

## Freedom of Information Act (FOIA) and Democratic Consolidation in Nigeria

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### Abstract

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The Freedom of Information Act (FOIA) is an Act that gives a person, group, association or organisation the right to access information from government agencies, parastatal, Federal Civil Service, among others. The Act was passed by the Nigerian National Assembly on 24<sup>th</sup> May, 2011 and assented as a law by the President on 28<sup>th</sup> May, 2011. This study seeks to assess the impact of FOIA on democratic consolidation in Nigeria. A cross sectional survey design was employed for the study. The data of the study were generated from array of documentary facts drawn from both published and unpublished materials. Questionnaires and reports were the major instruments utilized. ANOVA was used to test the formulated hypotheses of the study. The study found that FOIA has helped to promote accountability, transparency, responsiveness, etc. in governance. The study also found that some contradictions of the sections, non-compliance, and poor culture of keeping record, among others affect the implementation of the Act. The study recommended that the gap in the provision should be filled, effective compliance, adequate training for FOIA desk officers, among others.

**Keywords:** FOIA, Implementation, Impact, Challenges, Democratic Consolidation

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### **Background to the Study**

Freedom of Information (FOI) and the Freedom of Information Act (FOIA) is a practice that has evolved in modern time to serve as a check to the traditional system of information management whereby the state hoard and abuses information, and also determine how information should be shared and be disseminated. In the ancient time, most states' activities were tied on the Weberian principle of confidentiality; a principle that allowed the state to keep the information secrete from the public. The Weberian principle borrowed the philosophy from the ancient orthodoxy that promotes ideal such as: "The State is Supreme" and "might is right" (leaders are right) (Ajanwachukwu, 2012). In the ancient time, it was believed that the state and its rulers are supreme; they are always right and must not account their action. Augusto Hippo and Niccolo Machiavelli in their respective works – "The city of God" and "The Prince" canvassed for the secrecy of the rulers and the activities of the state. This philosophy and the practice were done by almost all states and civilizations. The practice was more pronounced among socialist's state than in the capitalist societies. In the socialist state, it was believed that the state should control everything and should not be held accountable (Cinjel & Weinoh, 2022)

It was with the advent of the work of classical philosopher like *John Lock*, *Jean Baron Montesquieu*, *Thomas Aquinas*, among others in the 18 centuries that the activities of the state and its excessive power were moderated and place under check. Aphorism like- "if you are not informed, you are deformed" by *Henry Ukazu*, "Information is Power" by Shakespeare, "information is transformation" by *Abraham Lincoln* and the *United Nations Charter* on "Freedom of Expression", among others also contributed to the growth and quest for Freedom of Information (Anukam,2015)

In 1955, U.S state man and a senate, *John Moss* proposed a bill for the adoption of freedom of information in governance but it was completely rejected. It was much later in 1966 that it was revised and considered for consent by President *Lyndon Johnson*. Many nations borrowed from the practice while some avoided it. World Trend in Freedom of Expression and Media Development Global Report (2023) states that freedom of information is practices in over 100 countries and more than 50 countries and mostly it was the socialist states that choose not to introduce the Act. In Nigeria, there were several moves in 1987, 1994 and 1999 to introduce the Act but to no avail. It was till on 28<sup>th</sup> May, 2011, *Good luck Jonathan* signed the bill and it became an Act of the state (Cinjel& Weinoh,2022).

The Act in Nigeria empowered its practice by all federal ministries, departments, agencies, commissions and parastatal but courts, congress, states and Local Government Areas were all at the liberty to introduce it or not to in their respective laws. In Nigeria, over 16 states are yet to be domesticated the FOIA into practice. According to Premium Time (2023), 17 states which it mentioned as- Plateau, Nasarawa, Niger, Kogi, Bauchi, Adamawa, Anambra, Kano, Ogun, Osun, Sokoto, Ekiti, Taraba, Akwa Ibom, Imo, Yobe, among others are yet to incorporate it into their state laws (Cinjel & Weinoh, 2022).

The essence of FOIA was not just to provide information but to provide the information in such a way that it will help to deepen democratic practice in a state. The Act in most states has made provision for openness in governance, transparency and accountability of action of the state to the public. It through the application of the Act, the abuse of office and power, corruption and bad governance by public officers can be checked. The practice, if effectively implemented would help to promote responsive governance, trust, legitimacy and good governance. It is on this context that this study premised (Dunu, 2014).

### **Statement of the Problem**

Over 125 countries have implemented the freedom of information Act and it was assented as an Act in Nigeria on 28<sup>th</sup> July, 2011; this made the country to be number 73 state to have implemented it and provided for its practices. Records on ground have shown that the practice of FOIA in most of the countries that are operating it has yielded many positive results in strengthening democratic practices. This study intends to find out the impact of the fourteen years of implementation of FOIA on the consolidation of democratic practices in Nigeria Governance in Nigeria in the past was based on the old office secrecy Ordinance of 1912. This ordinance provides that the activities of the state should be shrouded in confidence. It was till 28 May, 2011, that the bill was assented as an Act; it was since then, it was being operated in MDAs and parastatal. At the moment, 16 states have incorporated it in their laws and 19 states are yet to incorporate it. This study intends to find out those challenges that bedevilled the practices of FOIA in Nigeria; from its inception to this present dispensation and how they constitute a serious threat to democratic practices in Nigeria

### **Research Questions**

It was based on these issues that the following questions were raised

- (a) How has Freedom of Information Act (FOIA) impacted on democratic consolidation in Nigeria?
- (b) What are those factors that affect the implementation of FOIA and its effects democratic consolidation in Nigeria?
- (c) What mechanism can be put in place to aid the effective compliance with the provision of FOIA so as to strengthened democratic consolidation in Nigeria?

### **Objectives of the Study**

The main objective of the study is to examine the FOIA and its impact on democratic practices in Nigeria

Specifically, the study seeks to:

- (a) Examine the impact of FOIA on consolidating democratic practices in Nigeria
- (b) Determine those factors that militate against the implementation of the Act
- © Provide solutions to those challenges that affects FOIA and democratic practice in Nigeria

### **Hypotheses of the Study**

The following hypotheses were formulated to guide the study:

- (a) The implementation of FOIA has no significant impact on democratic consolidation in Nigeria

(b) The implementation of FOIA is not affected by series of factors

### **Conceptual Clarification**

#### **What is Freedom of Information Act?**

The freedom of Information Act (FOIA) is an Act that gives a person, group, association or organization the right to access information from government agencies, parastatal, federal civil service, private and public organizations providing public services, etc. It is a freedom of information act that allowed information in the public sectors organization to be accessed, open, transparent and accountable. Any person, group, association, organization, etc. can make a request for information under the FOIA. The request must be in writing with a clear description of the information being sought, and in compliance with institutional requirements (Dakas, 2009). To obtain information under the FOIA, a request must be made either electronically or by letter in a written form, describing the information sought for, and the preferred format of the response, in as much detail as possible.

#### **Democratic Consolidation**

Democratic consolidation otherwise known as consolidated democracy is nascent concept. It is the maturity of the democratic institutions and the society; it looks at the soundness and stability of the democratic practices and the little possibility of a return of an authoritarian regime. Democratic consolidation is the process by which a newly established democratic regime becomes sufficiently durable that a return to non-democratic rule is no longer likely (Agarwa, 2006).

Beetham (2014) sees democratic consolidation as the expectations of regime continuity and the process by which a newly established democratic regime become sufficiently durable that a return to non-democratic rule is weakened. It also demands upholding democratic values of popular participation, good governance, inclusive governance, periodic election, legitimacy and many others. It is the process by which a new democracy matures in a way that it becomes unlikely to revert to authoritarianism without an external shock and is regarded as the only available system of government within a country. A democracy becomes consolidated, if it is expected to endure; when political actors accept the legitimacy of democracy and no actor seek redress.

Gunther, Diamandurous and Puhle (1995) outlined stages involved for a nation to achieve consolidated democracy. These are: The fall of the authoritarian regime, good governance, upholding democratic values of popular participation, legitimacy, upholding, sound judicial practice, viable political parties, periodic election, political accountability and transparency, free civil society and existence of functional state. Linz and Stepan (1996) popularize the phrase. They provide a good introduction to the different components of consolidation, which they refer to as the five reinforcing arenas of consolidation. These are; political institutions, the economy, rule of law, a usable bureaucracy and civil society. Schedler (1998) also conceptualizes democratic consolidation as a process influenced by prior conditions and argues that the tasks and goals of consolidation will be affected by each country's unique starting point.

Diamond (1999) rejects theories that privileged preconditions for the success of consolidation. He also suggests that consolidation may take many different paths. Schmitter and Karl (2001) echoes this view and further stresses that consolidated democracies will not be able, nor should be expected to solve all socio-political problems. Huntington (2003) does not only demarcate the end of a transition using the two-turnover test but also posits that economic prosperity, peaceful transition and previous experience with democracy are all preconditions for successful consolidations.

O'Donnell (1996) also challenges the view that consolidation can only take one path. He pushes this argument further by proposing that imperfect democracies that are not fully and formally institutionalized can also endure. This view is critiqued in Gunther, et al (1996) which argues that certain socio-political practices can prevent and undo consolidation. Moving away from arguments on preconditions, Alexander (2002) presents a theory of consolidation based on the strategic choices of political elites. From the foregoing, it can be deduced that democratic consolidation is the stabilization of democratic process in such a way that non-democratic rule is enfeebled.

### **History of FOIA**

The Freedom of Information Act (FOIA) is one of the most important legal tools citizens and reporters have and use to promote transparency and good governance across the globe. FOIA was originally championed by Democratic congressman- *John Moss* from California in 1953 after a series of proposals during the cold war which led to a steep rise in government secrecy. The bill was opposed by *president Lyndon* and every federal agency and department at the time (Ewerem, 2014).

After the issuance of clearer and clarified rules and exemptions for the government agencies, the house passed the bill with 370-0 and the president was left with no option. President Johnson signed it but still had his own concern. On the 4<sup>th</sup> of July, 1966, Johnson decided not to hold public event for the signing which he did for other major bills. Instead, he issued a signing statement when making the bill a law, in which he attempted to undercut the law by focusing on exemptions for national security and FOIA room for interpretation (Gopi, 2016). Though the 1966 bill was a huge step towards government transparency, FOIA lack the teeth necessary to force government to comply. It wasn't till 1974, after the Watergate scandal and the fight-lipped Nixon administration that congress amended FOIA to become the bill it is today. The senate and the house involved many new equipment, time frames, sanctions for wrongly withheld information, and necessary language waiving fees for journalists and public interest groups (Udombana, 2019)



**Table 1:** Major Landmarks in the Historical Development of FOIA

1966	Sign into law
1974	Many new requirements were introduced
1982	President Ronald Reagan issued executive order 12356 which created new classification rule
1996	President Clinton signed into law the Electronic Freedom of Information Act Amendments
2001	President Bush issued Executive order 13233 which limited access to former president
2007	President Bush signed the OPEN Government Act of 2007
2016	FOIA first became law

**Source:** Curled from electronic frontier foundation, 2024

### **Structure of Freedom of Information Act in Nigeria**

The Freedom of Information Act 2011 was passed by the national assembly on 24<sup>th</sup> May 2011 and was assented to by the President Goodluck Jonathan on 28<sup>th</sup> May, 2011. The Freedom of Information Act (FOIA) supersedes the Official Secrets Act (OSA) originally enacted in 1991, which forbade the unauthorized disclosure and exclusion with which public servants cloak the ordinary operations of government and public institutions. It also seeks to change the manner in which public records and information are managed.

FOIA creates for any person a right to Information, whether or not contained in any written form, which is in the custody or possession of any public official, agency or institution. Section 1 and 2 of the FOIA in Nigeria establish the right of any person to apply for information or records in the possession of a public institution. In Nigeria it is not applicable to private companies and states and Local government areas at their discretion to incorporate it. Section 1 and 2(6) also provides that an applicant needs not to have any specific interests in the information sought and can apply to court to compel its release. Under section 2(1) and (2) the Act in Nigeria, a public institution is obliged to ensure that it records and keeps Information about all its activities, operations and business and that it properly organizes and maintains all information in its custody in a manner that facilitates public access to such information. In addition, section 2(5) mandates a public institution to update and review information required to be published under this section periodically, and immediately whenever changes occur. Reasons for this is to ensure that relevant pieces of and changes in information are duly brought to the public domain without a prior request for disclosure.

Apart from the duty of a public institution to make information available on request by any person, it also has the obligation to publish certain information on a regular basis. This information is contained in section 2(3) of the act as follows:

- (a) A description of the organization and responsibilities of the institution including details of the programmes and functions of each division, branch and department of the institution.
- (b) A list of all
  - (i) Classes of records under the control of the institution in sufficient detail to

- facilitate the exercise of the right to information under this Act, and
  - (ii) Manuals are used by employees of the information in administering or carrying out any of the programmes or activities of the institution.
- (c) A description of documents containing final opinions including concurring and dissenting opinions as well as orders made in the adjudication of cases.
- (d) Documents containing:
  - (i) Substantive rules of the institution
  - (ii) Statement and interpretations of the policy which have been adopted by the institution.

To facilitate the capacity of public institutions to proactively disclose information and ensure a smooth operation of the Act, the combined implication of section 2(3)f, 3(4), 3 and 29 (1) of the Act is that such institutions should designate appropriate staff with the responsibility to fulfil this mandate, in addition to managing the entire range of the FOIA process. To this end, the Act provides that every government or public institution must ensure the provision of appropriate training for such officials on the public's right to access to information or record held by it (13). This is explicitly stated in by the guideline on the implementation of the Act (2013) indicating that the effective implementation of the Act requires each public institution to designate a senior official, who should be of at least Assistant Directors level or its equivalent as the head of a FOI Act unit. The unit is to have a direct responsibility for determining and generally ensuring compliance through the adoption of institutional best practices in the following areas

- (a) Dedicated help/ service lines or online assistance
- (b) Undertaking periodic review of record keeping and maintenance procedures
- (c) Reposting and liaising with the office of the Attorney General of the federation
- (d) Preparation of a record mop/chart
- (e) Compliance with the institution's proactive disclosure obligations
- (f) Regular training and training of the staff of the institution on their FOI related obligation.

Despite the salient provisions of the Act and Guideline, there is an apparent lack of awareness of their contents among MDAs. Public Servants generally view persons seeking access to information on their records as adversaries who are out to which hunt their institutions and so are unwilling to provide the needed information. The exemptions under the Act are covered by section (11-19) and these are:

- (a) International Affairs and Defence
- (b) Law Enforcement and Investigation
- (c) Personal Information
- (d) Professional & Others
- (e) Course or Research Materials

### **Nexus between FOIA and Democratic Consolidation**

Ideally, there is supposed not to be FOIA where democracy is being practiced. This is because the two shared the same principles. What FOIA is advocating is embodied in an ideal

democracy. Democracy has offered a lot of lofty things but putting these things in practice is always the case. FOIA is a correctional tool and also an enforcer whose essence is to ensure that the ideal things appertain to the utilization of information is done as expected. Almost all the countries in the world claimed to be practising democracy; even Russia, Cameroon, North Korea, Afghanistan just to mention a few still believed that what they are practicing is democracy regardless of the suppression of information, abuses, denials, restrictions, etc (Cinjel & Weinoh, 2021). The essence of FOIA is to ensure that those nations claiming to be practicing democracy and suppressing fundamentals right like freedom to have access to information rejig its practices so as enrich democratic processes and practices (Cinjel& Weinoh, 2021)

FOIA can only happen where there is democracy and its purpose are to enrich the democratic practices. The mandate of democracy such as accountability, transparency, citizens' participation among others can only be feasible where there is freedom of information. Several states in the past found it unattractive because it has unravelled to the governed a lot of wrong things that were shrouded in secrecy. It did not stop at that, it has stopped several state actors from committing atrocities because everything would be made open and officers would be called upon to give an account of their actions (Dakas, 2009)

FOIA is neither a principle nor an ideology; it is a law that is implemented to enrich and strengthened the utilization of information. It frowned at such democratic societies that are tied to Weberian principle of secrecy. This is why it is more receptive in capitalist societies than their socialist counterpart (Udembana, 2019). There are societies that have adopted FOIA but their practices of democracy are much more to be desired. FOIA can only strive in a democratic society that there is compliance, its provisions are free from ambiguity and citizens are aware of its content (Udembane, 2019).

In an ideal democratic society, FOIA is not supposed to be introduced; FOIA is introduced when the democratic practices are mare by a lot of hitches like impunity, abuses, restrictions and rancour. FOIA is not just about access to information, it means more than that; its chief goal is that the information is accessed and utilizes to enrich democratic practices in a state (Rashid, 2022).

### **Empirical Review**

Ajanwachukwu (2012) carried out a study on the strategies for the enforcement of the freedom of information Act in 2012. He chiefly relied on qualitative documents to present his case. In the work, the relevance of the Act was not linked to democracy and development. Dunu (2014) conducted a study on the journalists' knowledge, perception and uses of freedom of law in journalism practices in Nigeria. He uses survey research design and his population target was journalist. He uses Taro Yamene to determine his sample size. The study restricted itself to only journalist. Journalists would be major stakeholders to benefit from the Act but the Act and its essence is all categories of persons and groups in the society



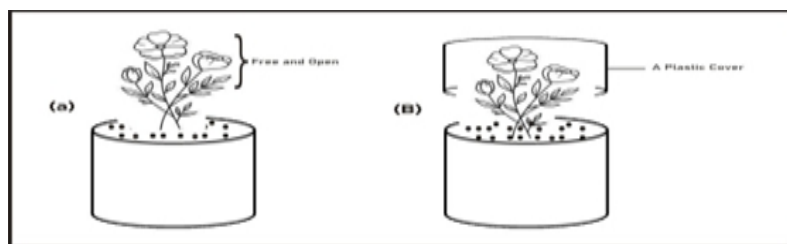
Enweren (2014) conducted a study on the right to know and the implementation of FOIA. He uses Nigeria and South Africa as his case study. He employed documentary research design and uses meta- analysis to compare the practices of FOIA in the two countries. Gopti (2016) carried a study on FOIA in India. He uses survey research design. His target population was the professional groups in the public sector. He uses simple and systematic sampling and concluded that the practices would help to boost governance and socio-economic development.

Dakas (2009) carried out an investigation on FOIA, rule of law and democratic governance in Nigeria. It was purely a doctrinal research. He cited several cases both within and internationally to advocate for the need to implement FOIA. Udemšana (2018) conducted a study on the implementation of FOIA and institutional obligation and requirement in Nigeria. What was utilized as a research design was documentary and historical approach. In the study, several sections with ambiguity in the Act were cited and their impact on the implementation were pointed.

### Theoretical Framework

The study was anchored on Responsiveness and Just Model (RJM) of Governance. The model was propounded in 2022 by N.D *Cinjel*. It is one of the models that tried to explain the relationship between an ideal society and democratic consolidation. The model advocates that where there is openness and uprightness in governance, dividends of democracy abound. The model illustrated the relationship between an ideal society and democratic consolidation using two flowers in a jar. The first one was allowed to stay in an open and serene environment while the second was covered with a plastic on the top. This can be seen in the figure below:

**Figure I:** Illustration of R & J M



In the figure, the Flower A is looking good and flourishes because it was opened to good environment and was not distracted. Flower B is looking pale and unkempt. Flower A is seen as a society where citizens have access to information and their rights are not abused. Flower B is seen as a typical society where citizens are denied not just information but many privileges and rights. The tenets of the theory are:

- a. An ideal society is not based on restriction (secrecy)
- b. Where privileges are defined, opened and accessed, democracy strive
- c. Access to information is critical to realization of an accountable government.
- d. Public bodies hold privileges like information not for themselves but as a custodian of

- public goods.
- e. Closeness in governance is antithetical to the task of engendering democratic governance.

### Relevance of the Model to the Study

Some of the relevance of the model to the study are as follows:

- a. The model provides a nexus between openness in governance and democratic consolidation.
- b. The model was also able to equate information as lifeblood of democracy and a step meant to foster development
- c. The model attempts to bridge the gap between the government and the people, making the former more responsive to the needs of the later and upholds the democratic ideology by promoting openness and transparency in administration.

### Methodology

We adopted a cross-sectional survey research design as the research design of the study. The study restricted itself within the six (6) geo-political zones of Nigeria. One state in the Zones is selected and the summation of the categories of professionals in the state constituted the population of the study. We used Bartlett, Kotrlik and Higgins table to determine our sample size which is 320. Simple random technique and systematic sample technique was used for sample distribution. Questionnaire and interview were the major instruments of data collection. The population size and sample allocation can be seen in the table below.

**Table 2:** States and Geo-political Zones

States	Geo-Political Zone
Plateau	North-Central
Taraba	North-East
Enugu	South-East
Osun	South-West
Kaduna	North-West
Benin	South-South

**Source:** 1999 Constitution (as amended)

**Table 3:** Target Population

S/N	Target	Plateau	Taraba	Enugu	Osun	Kaduna	Edo	Total
1.	Farmers	39,400	45,200	45,700	29,700	69,700	38,700	267,900
2.	Teachers	17,500	13,800	16,200	16,700	57,200	18,200	139,600
3.	Lawyers	10,500	8,200	19,400	11,210	17,600	12,110	79,020
4.	Business	25,900	21,400	38,100	19,213	41,200	28,900	174,713
5.	Civil Servants (State)	17,600	14,300	24,170	15,300	49,900	21,200	142,470
6.	Journalists	7,800	63,000	13,600	14,800	18,300	17,500	78,300
<b>Total</b>		<b>118,700</b>	<b>109,200</b>	<b>157,170</b>	<b>106,423</b>	<b>253,900</b>	<b>136,610</b>	<b>882,003</b>

**Source:** National Bureau of Statistics, 2023.

**Table 4:** Sample Allocation

S/N	State	Zones	Target Population	Proportional Sample
1.	Plateau	North Central	118,700	43
2.	Taraba	North East	109,200	40
3.	Enugu	South East	157,170	57
4.	Osun	South West	106,423	39
5.	Kaduna	North West	253,900	92
6.	Benin	South South	136,610	40
<b>Total</b>			<b>882,003</b>	<b>320</b>

**Source:** NBS, 2023

### Data Presentation and Analysis

In this section, data obtained from the field were presented and analyzed using descriptive statistical tools. We used ANOVA to test the formulated hypotheses.

**Table 5:** Bio-Data of Respondents

Characteristics	Categories	Responses	Percentage (%)
(a) Sex	Male	180	60
	Female	130	40
	<b>Total</b>	<b>300</b>	<b>100</b>
(b) Educational Qualification	FSLC	5	2
	SSCE	20	7
	NCE/ND	35	11
	HND/First Degree	100	33
	PG Qualification	140	47
<b>Total</b>		<b>300</b>	<b>100</b>
(c) Profession	Farming	50	17
	Business	70	23
	Legal Practice	40	13
	State Civil Servant	50	17
	Journalism	50	17
	Teaching	40	13
<b>Total</b>		<b>300</b>	<b>100</b>

**Source:** Researcher's Survey, 2023.

The table above shows that 180 of the respondents representing 60% were from the male folk while 130 representing 40% were from the female folk. This thus shows that the entire gender category participated in the study. In the table, 5 representing 2% were holders of FSLC, 20 representing 7% were holders of SSCE, 35 representing 11% were holders of NCE/ND, 100 representing 33% were holders of HND/First Degree and 140 representing 47% were holders of postgraduate qualifications (PGD, Masters and PhD). What this entails is that most of the respondents are learned and would be able to express themselves and provide the desired information. The table above also shows that 50 of the respondents representing 17% were into farming, 70 representing 23% were into business, 40 representing 13% were into legal practice, another 50 representing 17% were civil servants from the state, another 50 representing another 17% were journalists and another 40 representing another 13% were into teaching profession.

**Table 6:** FOIA and Its Impact on Democratic Consolidation

S/N	Items	SA	A	U	D	SD
1.	It promotes accountability in governance	200(72%)	50(17%)	5(2%)	10(3%)	5(2%)
2.	It promotes transparency in governance	230(77%)	50(17%)	5(2%)	10(3%)	5(2%)
3.	Good tool in fighting corruption	230(77%)	50(17%)	5(2%)	10(3%)	5(2%)
4.	Good responsive governance	230(77%)	50(17%)	5(2%)	10(3%)	5(2%)
5.	Encourages citizen participation	230(77%)	50(17%)	5(2%)	10(3%)	5(2%)
6.	Encourages culture of record keeping	230(77%)	50(17%)	5(2%)	10(3%)	5(2%)
	<b>Total</b>	<b>1,380</b>	<b>300</b>	<b>30</b>	<b>60</b>	<b>50</b>

**Source:** Researcher's Survey, 2023.

The table above shows that 230 of the respondents representing 77% of the total responses strongly subscribed to the view that the implementation of FOIA promotes accountability in governance, 50 representing 17% also subscribed to the view, 5 representing 2% were indecisive, 10 representing 3% of the respondents opposed the view and another 5 representing 2% of the respondents strongly opposed the view. In the table also, 230 of the respondents representing 77% strongly supported the view that the introduction of FOIA promotes transparency in governance, 50(17%) respondents also supported the view, 5(2%) of the respondents were not sure of their stands, 10 of the respondents representing 3% of the responses opposed the view and another 5 of the respondents representing 2% strongly rejected the view.

Also, in the table, 230 of the respondents representing 77% strongly acknowledged the view that FOIA is a tool in fighting corruption, 50(17%) of the respondents also supported the view, 5(2%) were not sure of their stands, 10(3%) of the respondents opposed the view and other 5(2%) of the respondents strongly opposed the view. In the table also, 230 of the respondents representing 77% strongly acknowledged the view that FOIA promote responsive governance, 50(17%) of the respondents also supported the view, 5(2%) were hesitant of their view, 10(3%) of the respondents rejected the notion and 5 of the respondents representing another 2% strongly rejected the view. Also, in the table, 230(77%) of the respondents strongly ascribed to the notion that FOIA encourages citizen participation in governance, 50(17%) also supported the view, 5 of the respondents representing 2% were hesitant of their view, 10 of the respondents were not in harmony with the perception and also, another 5(2%) of the respondents strongly opposed the view.

And also, in the table, another 230 of the respondents representing 77% of the respondents strongly acknowledged the view that FOIA has encouraged the culture of record keeping that was not long practiced in the public sector, 50(17%) supported the view, 5(2) were not sure of their view, 10(3%) of the respondents rejected the view and another 5 of the respondents representing 2% strongly rejected the view.

**Table 7: FOIA and Its Effect on Democratic Consolidation**

S/N	Items	SA	A	U	D	SD
1.	Ambiguity in some of the provisions	250(83%)	30(10%)	6(2%)	7(5%)	7(3%)
2.	The immunity clause	250(83%)	30(10%)	6(2%)	7(5%)	7(3%)
3.	The failure to provide sanction for non-compliance	250(83%)	30(10%)	6(2%)	7(5%)	7(3%)
4.	Poor culture of record keeping	250(83%)	30(10%)	6(2%)	7(5%)	7(3%)
5.	Lack of awareness on the content of FOI	250(83%)	30(10%)	6(2%)	7(5%)	7(3%)
	<b>Total</b>	<b>1,250</b>	<b>150</b>	<b>30</b>	<b>35</b>	<b>35</b>

**Source:** Researcher's Survey, 2023.

In the table above, 250(83%) strongly subscribed to the view that ambiguity in some of the provisions of the Act affects implementation, 30(10%) also supported the view, 5 representing 2% were indecisive, 7 representing 5% refuted the view and another 7 representing another 3% strongly opposed the view. In the table, 250 representing 83% strongly acknowledged the view that the immunity clause given to higher officers in governance not to disclose some certain information has significant effect on the implementation of the Act, 30(10%) of the respondents also supported the view, 6(2%) were not sure of their stands, 7(3%) of the respondents opposed the view and another 7(3%) strongly rejected the view.

Also, in the table, 250 representing 83% of the respondents strongly subscribed to the view that the failure to provide sanction for non-compliance also affect the implementation of the Act, 30(10%) of the respondents also subscribed to the view, 6(2%) were not certain of their stands, 7(3%) of the respondents were not in agreement with the notion and another 7 representing another 3% of the respondents strongly rebutted the view. In the table also, another 250 of the respondents representing 83% of the respondents strongly attested to the view that poor culture of record keeping in the public domain has significant effect on the implementation of the Act, 30(10%) of the respondents subscribed to the view, 6(2%) were indecisive, 7(3%) opposed the view and another 7 representing another 3% strongly refuted the view. And also, in the table, 250 of the respondents representing 83% strongly ascribed to the view that lack of awareness of the content of FOIA has significant effect on its implementation, 30(10%) of the respondents also supported the view, 6(2%) were not sure of their stands, 7(5%) opposed the view.

### **Test of Hypotheses**

The formulated hypotheses of the study were tested below. Since we have more than two groups, we used ANOVA to test the variance in their perception on the subject under discussion. It was tested at 10% level of significance.

**H<sub>0</sub><sub>1</sub>:** The implementation of FOIA has not deepened democratic consolidation in Nigeria



**Table 8:** ANOVA Summary of Table of Hypothesis One (1)

S/N	Source of variation	SS	MS	DF	Fcal	Fr
1	Between Group	3340	835	4	6.776	
2.	Within Group	620	124	5		
	Total	3960	959	9		3.376

**Source:** Researcher's Survey, 2023.

**Result:** From the computation above, the *fcal* which was 6.776 is greater than the *fr* which is 3.376. With this, we accept  $H_a$  and reject  $H_0$  and conclude that the implementation of FOIA has deepened democratic consolidation in Nigeria.

$H_{02}$ : Several factors have not militated against the implementation of FOIA in Nigeria

**Table 9:** ANOVA Summary of Table of Hypothesis Two (2)

S/N	Source of variation	SS	MS	DF	Fcal	Fr
1	Between Group	3880	970	4	7.341	
2.	Within Group	660	132	5		
	Total	4,540	1102			4.127

**Source:** Researcher's Survey, 2023.

**Result:** From the computation above, the *fcal* is 7.34 and is greater than the f-critical which is 4.127. With this, we accept  $H_a$  and reject  $H_0$  and conclude that several factors have militated against the implementation of FOIA in Nigeria.

### Discussion of Result

- a. In the past and before the administration of President Goodluck Jonathan assented the FOIA on 28<sup>th</sup> May, 2011, activities of government were shrouded in secrecy. This has made a lot of public officers to promote incompetency under the guise of secrecy and a lot of corrupt activities thrive. The passage of the bill has strengthened democracy and has brought Nigeria into the league of African nations that have done so. We used ANOVA to test the formulated hypotheses and it supported the notion that it is a prerequisite for the functioning of a modern state. The stated indices – accountability, frequency, responsive governance, tool to fight corruption, among others were all affirmed with significant score. Underscoring the importance of availability of information in the realization of good governance, Dakas (2009) notes that the conduct of governmental affairs in absolute secrecy is antithetical to the task of engendering democratic governance within the framework of transparency and accountability.
- b. The Act offers a lot of good intentions but its implementations were hampered by several factors. The result of our test confirmed that several challenges militated against its implementation. These factors include the ambiguity in some of the provision and its failure to provide requisite sanctions for non-compliance with certain

provisions of the law. There were also the challenges of the pervasive culture of not keeping record by public institutions and lack of sufficient will on the part of the Attorney-General of the Federation and Minister of Justice who is the Chief Implementing Officer of the Act, to ensure the success of the goal of the Act.

### **Conclusion**

The assent of the Nigerian Freedom of Information Act on May 28, 2011 is a good development that will help to sustain and deepen democratic practice in Nigeria. The gains outweigh the bad side and it is a practice that has helped a lot of countries to realize an effective and accountable government. Just like it is often said, Nigeria is good at introducing good and lofty policies but it is its implementation that is always the issue. This paper has examined FOIA and its impact in consolidating democratic practices in Nigeria. The study established that access to information is critical to the realization of an accountable government and will offer a fresh hope of victory over the old culture of secrecy that had always defined the Nigerian public service.

### **Recommendations**

The following recommendations were proffered:

- a. The gap in Sections 2(3), 10 and 29(2) and 3 of the Act that allowed immunity to certain categories of public officers should be corrected. No exception should be given to certain class or group.
- b. Adequate sanction should be provided for non-compliance with the provision of the Act especially with the provision of Sections 2(3) and (4) on disclosure of information by public institutions; the sanctions in Sections 7(5) and 10 should be diligently enforced.
- c. Adequate training should be regularly provided for FOIA desk officers.
- d. The Act should empower the Attorney-General of the Federation and Minister of Justice, as specifically mandated partial implementing officer of the Act, to set up a monitoring team to ensure compliance with the provisions of Section 2 and any other relevant sections of the Act.

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