

# THE FREEDOM OF INFORMATION LAW AND DEMOCRATIZATION IN NIGERIA

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**Abstract:** Nigeria is rife with marginalisation and human rights abuses, which have been aggravated by inequitable distribution of national wealth. This situation calls for viable institutional arrangements for the protection of fundamental human rights. The press has been empowered in this regard but Nigeria remains rife with a plethora of human rights abuses. The present paper therefore examines the freedom of information law and democratization in Nigeria. The paper is conceptualised within the ambit of Mills' Theory of Sociological Imagination. Data used for the paper were derived from relevant documents and key informant interviews. A total of 64 journalists were purposively selected from 16 print and electronic press organisations in Lagos and Oyo states of Nigeria. Findings show that the press has been empowered through the Freedom of Information Bill, which was signed into law after a decade of its presentation to the Nigerian government. Most of the informants mentioned that the Freedom of Information Law would stimulate democratization, although they expressed doubts about its efficacy. Also, two-third of the informants expressed dissatisfaction over continuity of press freedom abuse in Nigeria. The results of this paper suggest the need for national consciousness to ensure protection of press freedom and human rights in the Nigerian democracy.

**Keywords:** Democratization, FOIL, Human Rights Abuses, Marginalisation, Press Freedom.

**Contents:** I. INTRODUCTION; II. THEORETICAL FRAMEWORK ON THE ISSUES OF HUMAN RIGHTS IN NIGERIA; III. METHODS OF DATA COLLECTION; IV. THE QUESTION OF FREEDOM AND FUNDAMENTAL HUMAN RIGHTS IN NIGERIA; V. THE ARRIVAL OF THE FREEDOM OF INFORMATION LAW IN NIGERIA; VI. THE RATIONALE FOR FREEDOM OF INFORMATION LAW; VII. PROVISIONS OF THE FREEDOM OF INFORMATION LAW IN NIGERIA; VIII. PROBLEMS WITH PRESS FREEDOM IN NIGERIA; IX. LINKAGES BETWEEN FREEDOM OF INFORMATION LAW AND HUMAN RIGHTS IN NIGERIA; X. LINKAGES BETWEEN FREEDOM OF INFORMATION LAW AND DEMOCRATIZATION IN NIGERIA; XI. LESSONS FOR NIGERIA FROM THE JAPANESE MIRACLE; XII. CONCLUSION.

## I. INTRODUCTION

The ability to ensure protection of human rights is essential for democratization of a country. Contrary to expectations, the political and socio-economic situations in Nigeria clearly show a plethora of human rights abuses. To address this situation, President Olusegun Obasanjo established the Human Rights Violation Investigation Commission (HRVIC) in 1999, a period of the beginning of the current phase of democratization in Nigeria. The objectives set for the HRVIC were reproduced by Aina (2010: p. 57) as follows:

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“To restore the confidence of citizens in the nation’s government, and to contribute to national healing of festering wounds covering the period between January 1966 and May 1999. [...] Accordingly, HRVIC decided from the outset to see its task principally as “using the instrumentality of the law to effect social change in the country”.

The above mentioned objectives are yet to be actualised despite the fact that the HRVIC submitted its report and recommendations to the Federal Government of Nigeria since May 2002. The HRVIC provided ample opportunities for victims of human rights abuses to tell their stories during its public hearings in four major cities across Nigeria (Aina 2010). The continued neglect of the recommendations of the HRVIC suggests that the universal principles of democracy including protection of human freedom and social justice are illusory in Nigeria. Consequently, a number of Nigerians have become restless in their quest for social justice.

Unfortunately, Nigeria is yet to ensure social justice, as the over fifty years of its attainment of political independence from Britain typify human rights abuses owing to several factors including dictatorship, corruption, and social exclusion. The historical failure of successive governments to meet the expectations of the majority of Nigerians has led to renewal of demands for social justice and recognition of inevitability of freedom of the press since 1999.

This paper thus dwells on the following questions: Did successive democratic regimes in Nigeria ensure adequate protection of fundamental human rights? Would the Freedom of Information Law stimulate democratization of Nigeria? Is the Freedom of Information Law sufficient to ensure protection of press freedom and fundamental human rights in Nigeria? The aforementioned questions are addressed through mixed methods of data collection, particularly key informant in-depth interviews and relevant documents.

The public clamours for democratization have reached unprecedented levels in Nigeria. In the light of such clamours, instances of improvement have been recorded in some areas of the operation of the Nigerian democracy. This is evidenced by the emerging credibility of the electoral system and presidential assent to the Freedom of Information Law (FOIL). The emergence of the FOIL in Nigeria indicates an improvement in institutional arrangements for the entrenchment of democracy. The FOIL provides a basis for an understanding of the framework of press freedom in Nigeria; it indicates an attempt to replace the culture of secrecy that prevails within the Nigerian civil service with a culture of openness. Research has shown that the ultimate goal of the FOIL is to promote accountability and transparency in government (Adams 2010). With statutory right of access to public information embodied in the FOIL, governments can be made more accountable to the people.

Scholars acknowledged that dissemination of information is a principal function of the press and protection of freedom of expression is required for such function (Adams 2010; Aturu 2010; Callamard 2010; Haugaard 2010). The FOIL is expected to

protect freedom of the press and rights of the individual in a true democracy. Various governments and international organisations have recognised the centrality of freedom of expression to democratization.

The African Commission on Human and People's Rights emphasized the importance of press freedom to human rights and good governance at its 32nd Ordinary Session held in Banjul, Gambia in October 2002. Press freedom is also enshrined in the Declaration on Democracy by the New Partnership for Africa's Development (NEPAD) and the African Peer Review Mechanism (APRM). Also, Article 10 of the European Court of Human Rights (ECHR) explicitly stipulates the freedom to receive information held by public authorities.

Nigeria has finally endorsed the FOIL, thereby becoming one of the countries with legislation on citizens' right to information. Those countries include Sweden, the United States, Finland, the Netherlands, Australia, Canada, South Africa, Liberia, India, Israel, Jamaica, Japan, Mexico, Pakistan, Peru, South Korea, Thailand, Trinidad and Tobago, the United Kingdom, and most countries in East and Central Europe. In fact, Callamard (2010) reported that over 90 countries had enacted the right to information.

It is important to note that the Nigeria's contemporary legislation on freedom of information introduces the need for a departure from the historical experience of social exclusion among Nigerians. Like most African societies, Nigeria evolved through historical periods dominated by dictatorial kings, emirs and chiefs followed by equally dictatorial colonial rulers and military regimes. Of concern now is Nigeria's history of democratization with allegations of corruption and human rights abuses. For instance, successive Nigerian governments restricted public access to records and information through various laws such as the Official Secrets Act (OSA), the Public Service Rules (PSR), the Criminal Code Act (CCA) and National Archive Act (NAA) (Abioye 2010). The extant history of restriction of public access to information in Nigeria provides evidence for Aina's (2010) observation that the state has been the major perpetrator of gross violations of human rights. The present paper therefore analyses the Freedom of Information Law and its linkages to press freedom and democratization in Nigeria, using Mills' (1959) Theory of Sociological Imagination.

## **II. THEORETICAL FRAMEWORK ON THE ISSUES OF HUMAN RIGHTS IN NIGERIA**

Issues addressed in the present paper are situated within the framework of the Theory of Sociological Imagination propounded by Wright Mills (1959). The ideal of press freedom is expected to affect democratization. The emergence of the Freedom of Information Law (FOIL) in Nigeria can also affect the operations of press freedom, depending on its efficacy or inefficacy. The aforementioned issues can be explained in the light of socio-political history of contentions among individuals and groups in the Nigerian society. Thus, Mills' (1959) Theory of Sociological Imagination is adapted to explain the FOIL and its linkages to press freedom and democratization in Nigeria.

Mills (1916-1962) was recognised as a radical theorist in American Sociology and his masterpiece on “the Power Elite”, which appeared in 1956, showed “how America was dominated by a small group of businessmen, politicians, and military leaders” (Ritzer 1996: p. 209). The Theory of Sociological Imagination developed from Mills’ interest in Marxism and the problem of the Third World. Recognition of powerlessness of individuals and groups in their struggle for social justice within the ambit of the law is a key issue in the Theory of Sociological Imagination as indicated below:

“It is not only information that they need –in this Age of Fact, information often dominates their attention and overwhelms their capacities to assimilate it. It is not only the skills of reason that they need –although their struggles to acquire these often exhaust their limited moral energy. What they need, and what they feel they need, is a quality of mind that will help them to use information and to develop reason in order to achieve lucid summations of what is going on in the world and of what may be happening within themselves. It is this quality, I am going to contend, that journalists and scholars, artists and publics, scientists and educators are coming to expect of what may be called the sociological imagination. [...] The sociological imagination enables its possessor to understand the larger historical scene in terms of its meaning for the inner life and the external career of a variety of individuals (Mills 1959: p. 11)”.

The Theory of Sociological Imagination provides a suitable framework for an analysis of the social context of press freedom and democratization in Nigeria. The theory explains how people’s psychology is formed from their daily experience and false consciousness of their positions in society. People’s involvement in public issues is also discussed in the theory and this also justifies its suitability for the discourse on FOIL linkages to press freedom and democratization in Nigeria.

Mills’ (1959) call for sociological imagination has gained recognition among scholars. Mehan (2008) reported his engagement with the Theory of Sociological Imagination in the development of research and public sociology. For O’Brien (2009), sociological imagination provides an opportunity for critical engagement with the complexity of social life and in this way deepens an analysis of a public issue. The Theory of Sociological Imagination fits an analysis of human freedom or lack of it depending on intersections between individual biography and history of society. The struggle for social justice has become an integral part of the history of Nigeria; this observation can be substantiated from various perspectives shown in the Theory of Sociological Imagination:

“For that imagination is the capacity to shift from one perspective to another – from the political to the psychological [...] from the theological school to the military establishment [...] Perhaps the most fruitful distinction with which the sociological imagination works is

between 'the personal troubles of milieu' and 'the public issues of social structure' (Mills 1959: pp. 13-14)".

The Theory of Sociological Imagination was derived from multiple perspectives; it specifically focuses on the need for a quality of mind that is suited for adequate knowledge of social realities pertaining to personal troubles and public issues in a society. The persistence of human rights abuses in Nigeria fits the description of public issues in the Theory of Sociological Imagination. Expectedly, it has been demonstrated that solution to public issue requires reform of social institutions of society. The FOIL can be perceived as a stepping stone to the reform of the Nigerian democracy, hence the need to address the FOIL linkages to press freedom and democratization due to its recognition as a cornerstone of good governance.

### **III. METHODS OF DATA COLLECTION**

Methods of data collection for the present paper are based on qualitative primary and secondary data. The qualitative primary data were derived from key informant interviews conducted among 64 journalists from 16 press organisations including print and electronic media in Lagos and Oyo states of Nigeria. The 64 journalists were purposively selected based on their work schedule, competence, gender, and availability. Four journalists were selected from each of the print and electronic media organisations in Lagos and Ibadan areas of Nigeria. Appointments were booked via telephone conversation and the interviews were conducted at the discretion of the journalists after several visits to their workplaces. Rapports with a number of journalists made organisational entry and interview with several journalists in their workplaces easy and fruitful.

Each interview session lasted for an average of 60 minutes and the time of the interview differed from one journalist to another due to their work schedule and time constraints. Also, the secondary data used for the present paper were generated from peer reviewed articles and official documents. Both the primary and secondary data were subjected to thematic content analysis for a robust interpretation of problems with press freedom and democratization in Nigeria. Issues addressed in the present paper are necessitated by a triumph in the struggle for press freedom on the one hand and continued demands for social justice in Nigeria on the other hand.

### **IV. THE QUESTION OF FREEDOM AND FUNDAMENTAL HUMAN RIGHTS IN NIGERIA**

The concept of freedom has become widely used and misused among individuals and groups in Nigeria. While some concerns for freedom are expressed in private spheres, other interests in it are publicly expressed. The movement for press freedom in Nigeria lies in the latter and such movement is theoretically geared towards protection of fundamental human rights. In his remarks on a decade of democratization in Nigeria, Jega (2010: p. 9) mentioned the relevance and restrictions of freedom thus:

“Human freedom could no longer be taken for granted. Those who have, at one time or the other, lost their freedom or have been in bondage would better appreciate the indispensable character of freedom. [...] As desirable as freedom is, it has to be regulated. The doctrine of the separation of power was designed to enhance human freedom by regulating relationships between the different departments of government –the legislature, the executive and the judiciary (Jega 2010: p. 9)”.

The power to ensure human freedom extends beyond the abovementioned institutions of governance. In a liberal democratic ideology, it is believed that power belongs to the people, usually the electorates, and this premise justifies the quest for press freedom through which individual’s right to self-expression can be recognised. The majority of Nigerians can express their satisfaction or dissatisfaction about a number of issues, particularly a wide gap between the elites and the general public. In his observation of this situation, Olurode (2010: p. 25) speculated that: “in the next decade, democratic resources will be deployed to avert the phenomenon of rising social discontent which is being fuelled by unjustifiable remuneration of political office holders.” The freedom of the press cannot be ignored in this context.

In his observation of the relevance of the press to socio-political history of Nigeria, Mättig (2010: p. 12) submitted that:

“Nigeria’s vibrant culture, its outspoken intellectuals, brave labour unions, civil society and media activists have given rise to hopes about a different Nigeria and a better Africa [...] newspapers and numerous publications decry corruption and bad leadership, and articulate the desire for a better state”.

The above submission implies that the Nigerian society would improve under a regime that tolerates individual’s right to self-expression and by extension freedom of the press. Unfortunately, successive Nigerian governments have not lived up to expectations in this regard. Even with its loud acclamation for the rule of law, the regime of late President Yar’ Adua was alleged of closure and harassment of the press in his attempt to avert public access to vital information about his ill health (Oyebode 2010). Lack of public access to vital information can endanger democratization of society via corruption.

Aturu (2010) cited several examples of how a tiny proportion of the Nigerian population has continued to benefit from the opaqueness and corruption that lack of public access to information engenders. He argued that how only a few derive maximum benefits from the abundant resources of the state would remain unknown without freedom of information. Aturu’s (2010) call for a fundamental change in the Nigerian society through the full exercise of the civil and political rights such as press freedom, a key promise of liberal democracy, is in consonance with the Theory of Sociological Imagination. Many reasons and justifications proffered for the hostility of the ruling elite to the Freedom of Information Bill can be recalled. The main argument

against the Bill was that granting public access to information would jeopardise national security. In contrast, restriction of public access to information constitutes human rights abuse.

Consistent with Rixin's (2010) observation of marginalisation of the masses in the distribution of national wealth, the Nigerian greedy politicians and their cronies opposed the Freedom of Information Bill for over a decade, while socio-economic conditions of the majority of Nigerians have continued to deteriorate. A major outcome of this eventuality is expansion of the gap between the rich and the poor. The rate of wealth accumulation of the minority and the rate of mass unemployment have reached astronomical proportions in Nigeria. Likewise, the gains of privatisation have been concentrated in the hands of the privileged Nigerians, whereas the underprivileged Nigerians continue to wallow in abject poverty.

Thus, adequate protection of the freedom of the press is urgently required to empower the Nigerian public towards participation in formulation and implementation of public policies. The exclusion of the majority of Nigerians from governance is however compounded by inadequate protection of press freedom and this has contributed to the rise of human rights abuses in Nigeria, pointing to the need for citizens' participation in governance (Machado 2011). Adequate freedom of the press can guarantee people's involvement in government and such freedom can stimulate democratization of Nigeria. A number of controversies raised on the question of press freedom have been addressed in the passage of the Freedom of Information Bill (FOIB), which has become the Freedom of Information Law (FOIL).

## **V. THE ARRIVAL OF THE FREEDOM OF INFORMATION LAW IN NIGERIA**

The freedom of information bill has been passed into law in Nigeria, although contentions about the bill lasted for over ten years (1999–2011). This situation was adduced to proliferation of dictatorial regimes and lack of transparency in government (Adedayo and Agbaje 2010; Tiamiyu and Aina 2008). The bill was presented to the Nigerian legislature in 1999 and it was approved by the legislature after several years of debates on it. However, President Olusegun Obasanjo dismissed it and the bill was returned to the legislature for fresh debates on it (Akinwale 2010). Finally, the FOIB was signed into law in February 2011, thereby becoming the FOIL and it received assent of President Goodluck Jonathan on 28th May 2011. The issue of press freedom is no longer controversial with the arrival of the FOIL in Nigeria.

Prior to the arrival of the FOIL, several sections of the Nigerian constitutions stipulate press freedom in Nigeria. Section 24 (1) of the Nigerian 1960 Constitution states that every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference (Akinola 1998). Also, sections 22 and 39 of the Nigerian 1999 Constitution provide for individual's right to self-expression and freedom of the press. Section 39 of the Constitution stipulates that every person shall be entitled to freedom of expression,

including freedom to hold opinions and to receive and impart ideas and information without interference.

The section further shows that every person shall be entitled to establish and operate any medium for the dissemination of information, ideas and opinions. As disclosed by Aturu (2010), section 22 of the Nigerian 1999 Constitution fortifies the power of the press. He also mentioned that section 39 of the Nigerian 1999 Constitution is sufficient for the press to carry out its assumed traditional functions of informing, educating and entertaining the public. However, the proviso to subsection two states that persons other than the state cannot operate a television or wireless broadcasting station for any purpose without the permission of the President upon fulfilment of conditions stipulated in an Act of the National Assembly.

The need for specific legislation on freedom of information has been widely recognised. In recognition of this fact, Adams (2010) mentioned several instances of constitutional provisions for the freedom of expression in many African countries including Botswana, Cameroon, Kenya, Lesotho, Sierra Leone, Zambia, Mozambique, Tanzania and Uganda.

The emergence of the FOIL in Nigeria is expected to promote democratization, which requires adequate protection of press freedom and fundamental human rights. Of significance here is Rijn's (2009) observation that the changing relationship between citizens and their governments require devolution of power to lower levels of governance. The observed requirements for good governance include ability to bring power back to the citizens, provision of security, prevention of corruption and compliance to the law. Reliable police and efficient judiciary are also required.

## **VI. THE RATIONALE FOR FREEDOM OF INFORMATION LAW**

Several countries have enacted FOIL to grant the members of the public the right of access to information or official documents held by the State. Sweden's Freedom of Press Act of 1766 is the oldest information law in the world; the FOIL became widespread in the 1960s (Katu 2008). The United States of America (USA) FOI Act was signed into law on 4th July 1966 by President Lyndon Johnson. In Canada, the FOI was enacted in 1982 and titled "Access to Information Act". South Africa established its FOIL in 2000. The FOIL is promulgated to ensure social accountability in the political system of a country (Adams 2006). Extending Adam's views, Callamard (2010: p. 1232) submitted that:

"Access to information held by public authorities enables citizens to make informed choices and allows them to scrutinize the actions of their government. It is essential to creating a relationship of trust between state bodies and the general public, allowing for transparency and public participation in decision making".

The above mentioned submissions show the relevance of adequate protection of press freedom for social accountability. A free and vibrant press is required for social accountability given the necessity of investigating freely without fear and the need to promote citizens' adequate participation in governance. The FOIL is also aimed at promoting democratization. Mason (2008) mentioned that free access to information preserves democratic ideas, while earlier observation by Millar (2003) showed that it is a significant paradigm shift from secrecy and concealment to openness and transparency. In the same line of argument, Blanton (2002) expressed that the need to engender openness in reaction to endemic corruption and graft often seems to be a fundamental consideration in the FOIL.

## **VII. PROVISIONS OF THE FREEDOM OF INFORMATION LAW IN NIGERIA**

Unlike the hitherto existing laws in Nigeria, section 30 (2) of the FOIL stipulates that nothing contained in the Criminal Code or the Official Secrets Act shall prejudicially affect any public officer who, without authorisation, discloses to any person, any public record and/or information which he reasonably believes to show – (a) a violation of any law, rule or regulation; (b) mismanagement, gross waste of funds, and abuse of authority; or (c) a substantial and specific danger to public health or safety notwithstanding that such information was not disclosed pursuant to the provision of this Act. Also, section 30 (3) stipulates that no civil or criminal proceedings shall lie against any person receiving the information or further disclosing it.

The abovementioned provisions suggest that the FOIL can promote public access to vital information. A previous study by Abioye (2010) showed that the doctrine of openness has been enabled in the FOIL. However, the FOIL also makes provisions for exemptions from public access to vital information. This implies that the Nigerian public may not have access to all official information due to the state interest in the protection of official information in order to ensure privacy and defence in the conduct of national and foreign affairs. Under the Nigerian FOIL, exemptions from public access to information are contained in various sections.

While Section 11(2) stipulates public access to information, Section 11(3) prohibits public access to information if such access would unreasonably interfere with operations of the government or constitute an infringement on copyright. With the above exemptions, the Nigerian state officials can curtail public access to vital information depending on their interpretations of the information. Abioye (2010) has justified the exemptions from public access to vital information, showing that it is impracticable for any government to allow access to all kinds of information in its custody without some interests being jeopardised.

## **VIII. PROBLEMS WITH PRESS FREEDOM IN NIGERIA**

Analysis of both primary and secondary data clearly shows lack of absolute freedom in Nigeria. Threats to the ideal of press freedom can be perceived in this context. A key threat in this regard arises from several factors such as undue interests of

the elites, corruption, institutional resistance, and disregard for the court of public opinions. The above factors are responsible for lack of social justice, which would have been promoted through press freedom (Shiller 2010; Vlastic & Noell 2010).

Controversies in the quest for press freedom in Nigeria featured prominently in the narratives of 64 key informants among Nigerian journalists working in print and electronic media in Lagos and Oyo states of south-western Nigeria. Lack of absolute freedom of the Nigerian press was however lamented. It was mentioned that press freedom has been affected by undue interests of the elites within socio-political circles. Some informants disclosed that press freedom would only make sense in Nigeria if individual's rights are protected and if journalists are allowed to practice their profession without undue interference.

Most of the informants believed that partisanship could prevent journalists from adhering to the principles of their profession. Added to this is the need for prevention of partisanship in the operations of the press in Nigeria. Thus, problems with press freedom oscillate within the interplay of the political environment, judicial interest and elite capture of the press in Nigeria. Elite capture of the press portends dangers to the majority of Nigerians as it creates multiple voices that produce different versions of various class interests. The concerns of the majority are usually ignored or given inadequate attention in this process. In the words of Tettey (2008), the economic imperatives behind the operations of many press organisations tend to trump their public service role. This situation introduces dilemma in the recognition of contributions of the press towards the development of the Nigerian democracy. According to Akinwale (2010: pp. 55-56):

“A major concern in the social construction of the press communication system is the elite capture of the press. The elites may deploy press organisations as tools for ventilating parochial political interests rather than as public arena for robust democratic expressions. [...] Striking a balance between competing concerns (public right to know and the necessity of political stability or national security) is a major challenge to press organisations in Nigeria”.

Previous research by Adedayo and Agbaje (2010) corroborated the above submission. Their research showed evidence of elite capture and partisanship among press organisations, including the fact that the early cases of militant activities of members of the Odua People Congress (OPC) were underreported in most of the press in the south-western Nigeria, while reports on such cases were exaggerated in most of the press in northern Nigeria. Other instances of manipulation of the Nigerian press are summarised in Table 1, which shows divergent views on the credibility of Professor Maurice Iwu, regarding allegations of his connivance in a great deal of electoral malpractices in the 2007 general elections in Nigeria.

**Table 1: Dissenting Reports on Erstwhile Chairman of INEC**

/n	The Press	Date of the Report	Headlines of the Report
	The Sun	2nd February 2009	I Can't Be Sacked – Iwu
	The Punch	25th February 2009	Sack Iwu now, NLC Tells Yar' Adua
	The Champion	27th February 2009	2007 Elections: Nigerians Should Thank Iwu
	The Champion	18th March 2009	Leave Iwu Alone
	The National Life	22nd March 2009	The Vote of Confidence on Maurice Iwu

The reports in Table 1 show dissenting opinions about the erstwhile Chair of the Independent National Electoral Commission (INEC) of Nigeria. This suggests opportunities and challenges in public access to vital information via the operations of the press freedom. The opportunities may include availability of different perspectives on a given issue. On the other hand, the challenges may include escalation of conflict among different groups. The press can prevent the challenges through ethical conducts based on objectivity and impartiality.

As observed by Adedayo and Agabaje (2010), the expected ethical conducts of the press have been tainted by interests of the proprietors of press organisations. Similarly, Yagboyaju (2010) observed that state-owned media organizations have been used to consistently harass parliamentarians, thereby creating a scenario in which subjectivity of critical editorials diminished the robustness of intra-governmental relations. The above observations negate the principles of integrity and objectivity of the press. Another contradiction of ethical conducts in the operations of freedom of the press was briefly described by Olurode (2010: p. 21):

“Of course, it is clear that the press itself is an interested party, rather than being an umpire. Most often than not, the press is implicated as it becomes a platform for the expressions and mediations of wider political conflict”.

The above description can be buttressed through a presentation of several cases of conflicts between prominent politicians in south-western Nigeria, as shown in Table 2.

**Table 2: Reports on Tussles among Political Leaders in South-western Nigeria**

/n	The Press	Date of the Report	Headlines of the Report
	The National Life	22nd November 2008	Ogun Dirty War! Shocking Reasons OGD Battles OBJ, Daughter
	The National Life	14th December 2008	Insult! OGD Annuls MKO Abiola's Monument
	The National Life	14th February 2009	Distraught Ex-aide Releases Toxic SMS Alleging OGD's Killer Squad
	The National Life	15th February 2009	London Secret Deal! How OGD Lured Me Back Home – Wale Adedayo
	The Compass	19th February 2009	Tinubu's Drug Group Tried to Kill American Agent
	The Compass	20th February 2009	How Tinubu Plans to Rule Ekiti from Lagos
	The Compass	21st February 2009	Siphoning Lagos Funds: Alpha Beta Directors in Criminal Action
	The Compass	22nd February 2009	Ex-gov Backstabs Atiku, AC, Others

The Table 2 displays reported cases of mutual hostility between two erstwhile governors, Bola Ahmed Tinubu of Lagos state and Olugbenga Daniel of Ogun state. Such reports may mislead the public that the press is expected to inform, thereby showing a scenario in which people rely on wrong information to make decisions. The press freedom and its implications for conflicts and civil strives in Nigeria cannot be ignored in the light of the above situation. Practically, one-third of the participants in the interviews decried abuse of the concept of press freedom in Nigeria and this was traced to disharmony coupled with the heterogeneous nature of the Nigerian society.

#### **IX. LINKAGES BETWEEN FREEDOM OF INFORMATION LAW AND HUMAN RIGHTS IN NIGERIA**

Most of the participants expressed their support for the FOIL but were wary of likely hindrances to its efficacy in Nigeria. Twelve informants argued for inevitability of human rights abuses in Nigeria and this was attributed to contradictions inherent in Nigeria's social structure. Instances of journalists' exposure to vulnerability and dilemma in the exercise of their responsibilities were stressed as unavoidable instances of human rights abuses. The foregoing narratives are resonant with the Theory of Sociological Imagination, showing concerns for public issues and crises inherent in them, as described below:

“When people cherish some set of values and do not feel any threat to them, they experience wellbeing. When they cherish values but do feel them to be threatened, they experience a crisis. [...] But suppose people

are neither aware of any cherished values nor experience any threat? That is the experience of indifference, which if it seems to involve all their values become apathy (Mills 1959: pp. 17-18)".

The abovementioned aspect of sociological imagination implies that Nigerians are threatened in one way or another. The journalists who expressed their concerns about inevitability of human rights abuses in Nigeria noted that the elites usually put the public at a disadvantage. Focusing on the influence of the elites, Nwabueze (1997) noted that the Nigerian constitutions were crafted and imposed on the general public by colonial masters, military oligarchy and their civilian counterparts.

Regarding the sufficiency or insufficiency of the FOIL for adequate protection of press freedom in Nigeria, one third of the informants mentioned continuity of factors that negate the ideal of press freedom in Nigeria; these include the following: censorship, ownership structure, political hostility to the press, and repression of the press. Concerns over these factors led to recognition of lack of true press freedom in Nigeria. They mentioned that lack of true press freedom remained their major concern since it limits a number of contributions the press could have made towards development of the Nigerian society.

An informant uncovered the dilemma of the press in a brief statement: 'the state threatens press organisations, the police harass members of the press and the public does not appreciate the role of the press'. The state was blamed for this eventuality in a recent remark by Callamard (2010: p. 1228):

"Often licensing of private broadcasters remains politically controlled even in the context of liberalization of broadcasting and the slow pace of change away from state monopoly of broadcasting. Often such powers are used to stifle press freedom whenever incumbents think that the media paints them in bad light".

Lack of political will on the part of African leaders is largely responsible for the absence of clear progress in the pursuit of the ideal of press freedom. The rhetoric of transparency in the FOIL in Nigeria and other African countries has not been accompanied by the required actions. The above finding resonates with Aina's (2010) observation that the state is a major perpetrator of human rights abuses in Africa.

## **X. LINKAGES BETWEEN FREEDOM OF INFORMATION LAW AND DEMOCRATIZATION IN NIGERIA**

Three out of every five informants recognised direct links between the FOIL and democratization. Also, two-third of the informants observed that the FOIL would further promote the Nigerian democracy through protection of fundamental human rights. This reflects Ukaegbu's (2007) focus on the need to protect Nigerians from the deplorable state of the Nigerian society. A few participants mentioned that with the FOIL, human rights would be protected since press organisations would have access to right information.

It can be argued that the emergence of the Freedom of Information Law (FOIL) in Nigeria signalled a triumph of the press, thereby ending the regimes of restrictions on access to official information. Prior to the enactment of the FOIL in Nigeria, a great deal of information in the Nigerian public service were classified and protected by various laws such as the Official Secrets Act (OSA), the Public Service Rules (PSR) and the Criminal Code Act (CCA). The OSA was originally promulgated in 1962 to restrict access to official information and later turned to Cap 335, Laws of the Federation of Nigeria in 1990 and Cap 03, Laws of the Federation of Nigeria in 2004, respectively. In furtherance to official interest in the restriction on access to information, the PSR was renewed in 2006. As stipulated in section nine of the OSA, classified information must not be disclosed to the public for the sake of national security (Abioye 2010).

Prior to the emergence of the FOIL, the aides of President Yar' Adua and his Vice were sworn to the Oath of Secrecy to prevent disclosures of confidential information to unauthorised persons or organisations (Chedozie 2008). With the instrumentality of the OSA, CCA and PSR, almost all the information in the Nigerian public service was classified and the public was then denied access to vital information about governance. Section one of the OSA states that a person who transmits or obtains any classified information shall be guilty of an offence defined as a serious act of misconduct and is criminally liable to dismissal and imprisonment for at least one year. Similarly, the CCA makes provisions relating to disclosure of official secrets in Nigeria, as section 97 of the Act stipulates that any officer who divulges classified information to an unauthorised person or organisation is guilty of a misdemeanour and liable to imprisonment for two years.

Furthermore, access to public archives in the National Archives in Nigeria was regulated by the provisions of the National Archives Act. The Act stipulates that public archives relating to the private life of individuals shall not be made available for the inspection of members of the public except with the written permission of the persons concerned or their heirs or executors, if known to the Director of National Archives (Abioye 2010).

Consequently, the provisions of the Official Secrets Act, Public Service Rules and the Criminal Code Law have become a vestige of history. Abioye (2010) expected that the passage of the FOI bill would be the first step in a tortuous journey towards ensuring that both the government and the governed in society accept and facilitate the effective implementation of the FOIL. Radical reform and partnership among various sectors of the Nigerian society is required to ensure correct implementation of the FOIL. The need for recognition of people's people power is critical for the success of democratization in Nigeria.

Easterly (2010) demonstrated that the historical escape from poverty actually happened from below when societies allowed freedom for the individual. The experience of Venezuelans has contributed to an understanding of the relevance of people's involvement in governance. Machado (2011) realized the need to resolve the

growing social tensions in Venezuela through engagement with the public. In this process, an organization promoted by five engineers became an organization with more than 50,000 volunteers across Venezuela in less than a year of its existence. Experience in Venezuela shows the fundamentality of people's participation in government and their demands for results in how budgets are prepared for the implementation of public needs.

## **XI. LESSONS FOR NIGERIA FROM THE JAPANESE MIRACLE**

Nigeria needs a radical shift from political economy of underdevelopment to realistic reforms in which the individual's rights would be protected. Experience in Japan and elsewhere has shown the relevance of protecting people's interests in formulation and implementation of public policies. Several instances of success among the Japanese were presented by Kustenbauder (2010), indicating the possibility of a radical break from undesirable situations to enviable positions. An illustration of Japan's success without access to the Marshal Plan in the aftermath of the Second World War is instructive for Nigeria.

It is believed that recognition of collective spirit of resilience and industriousness contributed to the Japanese Miracle, following barbarism of their pre-modern era and wartime devastation of their modern era. Kustenbauder (2010) reported that the Japanese society was governed and reformed by a warrior class of samurai under the direction of powerful shogun generals during the Tokugawa period (1603-1868). The legacy of the Japanese aristocracy was consolidated by the Meiji government, popularly called the Meiji Restoration due to its focus on nation building through an overnight replacement of the Japanese feudal structures with a network of modern institutions such as industries and educational systems that regulated daily activities of the nation's citizens. Significantly, the Unequal Treaties ended with Japan's success in its first modern war with China (1894-1895) and the annexation of Taiwan as a colony. Their 1905 victory over tsarist Russia surprised the world and gave a boost to Japanese nationalism by proving that it could defeat a Western empire. Japan had finally joined the ranks of imperial nations and achieved "great power" status.

## **XII. CONCLUSION**

The present paper dwelt on a number of issues affecting press freedom and democratization in Nigeria. The issues discussed in the present paper include inevitability of human rights abuses, exemptions from public access to vital information, inadequate protection of press freedom, corruption, and lack of social justice. The above mentioned issues have continued to endanger democratization of Nigeria. In this context, the emergence of the Freedom of Information Law (FOIL) in Nigeria was discussed in the light of its linkages to the issues of press freedom and fundamental human rights. Its implications for democratization of the Nigerian society were equally examined.

While the FOIL clearly promotes the doctrine of openness and public access to vital information, it equally restricts public access to vital information depending on the interpretations of such information by state officials. Like the previous legislation on classified official information, the FOIL prohibits public access to vital information in order to ensure protection of national security. This fact reinforces existing diversity between state interest and interest of the Nigerian public. This situation can extend the problems affecting press freedom and democratization in Nigeria.

The majority of the journalists, who provided firsthand information for the present paper, affirmed the inadequacy of press freedom in Nigeria. This situation is based on contradictions between policy and practice in Nigeria as well as manipulation of the Nigerian press by elites. The expectation that the FOIL would ensure adequate protection of press freedom and fundamental human rights will become an illusion except the Nigerian state is able to ensure collective compliance with the principles of transparency, accountability and probity in democratization of Nigeria. Without the above principles, it will be difficult to eradicate human rights abuses in Nigeria where the political elites are yet to support popular calls for social justice. A more radical approach is urgently needed to sustain democratization of Nigeria.

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