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Ethical Issues and Legal Constraints to the Freedom of Information Act

Edde Iji and Ugiji Neabueze
Department of Theater and Media Studies, University of Calabar, Nigeria

ABSTRACT

On the 29th of May, 2011 Nigeria joined the civilized and democratic nations of the world to celebrate Freedom of Information. It was then that President Goodluck Jonathan assented to the bill. By this historic development Nigeria has joined 96 countries of the world with Freedom of Information. Sweden led the way when she passed her own in 1776. This historic development placed Nigeria disappointingly, as the 5th in Africa. Quintessentially, FIOA is needed for good governance, as it is bound to remove the cloak of bureaucracy associated with access to information that had made governance secretive. Unfortunately, there are legal constraints that can hinder the smooth operation of the act. Such constraints need to be dismantled immediately. Besides, there is a great need to address various ethical issue that may equally arise among media practitioners in the course of operating within the limits of the law, posing great challenges to the operation of the Act. This paper posits that the responsibility and challenges, that come with FOIA are enormous and should be appropriately addressed. Such adjustment would enable Nigerians reap the dividends of FOIA among which is to promote good governance and war against corruption, by enhancing adequate transparency and accountability, guaranting both efficiency and effectiveness. Nothing else can add more values to both leadership and followership! Such demands are particularly imperative in the Nigeria's democratic polity and socio-political and economic space.

INTRODUCTION

On the 29th of May, 2011 Nigeria joined other civilized and democratic nations of the world to celebrate Freedom of Information Act. It was then that President Good Luck Jonathan assented to it. The Act was passed by the Nigerian senate on Wednesday November 15, 2006 and forwarded to then President Olusegun Obansanjo for his assent which would make the bill

become law. This happened a year after the House of Representatives had passed its own version of the bill. President Olusegun Obasanjo, until he vacated office, tactically, avoided assenting to the bill because according to him, flimsily, it was not properly titled. Assenting to the bill finally on the 29th of May, 2011 as effected by President Jonathan, unarguably, makes it one of the oldest in the front burner of attention in the hallowed chambers.

By this historic development, Nigeria has joined 96 other countries of the world with Freedom of Information. In this regard, Sweden proudly led the established culture of the Freedom of Information. Sweden passed the bill in 1776. This historic development, disappointingly, placed Nigeria as the 5th country in Africa to pass the law, led by Liberia (2010), Zimbabwe (2002), Uganda (2001) and South Africa (2000), in that order. Commending the National Assembly and the President for making the passage of the bill into law possible, Ojo (2011) asserts that the freedom of information law is a fundamental human right, especially, as the touch stone of all freedom which the United Nations has consecrated. He further asserts:

> Apart from that, the right of freedom of information is extended in international and regional human rights treaties and standards, guaranteeing the right of everyone by freedom of opinion and expression including the right to seek, receive and impact freedom.

This inspiring position was further affirmed and ventilated by Iji (2008) when he said:

> Medium-wise, freedom of information is in line with Nigeria's 1999 constitutional provision in favour of the relative freedom of the press as the fourth estate of the realm, as an ombudsman for or watch dog of the society, and in the media agenda setting mandates that can only be muzzled, or muzzled at the expense of orderly function of the progressive society, guaranteeing the need for dynamic checks and balances.

Supporting Iji's position, chapter 1 paragraph 22 of the general provisions of the Constitution slates:

> The press, radio, television and other agencies of the mass media should at all times be free to up hold the fundamental objectives contained in the chapter and uphold the responsibility and accountability of government to the people.

Paragraph 39(1) of the same constitution states:

> Every person shall be entitled to freedom of expression including freedom to hold opinions and to receive and impart ideas and freedom without interference.

Summarily, in the right of these standard opinions, under the silhouettes of the tested fact and evidence available standardize, freedom of information

Act as quintessentially mandatory for good governance. For it is bound to remove the cloak of bureaucracy associated with access to information that had made governance secretive, exclusivist and perhaps "culticist." The mandate herein articulated is unambiguouse

A bill for act to make public records and information more freely available, provide for public access to public records and information, project public records and information to the extent consistent with public interest and the protection of personal privacy, protect serving public officer from adverse consequences of disclosing certain kind of official information without authorization and established procedures for the achievement of these purposes and related purposes ….

The title of the Act can also serve as a preamble. Consequently, Section 1 of the Freedom of Information Act provides a justification for its enactment thus:

> Subject to the provision of this Act, but not withstanding anything contained in any other act, law or regularization every citizen of the Federal Republic of Nigeria has a legally enforceable right to and shall on application, be given access to any record under the control of government or public institution.

Distilling the spirit of the Freedom of Information Act, one can undoubtedly discern that it is a catalyst for good governance and sustenance of democratic ideal. In this regard, it is not less a sound guide to effectuate good followership. According to Ojah (2011):

> It was to facilitate a dynamic fight against corruption and the commitment of the Federal government to eliminate the hydra-headed problem. Most fundamental is the fact that journalists are now expected to perform their duties with apparent ease if other pre-existing extra-constitutional acts or laws are eliminated further.

Supporting the tremendous gains of the Act, Iji (2008) asserts that the Act will empower Nigerian media practitioners at all levels, private and public, to practice their trade, profession, careers and hobbies without fear or favour, sufficiently armed by the constitutional provisions and the rule of law, guided further by their professional ethics and moral responsibility.

The book, *Media Law and Ethnic* (2008) quoted the following as some of the merits of the Freedom of Information Act:

i. It will provide access to public information or records kept by government, public institutions and every private organization carrying out public functions for Nigerians and even non Nigerian resident in the country.

ii. With more information available to the citizens they can participate more meaningfully in the governance of the country in the making of laws and formulation of government policies.

iii. It will provide greater accountability on the parts of public officers. This is probably the most important benefit of the Act, given the penchant chase of public officers to be secretive with information. Further more, such secretiveness had encouraged corruption and the looting of public funds without detection.

iv. What is more, the Act provides that public officers who destroy information in their custody will be imprisoned.

The last provision is quite elucidative and critical. How many times have we had government and public edifices going up in flames because someone has been paid to destroy important information that can assist or give a lead to discovery of fraud or corruption. Sometimes, vital public records are set ablaze by hired rascals, who invade the place of custody and often set it ablaze so as to cover criminal tracks.

Very informatively, Iji (2008), clearly enumerated institutions or organizations that can provide avenue for the act to benefit larger society. Quoting Jossy Nkowcha (2001), he highlighted the following as valuable, enriching information sources:

1. The oral or face-to-face media of information, like free speeches, interview, conference and area sermon.
2. The print media, including letters, tracts, billboards, newspapers, magazines, newsletter, posters, journals, brochures, pamphlets, calendars, notice boards, and books of all designations.
3. Audio-visuals, electronic media, including radio, television, films or cinemas, slides, projections, video tapes, music, videos or albums.
4. The telecommunication media embracing telephones, analogue, fixed or mobile phones, fax, electronic (e-mail), including internet radio and text message as pervasive as they have been are no less entrusted with the all important agenda and crusading media of civilization and progress.
5. IT is important to remark that the traditional media such as the gong, town criers, masquerades, funeral orations, ritual secretions, village square rhetorics, laden with proverbs, wise cracks association with communicational free-flow of information are not left out of these band wagons of development imperatives.

From the foregoing, the totality of the benefit and merits of the Freedom of Information Act cannot be overstretched. In the light of the above, it is important for every one in the society; both the government and the governed need to ensure that the FOIA is made operational, without further hindrance or bureaucratic bottle neck. Besides, it is important that legal constraints, out-moded laws that can hinder smooth operations of the Act be dismantled immediately. According to Oja (2011):

> These laws include notably, the official Secrets Act which makes it an offence to give out an information, the Evidence Act, the Public Complaint Commission Act, the Statistics Act, the Criminal Code Act and the Federal Commission (Privilege and

> Immunities Act) all of which are said not to be too healthy for sustaining democracy.

Though Oja did not elaborate how some of the laws mentioned can constitute an impediment to the implementation of the Freedom of Information Act, he was not really exhaustive as there are other facets and gamuts of laws such as Deformation, divided into libel and slander, law of sedition and so forth. There are other impediments that may not be legal but are fundamental drawbacks to the smooth operations of the Act. These and others shall be discussed but it is important to mention that the Freedom of Information Act is quite conscious about the existing laws which serve as constraint, but had exclusivity clause which will serve as a check and guarantee its survival. For instance, paragraphs 2 of the Act states:

> Nothing contained in the Criminal Code or the Official Secret Act shall prejudicially affect any public officer who without authorization discloses to any person, any public record or information which he reasonably believes to show.
>
> a) A violation of any law, rule and regulation.
> b) Mismanagement, gross waste of funds and abuse of authority, or
> c) Substantial and specific danger to public health or safety notwithstanding that such information was not disclosed pursuant to the provision of this Act.

No civil or criminal proceeding shall be (brought) against any person receiving the information for further disclosing it

From the foregoing, the FOIA did not intend to subsume nor scrap any of such existing laws which it can tactically work with, "pari pasu". One therefore wonders where writers such as Oja found justification to anchor his prayers that laws mentioned by him as constituting limitations to the smooth operation of the law be removed. Perhaps, it may be vital to briefly look at a few of the laws in miniature details, vis-à-vis the potential impediments thereof or otherwise for the effective operation of FOIA.

The official secret oath Act

The official Secrets Oath Act was enacted in 1962 to prevent the disclosure to the public of any material which government considers as classified matters. The Act defines classified matters thus:

> Any information or anything which under any system of security classification from time to time in use by any branch of the government is not to be disclosed to the public and which disclosed may be prejudicial to the security of Nigeria.

The Act, leaving no one in doubt as to who a public officer is states:

> any person who exercises or formerly exercised for the purpose of the government the functions of any office or employment under the state.

The underlining implication therefore is that all public officers including civil and public servants and those in other agencies of government such as the military, police, judiciary, legislature, university etc are barred from disclosing classified data whether they are still in service or not or have disengaged in service in whatever manner.

From the totality of the above, the official Secrets Oath Act, was enacted to protect national security. This accounts for why official Secret Oath Act criminalizes spying, espionage and sabotage of the nation's strategic military and other security installations. Those calling therefore for the complete scrapping of the Act needs to reexamine their positions once more in consideration of Section 32(2) of the Act which states that:

> Where the question whether any public information is to be made available, where the question arises under the Act, the question shall be determined in accordance with the provision slated here-in, unless otherwise exempted from the Act.

In fact, the underlying interpretation is that the FOIA clearly exempts disclosure of information that will endanger national security, especially. Sections 14, 15, 16, 17, 18, 19 20, 21 are among the exemptions mentioned above. The implication is therefore, that the Freedom of Information granted is not holistic in nature, and it cannot be, as no nation can afford the luxury of such indulgence in national security. The FOIA must therefore be operated by the provision of freedom within the laws; not in violation of same.

Sedition

The law of sedition was one of the first press laws enacted by the British Colonial administration in Southern Protectorate to check the rising wave of press criticism. On the attainment of independence and sovereignty, by virtue of Adaptations of Laws Order 57 and the adaptation of laws (Miscellaneous Provisions) order 1964 sedition as an offence crept into our statute book. Particularly, Section 50(1) of the Criminal Code defines a seditious publication as a publication having a seditious intention. And Section 50(2) defines sedition as an intention:

(a) To bring into hatred or contempt or to excite disaffection against the person of the Head of the Federal Government, the Governor of a State or the government or constitution of Nigeria or a state as by law established or against the administration of justice in Nigeria, or

(b) To excite Nigerians to attempt to procure the alteration, otherwise than by lawful means or any other matter in Nigeria by law established, or
(c) To raise discontent or disaffection among inhabitants of Nigeria, or
(d) To promote feeling or ill will and hostility between different classes of the population of Nigeria.

Prior to this, Section 51 of the Criminal Code defines and makes the following persons liable to sedition:

> Anyone who does a seditious act or takes part in the preparation or conspires with others to commit sedition or utters seditious words. Also liable are printers, publishers, distributors, vendors, reproducers and importers of seditious publication.

It is obvious that the media which will play critical roles in the promotion of freedom of information appear to be the ones targeted for regulation by the law of sedition. Confirming this positive assertion, Akinfeleye (2004) said:

> The seditious laws have been a tool in the hands of successive government in Nigeria to harass the Nigerian press. Any scurrilous or scathing criticism of government is termed seditious by security agents; this has led to the arraignment of a number of journalists for sedition.

Some progressive-minded judges in Nigeria have been alerted and always speeding to rescue media houses and their personnel from being persecuted or maltreated by security agencies trying to enforce sedition. In the process, some of the judges have been very elegant in their rulings that such laws as sedition can no longer be accommodated in an independent Nigeria. It was indeed a gory tale during the military regime. Media houses were not just invaded by gun-totting military men, journalists were brutalized and some, like Amakiri had their hairs shaved clean, with broken bottles, while some unlucky ones rust away in detention camps. In a democratic regime, the intimidation and harassment may be less, but government always sharply draws the attention of media practitioners to its authoritative existence. This can largely account for why 51 years after independence, the law of sedition still enjoys a prominent place in our statute book. However, there is something to cheer about as the National Assembly has closed in on the law of sedition with the possibility of scrapping it. Those who propose its scrapping argue that:

> Retention of the law of sedition points out that it denies people their fundamental human rights of free expression, vitiates the right to criticize government and denies the people right to self determination. They argue that the law of sedition could be misused by a dictator to overreach himself thereby retarding the growth of democracy and development.

In the case of Arthur Nwankwo V State, a horizon that shade more legal light was opened on the law of sedition. In the instant case, Chief Nwankwo, being a publisher taking advantage of his constitutional liberties enshrined in Section 40(1) of the 1999 Constitution which states that *every person shall be entitled to freedom of expression, including freedom to hold opinion and to receive and impact ideas and information without interference*, published a book he wrote in 1982 titled; "How Jim Nwobodo Rules Anambra State." This book was quite critical on the person of Jim Nwobodo, accusing him of corruption and tyranny.

Anambra State government promptly arrested and charged him with sedition before Justice F. O. Nwokedi, then of Onitsha High Court. He was convicted and jailed for 12 months. Dissatisfied completely with the judgment of his lordship, he appealed. The Court of Appeal, sitting in Enugu while upturning the judgment of the lower Court, went further to set the stage for those who desired to lower, for interment, the law of sedition. The Court of Appeal in that landmark judgment opined that the law of sedition enshrined in Section 50 and 53 of the Criminal Code is inconsistent and therefore Justice Olatawera said:

> It is my view that the law of sedition has derogated from the freedom of speech guaranteed under this Constitution which is inconsistent with the 1979 Constitution more so when this cannot lead to a public disorder as envisaged under Section 41(a) of the 1979 Constitution. We are no longer the illiterates or the mob society our colonial master had in mind when the law was promulgated. The safe guard provided under Section 50(2) is inadequate more so where the truth of what is published is no defense. To retain Section 51 of the Criminal Code in its present form that if even it is not inconsistent with the freedom of expression guaranteed by our Constitution will be a deadly weapon to be used at will by a corrupt government or tyrant. Let me not diminish the freedom gained from our colonial master by resorting to laws enacted by them to suit their purpose. The decision of the founding fathers of this present constitution which guaranteed freedom of speech must include freedom to criticize should be praised and any attempt to derogate from it except as provided by the constitution must be resisted. Those in public office should not be intolerant of criticism. Where a writer exceeds his bounds there should be a resort to the law of libel where the plantiff must of necessity put his character and reputation in issue. Criticism is indispensable in a free society.

There are also those who present a counter argument in support of the retention of the law of sedition in our statue book. They argue that the law of sedition is aimed at protecting the government, and its institutions, which are established by law to serve the Nigerian people. Without such a law as treason, incitement of riots, destruction of public properties and enthronement of anarchy could be perpetrated by lawless people to the

detriment of the state. While arguing that the right to free expression is not absolute, they insist that such rights impose a corresponding duty on the citizens to respect constituted authority and stay within the provision of the law (Media Law & Ethnics, 2011).

Such person are usually quick to rely on the celebrated case of DPP V Chike Obi, the Mathematician and a renowned critic cum activist charged with sedition in 1980 for distributing a pamphlet titled, *The People: Fact you must know*. Quoting pages 3 and 5 of the copy of the pamphlet, he said:

> Down with the enemies of the people, the exploiters of the weak and oppressors of the poor…. The days of those who have enriched themselves at the expense of the poor are numbered, the common man in Nigeria can today no longer be fooled by sweet talk at election time only to be exploited and treated like dirt after the booty of office has been shared among politicians.

The Lagos High Court presided over by the Chief Justice found Chike Obi guilty of sedition, but instead of sentencing him, referred the matter to the Supreme Court for proper interpretation of Section 50 and 51 of the Criminal Code vis-à-vis section 24 of the 1960 Independent Constitution. Section 24 of the Independent Constitution became Section 25 of the Republican Constitution of 1963 which has similar material facts with Section 36 of 1979 Constitution, and Section 38 of the 1989 Constitution and Section 40 of the 1999 Constitution respectively. Section 24(1) states:

> Every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impact ideas and information without interference.
> Nothing in this Section shall invalidate any law that is reasonably justifiable in a democratic society.

(a) In the interest of defense, public safety, public order, morality or public health.
(b) For the purpose of protecting the rights, reputation and freedom of other persons, preventing the disclosure of information received in confidence, monitoring the authority and independence of the Courts, or regulating telephony, wireless broadcasting, television or the distribution of cinematography films, or
(c) Imposing upon persons holding office under the crown, member of the Armed Forces of the crown or members of the Police.

Erudite Lawyer Chief Rotimi Williams posited that Section 50 and 51 of the Criminal Code flies in the face of Section 24 of the Constitution, and to that extent ought to become nugatory, void and without consequence. According to him:

> Any law, which punishes a person for making a statement which brings a government into discredit or ridicule or create

> disaffection against the government irrespective of whether the statement is true or false and irrespective of any repercussion order or security, is not a law which is reasonably justifiable in a democratic society.

Not persuaded by the brilliant argument, the Supreme Court held that the provision of the Constitution in Section 24 was not invalidated by Section 50 and 51 of the Criminal Code. These perhaps put a final seal on the opinion of most erudite writers in the newspapers, conference presentations, seminars, electronic presenters, parliamentarians among others, such as AKinnola, Oja and Iji whose work have been analytically considered. Their honest and straight forward opinions of outright scrapping of the law of sedition, regrettably, cannot be tenable. Furnishing better and further proof for the constitutional basis for the law of sedition in Nigeria is Section 4 of the 1999 Constitutions which states:

Nothing in Sections 37, 38, 39, 40 and 41 of this Constitution shall invalidate any law that is reasonably justifiable in democratic society.

(a) In the interest of defense, public safety, public order, public morality or public health.

(b) For the purpose of protecting the rights and freedom of other persons.

According to Media Law, this shows that the intention of the law of sedition is to preserve public order and to protect the citizens of Nigeria against the result of riots, disorder and other consequences of a violent overthrow of the government. The authors of the book while adopting the position that it will not be in the interest of the nation to abolish the law of sedition, adviced thus:

> Government must exercise utmost restraint in the enforcement of such law, order so as to accommodate general desire of the people for good government and self determination… this is why journalists and other public affairs commentators should know the sources of the law of sedition in order to perform their duties more safely.

Still not satisfied with legal and factual persuasion advanced, so far, that no responsible government can afford to indulge itself without protection which the law of sedition grants. Akinnola said:

> Some people are wont to argue that since the Supreme Court upheld sedition in Chike's case, it supercedes the Court of Appeal's decision. However, the distinction is that Chike Obi's case was based on Section 24 of the 1960 Independence Constitution which is dead, while Nwankwo's case is based on Section 36 of the 1979 Constitution which was still in operation then. Therefore, that is the correct position subsisting. This position was supported by Justice Musilu ope-Agbe of the Lagos High Court in the case of Chief Gani Feawehmi V Inspector

> General of Police and five others, where the Court affirmed that in view of Nwankwo's case, the law of sedition is dead.

This paper, for sure, will not be accommodating all efforts made to ventilate ideas aforesaid, but it is the position of the paper and quite prophetically so, that the road towards the realization and implementation of the freedom of Information Act is still far. This could be well guided by prevailing circumstances vis-à-vis the weight extraneous with respect to the specific situation in focus.

Ethical issues

Media ethic is that branch of philosophy which helps the media professionals to set an acceptable standard of moral conduct. It helps those in journalism to have a check valve of determining what is good and bad journalism, what is acceptable, permissible and rejectable in the performance and service delivery of duties of the gathering, processing and designation or confirmation of a wide variety of messages designed for enlightenment and entertainment, encapsuling many values; normative, informative and educative, in all aspects of these values, cherished without borders, in time, place or clime.

This position is supported by the opinion of a leading authority in philosophy of ethics known as Immanuel Kant (1724 – 1804). Kant, an advocate of deontological ethics formulated the duty ethics now named after him as "Kant's duty ethics." He postulates that:

> This is what Kant calls the categorical imperatives. A good man is one who habitually acts right and that a right action is that which is down from a sense of duty. In other words, duty ethics calls on people to act from a sense of obligation. And this obligation springs from reason rather than experience. This is a moral principle that will not depend on empirical data and will be binding on everyone

It was in pursuit of this imperative that on the 25th day of January, 1979 a consortium of the President of the Newspaper Proprietor's Association of Nigeria (NPAN), the President of Nigeria Guild of Editors (NCE) and the President of Nigeria Union of Journalists (NUJ) came together, and formally launched into operation, the code of ethic for Nigeria Journalists, ethics, which will serve as the moral vanguard for the practice of journalism in Nigeria. The code of ethics for Nigeria Union of Journalist states that:

(a) The public is entitled to know the truth and only correct information can form the basis for sound journalism, and ensure the confidence of the people.

(b) It is the moral duty of every journalist to have respect for the truth and to publish or prepare for publication only the truth, and to the best of his knowledge.

(c) It is the duty of the journalist to refuse any reward for publishing or suppressing news or comment other than salary and allowances legitimately earned in the discharge of his professional duties.
(d) The journalist shall employ all legitimate means in the collection of news and he shall depend, at all times, on the right to free access provided that due regard is paid to the privacy of individuals.
(e) Once information is collected and published, the journalist shall observe the universally accepted principle of secrecy and shall not disclose the sources of information obtained in confidence.
(f) It is the duty of every journalist to correct any published information found to be incorrect.

This code of ethic is over 30 years old, and perhaps have not even been reviewed in the post-modernist journalism driven by technology which has raised a lot of ethical and moral issues. The expectation will be higher and the standard of ethics and morality rose in the postmodern era, especially as updated and acclimatized with Nigeria Freedom of Information Act.

Ehical problems in the media: The military government

Nigeria was under military regime for over 15 years. These were the locust years which reflected high level of corruption, ineptitude and maladministration. This, no doubt, must have impacted negatively on their quest for professionalism. Journalists developed a high degree of skepticism, subjectivity and lesser sense of social commitment to the dictates of higher conscience. 11 years into the nascent democracy in Nigeria, the atmosphere has not been liberated from debilitating corruption and other social vices. Therefore, the professional journalists have not attained any transformative atmosphere which FOIA attempt to achieve. Such attainment is predicated on adhering to the strict umbrage of the FOIA, as proclaimed.

Truth

As stated elsewhere, truth is almost becoming an endangered pieces in the ethical consideration of the journalists. Journalists no longer recognize the fact that only correct information can form the basis of sound journalism, and this in turn, strengthens the confidence of the people. A journalist therefore must publish the truth as an obligation. Because of persistent inaccuracies of reportage, most Nigerians hardly patronize our local media for news. Most Nigerians believe that truthful and factual reportage can only be gotten from foreign channels. Now that a free atmosphere for the practice of journalism has been provided and all stumbling blocks, official, and bureaucratic hindrances removed, efforts should be made towards restoring the confidence of the audience (Ugoji, 1998). Such confidence can only be restored within the confines of responsible journalism; guided by maximum altruistic service, rather than selfishness propelled by mercenary instincts or brown envelopes syndrome.

Monetary and material rewards

Perhaps, the most unethical factor like a cankerworm which has eaten deep into our moral fabrics is the inability to resist monetary and material rewards, not legitimately earned. This flies in the face of the code. The gifts are variously labeled by the journalist as "brown envelopes", "last chapter", "transport", "public relations", "welfare", "kumta", "kola", "pure water", "refreshment", and all that which constitutes inducements, which lower the quality of news coverage and take away the social responsibility which the journalist/reporter owes the general public. The FOIA prescribes appropriate punishment for information or news not legitimately obtained. Unbiased application of such punishment when warranted would go a long way toward enhancing developmental journalism, and very much in the spirit of the much touted Transformational Agenda of the present government of President Jonathan.

Freebies

According to Media Laws (2011):

> These are gifts which are offered to influence journalists, but the question arises; is there anything wrong with accepting Christmas or Sallah gifts from politicians or political office holders? Many top editors say a capital "yes". Perhaps, the editors are saying so to holders from their own experiences. They know that journalists can be influenced by these gifts to kill stories or put up news pages for sale.

Akinfeleye (1990) divided these unethical media practitioners into distinct groups called, cocktail journalism, journalism of next of kin, or naira and kobo journalism, protocol journalism or journalism of the civil service. He described cocktail journalists as:

> Those around Governors, Deputy Governors and even at Presidential parties with legs of chickens, livers, snail, zinzanroes, salads etc. They will also be found at wake keepings, marriage ceremonies, chieftaincy installations, house warming parties, pretending that they have been assigned to cover these activities. They are journalists who have lost trends with their professional callings. They, even in addition to wining and dining, demand and receive "brown envelopes" (even "white and blue envelopes", as they call it nowadays). They are journalists, who, in recent times, refer to Legislators, Presidents, Prime Ministers, Governors and their Deputies as there naira clients.

As for those who practice journalism of next of kin or naira and kobo, Akinfeleye describes them as those who have sold their consciences; either

for naira, cedes, francs, dollars, pounds or other fringe benefits. According to Media Laws and Ethic (2011):

> What keeps the journalist moving is his professional code of ethics and his conscience. To what extent can Nigerian journalist keep to his professional code of ethics and what happens to those who violate the code. And talking about conscience does the Bible not say that some consciences have been "seared with a hot iron" (Timothy 4:2).

He describes these journalists with seared conscience as:

> Journalists who will suppress the news because their big daddies, brothers or mummies are involved. They colour the news, make up the news, where there is no news they draw up fictitious stories and present forged and/or redundant documents to support that sensationalism and reckless journalism.

There are several ethnical issues which cannot, in its high quantum, be addressed completely in this restrictive paper. It is important that, though there is a cheering news bit that Nigeria now has the FOIA, promoting freedom of information, but it comes alongside challenges that bother on professional ethics and practice. Attempts must, therefore, be made to address such ethics appropriately.

Procedure for maintenance of high ethical standard in the media

As a way of promoting ethical standard and professionalism within the media, Akinfeleye (1990) recommended journalism of conscience. He said these journalists who believe and practice objectivity, fairness, accuracy, clarity and simplicity, in the news reporting as agenda setters, write fearlessly. The unique roles these groups of real journalists can play in a nation towards its political, social and economic maturity are enormous. Igbinnedion (1987) opines that media proprietors, whether private or government, should develop an internal code of conduct and ethical standard, and ensure that they are strictly adhered to. As a way of actualizing it, he himself and Etukudo (1993) recommended the Constitution of a Press council that will provide leadership, legal and professional standard for the practice of journalism in Nigeria.

In 1992, the Nigeria Press Council was set up amid scathing criticisms and objections to the establishment of the Council. Those who objected accused government of bad faith, that it has no responsibility to establish a Press Council for journalists. The business of government should rather be complementary; which is to maintain the character of the press with the highest professional and commercial standards. The opinion of this paper may differ a little. If the government had actually desired to maintain ethical and professional standards in the media, it would not have made the Decree so impotent as it seems. For instance, the decree did not give the Council

power to punish erring journalists, except to reprimand them. Therefore, the obligation placed on the shoulder of a practicing journalist is not weighty enough to compel him to conform to the ethical and moral standard. Such standard must hold a transparent mirror onto the society whose norms the journalist upholds.

Lack of registration and licence

Before now, journalists are not registered, and no acceptable minimum standard of educational qualification was also required. The cheering news is that the procedures are now maintained so as to register journalists. One cannot continue to wonder if journalism is an association of like minds or is it really a professional body? This is because professional bodies like, NBA, MMA, NSE, NIPR, NIM, ICAN and several others have acceptable standards of education and professional training to be admitted as a member. But, journalism which provides a level-playing ground for all, despite academic qualifications, ought to be a leading light in the areas of regulating membership and acceptable academic qualification. Leaving the FOIA IN the hands of charlatans and uniformed journalists to operate would be the greatest disservice to Nigerian society. Such status quo would, no doubt, undermine the provisions of and adherence to the Freedom of Information Act.

Desperation to get news

Some journalists, in a desperate bid to get at sources of information which they eventually tagged "Breaking News" or "World's exclusive", hide their identities to gain access to persons or place, and sometimes pay for documents that are confidential and secrets, so as to secure information. This conduct, apart from being unethical, is a mark of lack of courage and fearlessness which ought to be the guiding principles for a well-trained journalist. It also amounts to taking undue advantage. Often, stories not properly investigated are credited to "reliable sources", or "sources that wish to remain anonymous". This way of avoiding investigative journalism is gradually becoming the order of the day amongst soft sale magazines and newspapers whose practice cannot be anything than junk (Ugoji, 2008), as articulated elsewhere.

With the freedom of information Act, now in place, it is expected that all limitations that would make accessibility to information cumbersome have been removed and the processes legitimately made easier and more transparent. Professional journalists need no longer cut corners. Those who do that would do so at their perils, reputation and at the expense of professionalism vis-à-vis the enduring respect that is the reward of informed leadership.

CONCLUSION

The responsibilities and challenges that come with the FOIA are enormous and must be appropriately addressed promptly. In spite of some legal constraints which journalists must learn to accept and operate within their set limits, ethical problems maybe the greatest challenges. For their violation or subvertion may diminish the fortunes of the dividend of the FOIA. Therefore journalists should be conscious of the need to approach his professional duties with the highest professional integrity, using faithfulness, accuracy, fairness and objectivity as the yardstick to measure performance and service delivery. There is surely a place of honour for those who do public service conscientiously.

Every profession has a holy duty to render to society; accounts for its stewardship to the comity of nations, near, far and wide. Such stewardship accountability is particularly demanding of the journalistic profession, in all its ramifications; print, electronic, celluloid and photographic among others. This is among the reason why the profession is collectively christened the third estate of the realm, a position it appropriately earned after the onerous roles of the executive, the legislature and the judiciary in that order. What is more, it is the profession that actually sets agenda, putatively for the other three, aforementioned. As a watchdog of the society, near, far and wide, it intermediates between the first three realms and the civil society; locally, nationally and globally. To whom much is entrusted or given, much is expected. It is unequivocally the ambassador plenipotentiary of the other careers or professions. In many respects, the journalistic profession, in all its ancillaries, should be unbiased ombudsman in the community of nations in which it operates. In all, herein lies the centrality of the freedom of information imperatives and the Act. Unquestionably, the challenges, in fact, the problems; potential, inherent, adherent or embedded, normative or artificial, are enormous and can be made all the more in intractable; developments in human and other conditions notwithstanding.

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