 4.<<https://tribuneonlineng.com>> Accessed 12th November, 2023.

³⁶'Daily Trust' is a daily tabloid published in Nigeria.

³⁷ 'Vanguard' Newspapers, issue of Wednesday 22nd August, 2012. <<https://www.vanguardngr.com>> Accessed 11th November, 2023.

³⁸ Late Mr. Bamidele Aturu was a Nigerian Legal Practitioner based in Lagos.

³⁹ Sections 1, 3 and 4.

⁴⁰ 'The Guardian' Newspaper, issue of Tuesday 26th June, 2012 p. 85.

that effective flow of information has been identified as an important solution to the numerous problems, which bedeviled both the private and public sectors in Nigeria.

Also, the then Attorney-General of the Federation (AGF), Mohammed Adoke (SAN) was enjoined to increase efforts in creating awareness and enlightenment among public institutions and within the civil service about the superiority of the Freedom of Information (FOI) Act 2011 to other laws, especially the Official Secrets Act.⁴¹ Stakeholders in the media industry have also recommended that every public institution to which the Act applies should take advantage of new information and communication technologies to improve its record-keeping system, to make information filing and retrieval less cumbersome and meet up with its obligation on proactive disclosure.

3.1 Benefits of the FOI Act 2011

The Act, also as a means of ensuring compliance with its provisions, expressly states that the public institution needs to be conscious of the fact that it is obliged to file a report of the operations of the FOI Act for every preceding year on or before the 1st February of the year of report. The report is sent to the Attorney-General of the Federation who is expected to publish the report for public accessibility and submit same to the National Assembly on or before 1st April, every year. In an attempt to comply with the provisions of issuing guidelines for the purpose of reporting and determining performance, the Attorney-General of the Federation issued implementation guidelines on the 29th day of January, 2012 annexing the sample of the expected report in compliance with Section 29 of the FOI Act.⁴²

The FOI Act also guarantees a right of access to information to everyone in the country and as such, it places enormous responsibility on those who hold information. It will further assist various government agencies such as the National Human Rights Commission (NHRC), the Independent Corrupt Practices and Other Related Offences Commission (ICPC), the Economic and Financial Crimes Commission (EFCC), the Code of Conduct Bureau, the Judiciary and other law enforcement agencies in the performance of their duties. It will also enhance the speedy

⁴¹Keynote address presented at a workshop hosted by Media Rights Agenda (MRA) with the support of USAID as reported in 'The Guardian' Newspapers issue of Thursday, October 18, 2012, p. 4.

⁴²Akinlawon A., 'F.O.I. Act 2011: Synoptic Overview' (Nigerian Tribune Newspapers issue of Monday, 14 January, 2013) p. 29.

dispensation of justice, especially when one considers that it will make it easier to get public officers as cooperative witnesses unlike in the past when they were protected with respect to their refusal to divulge information in court cases.

4.0 Assessing the Limitations and Challenges to the Effectiveness of the FOI Act 2011

There are some factors, which limit the application and effectiveness of the FOI Act. Some of the key factors are:

- a. Illiteracy: Vast majority of the populace for whose benefits the Act was enacted are either uneducated or ignorant of its existence. For the educated illiterates, this is even worse as they are aware that the law exists, yet, they remain oblivious to its provisions, application and relevance to them.
- b. Poverty: The need to make ends meet by most Nigerian has overridden their interest in governance, while they consider the resort to the FOI Act 2011 for accountability from public institution as time-wasting and an unnecessary venture or a needless misadventure. This is why many Nigerians cannot differentiate between their Permanent Voters Cards and their ATM cards as they exchange both for money.
- c. The conflicting imbalance between freedom of information and the right to privacy. Whilst the law guarantees the right to the freedom of the press, the same law also grants the right to privacy to certain individuals in spite of their occupancy of public office, such that there usually exists a conflict of balancing the right to press freedom with the right to privacy of individuals. This paper however argues that the right to privacy ends for public officials who are custodians of the public till, whilst their private and family life might be shrouded in secrecy outside the purview of the prying eyes of the probing public, their assets, health condition, earnings, acquisitions in office and other matters of public interest cannot.
- d. Lacuna and defects noticeable in the Act.⁴³ All these contradictory provisions that make it seem like draw back clauses, in which the law allows the freedom of the press on one hand and frowns at unbridled, unregulated freedom in another breath for certain kinds of public officials in differing circumstances are thereby advocated to be re-examined, so they do not become the all-encompassing templates for the evasion of full disclosure of information of public interest as envisaged by the FOI Act, 2011.

⁴³ The Act itself outrightly exempted certain records and information. See sections 12 & 13.

The National Orientation Agency⁴⁴ at a workshop⁴⁵ emphasised the fact that Nigerians must take advantage of the FOI Act 2011 in order to make input into good governance and accountability in the country, since the Act is meant to ensure that there is public participation in governance, the business of government is open to public scrutiny, laid down procedures in the conduct of public affairs are adhered to, transparency and accountability in governance are institutionalised, corruption is stemmed and scarce resources are judiciously deployed for the well-being of citizens.⁴⁶

However, what appears to be the major setback, which casts shadow on the FOI Act, is the jurisdictional challenges obstructing its wheel of progress. The Act remains unenforceable in most of the federating states on the ground that it is yet to be enacted as state laws.⁴⁷ It is equally important to reiterate the unwholesome attitude of public officials who notwithstanding the passing into law of the FOI Act are still reluctant to supply the requested information, banking on the oath of secrecy and confidentiality duties in the civil service rules. The public institutions sometimes appeal against the court decisions compelling them to make available the requested information to the applicants. For instance, the Economic and Financial Crimes Commission (EFCC) recently appealed against the decision of a Federal High Court ordering the release of detailed information on the seized properties from the former Managing Director of Oceanic Bank (Nig.) Plc, Mrs. Cecilia Ibru to one Mr. Boniface Okezie (President of the Progressive Shareholders Association of Nigeria).⁴⁸ The above underscores the position that the attitude of the public officials is still negative to the holistic approach of the FOI Act to information dissemination, probity and accountability in governance in Nigeria.

⁴⁴ Federal Government Agency, saddled with the responsibility of sensitization and enlightenment on various government policies and programmes.

⁴⁵ 'Train the-Trainer' (Workshop held at Oshodi Isolo Local Government in Lagos for NOA State directors and their Heads of Programmes Divisions from 11-12 January 2013).

⁴⁶ Amoboye G., 'Wake Up, NOA alerts Nigerians on FOI Act' (Nigerian Tribune, issue of Friday, 15 February, 2013) pg. 18.

⁴⁷ Lagos, Delta and Ekiti States are the only States which have enacted the FOI Act as State Laws.

⁴⁸ The Guardian Newspaper of Nigeria issue of Tuesday, 5 March, 2013 p. 69 titled "EFCC's Appeal against Disclosure Verdict over FOI Act is Unhealthy" being excerpts of the interview granted by Adetokunbo Mumuni, a social rights and anti-corruption crusader.

4.1 Striking an Interesting Balance amongst Public Participation, Free Press and Fair Trial in the Attainment of Justice in Court Proceedings

It is affirmed that the media (press or the fourth estate of the realm as they are fondly called) is a major stakeholder in any democratic society that promotes the rule of law and transparent governance.⁴⁹ A free press is a valid *sine qua non* for the realization of just and fair judicial proceedings in a burgeoning democracy like Nigeria's. However, this must be balanced against the fair transmission or reportage of judicial proceedings in general and civil proceedings in particular. Two schools of thought address this concern: the partnership and restricted models. The first model (partnership model) is based upon the idea that the free press and the unimpeded administration of justice are not *per se* conflicting ideals, but are rather mutually supportive.⁵⁰ Legal reporting, in particular, is highly valued since it increases public confidence in the law and enhances deterrence of deviant behaviours, especially in criminal matters. Moreover, it is beneficial to democracy because it provides an external check on the police, prosecutorial and judicial authorities and guards against miscarriages of justice.

Therefore, any interference with media freedom to access, report and comment upon ongoing trials is *prima facie* unlawful. Almost completely banned are prior restraints, though the court may order limitations on the extra-judicial speech of trial participants. If an irresponsible piece of journalism results in prejudice to the proceedings, the legal system does not provide for a strong and effective set of sanctions against the parties responsible for the wrongdoing.⁵¹ Restrictive contempt of court laws is also generally considered incompatible with the constitutional guarantee of free speech. Even defamation law is media-friendly, making it difficult for affected parties to recover from media organizations for unfair or biased coverage.⁵² To sum this up, this model grants wide immunity to the press and resorts only to procedural devices aimed at neutralizing the effect of prejudicial publicity. Among the most common are *voir dire*, special jury instructions, sequestration, postponement, change of venue and reversal of conviction on appeal.⁵³

⁴⁹ Awolowo, (n3).

⁵⁰ Eric Barendt, Freedom of Speech 312 (2005) 322-323.

⁵¹ *Ibid.*

⁵² *Ibid.*

⁵³ *Ibid.*

The restricted model focuses on the balance between the right to freedom of the press and the right to privacy and security. Restriction on press reportage of civil proceedings may be limited to a few circumstances, including:

- a. Evidence of witnesses in security-related trials where open trial may portend danger for national security or safety of a section of the society;
- b. The safety of witnesses, there may be imposed a restriction on coverage of certain proceedings;
- c. Trials of juveniles;
- d. Copyright issues and confidential information which are key to innovation and creativity in business, among others.⁵⁴

5.0 Conclusion

The freedom of the Press is a valid essential for democratic governance. The Freedom of Information Act 2011 as presently enacted requires a lot of amendments that would make it more practicable and enforceable, especially as it relates to judicial reporters. Since it is submitted that the Act has been deemed as one of the tools for the sustenance and strengthening of our nation's democracy and maintaining judicial independence. This owes largely to the fact that the Act has been seen as engendering responsibility, transparency and accountability in government circles and in court matters. Interestingly, the Act has also been seen as an indispensable agent catalyst to effective journalism practice, not only in Nigeria, but beyond. It is against this background that it is posited that an effective implementation of the Act is required as a sure-footed platform for the objective, factual, fair, accurate, unbiased and balanced reporting of judicial proceedings by judicial reporters on one hand and a timely amendment of the Act to enable it reduce the quantum of limitations and exemptions must be swiftly considered. Finally, it is contended that an effective implementation of the Act as amended would usher in an era of freedom with responsibility in which the journalists are saddled with the task of effectively reporting court rulings and proceedings that would only be true, fair and factual, yet engendering national development, without unduly heating up the polity or intentionally sensationalizing the general public.

⁵⁴Lugard B.S, The Role of The Public and the Media in Civil Court Proceedings in Nigeria. <<https://www.researchgate.net/3257.html>> Accessed 15th December, 2022.

6.0 Recommendations

1. It is hereby recommended that section 1 of the Act which is somewhat restrictive in the sense that it only protects access to information kept by public institutions, should be swiftly amended to encompass information kept by private institutions, but which is meant for the general public,⁵⁵ in line with the South African constitution which allows citizens to have access to not only information held by the State, but also access to any information held by another person, once the information is required for the exercise or protection of the citizen's rights.⁵⁶ This portion of the FOI Act 2011 should thus be reviewed in accordance with South Africa's Promotion of Access to Information Act.⁵⁷ Section 2(1) of the Act requires a public institution to keep records and ensure that its activities, operations and businesses are known to the public. This section makes it statutorily obligatory for public institutions to create, keep, organise and maintain records/information about their set up, structure, operations, *et al*, in a manner that facilitates public access to such information.

2. It is recommended that the payment of fine of five hundred thousand Naira, (N500,000.00) under section 7(5) of the FOI Act, in cases of the establishment of wrongful denial of access to information by the defaulting officer or institution be removed or reviewed to remove the imposition of fine, as payment of fines often look paying in cash a permission to commit crime.

3. It is recommended Section 14 of the FOI Act which statutorily prevents and precludes the general public from having access to information relating to personal information and matters touching on personal privacy of some persons be reviewed and imbued with some caveats as the private details of a public officer like his health or mental status which can validly be excused under this section are indeed matters of peculiar, fascinating interests to the public-funds' contributing populace.

4. It is further recommended that the definition of a public officer should be expanded and expansively expounded under the FOI Act 2011 to mean anyone, appointed, elected or employed by government who draws any kind of money as salary, stipends or emoluments from public funds.

⁵⁵(e.g. bank statements of government agencies, reports of medical research in the custody of private firms).

⁵⁶Section 32 of the Constitution of the Republic of South Africa, 1996.<<https://www.gov.za>>documents>constitution> Accessed 11th November, 2023.

⁵⁷ *Ibid*.

