



Access to Facts and ‘Watchdogism’: Effect of the Freedom of Information Law in Ekiti State

Omowumi Adebola Adeniyi-Agbaje PhD

Department of Media and Communication Studies, Afe Babalola University Ado-Ekiti, Ekiti State, Nigeria.

***Corresponding Author:** Omowumi Adebola Adeniyi-Agbaje, Department of Media and Communication Studies, Afe Babalola University Ado-Ekiti, Ekiti State, Nigeria.

Abstract: The global movement towards open government and transparency has positioned Freedom of Information (FOI) legislation as a critical instrument for democratic accountability and the media’s watchdog function. In Nigeria, the enactment of the federal Freedom of Information Act (FOIA) in 2011 was a landmark achievement, yet its implementation has been fraught with challenges, particularly at the sub-national level where most states have resisted its domestication. This paper critically examines the unique case of Ekiti State, which, in a pioneering move, enacted its own state-level FOI Law (ESFOIL) shortly after the federal Act. Drawing on a critical policy analysis and a review of available literature, this study investigates the extent to which the ESFOIL has facilitated the media’s watchdog role and enhanced public access to facts. The findings reveal a significant gap between the law’s progressive intent and its practical application, characterized by low public and media utilization, institutional resistance, and a lack of political will for full compliance. The paper highlights the material differences between the federal FOIA and the ESFOIL, noting that while the state law introduced stricter penalties for record destruction, it failed to provide sanctions for wrongful denial of information, a critical omission that undermines its effectiveness. Ultimately, the study concludes that while the ESFOIL provides a vital legal framework, its effect on genuine watchdogism remains largely constrained by deep-seated bureaucratic culture and a failure to institutionalize the necessary mechanisms for proactive disclosure and enforcement. The paper offers concrete policy recommendations for enhancing compliance and maximizing the law’s potential for transparency and accountability in Ekiti State.

Keywords: Freedom of Information, Watchdog Journalism, Ekiti State, Transparency, Accountability, FOIA, Nigeria.

1. INTRODUCTION

1.1. Background to the Study

The right of citizens to access information held by public bodies is a fundamental pillar of modern democratic governance, often encapsulated in the principle of the "right to know" (Darch, 2014:15). This right is not merely an abstract concept but a practical mechanism that empowers citizens, facilitates informed public debate, and serves as a crucial check on governmental power (Mendel, 2008:4). Globally, the proliferation of Freedom of Information (FOI) laws over the past few decades reflects a growing consensus that transparency is a prerequisite for accountability and a deterrent to corruption (Florini, 2007:22). These laws transform the relationship between the state and the citizenry, shifting the burden of proof from the requester to the public institution, which must now justify any refusal to disclose information (Banisar, 2006:35). In the Nigerian context, the struggle for a federal FOI law spanned over a decade, culminating in the enactment of the Freedom of Information Act (FOIA) in 2011 (Ogbodo, 2012:101). This legislation was hailed as a watershed moment, promising to dismantle the culture of secrecy inherited from decades of military rule and to empower the media and civil society to perform their constitutional roles more effectively (Akinyemi, 2013:55). However, the federal FOIA’s applicability to state governments became a contentious legal and political issue, with many states arguing that the Act was not binding on them without local "domestication" (Uche, 2020:n.p.). This resistance has created a patchwork of transparency across the federation, with the majority of Nigeria’s 36 states operating under a veil of opacity.

1.2. Problem Statement

Amidst this national resistance, Ekiti State emerged as a notable exception. In 2011, shortly after the federal Act, the Ekiti State Government enacted its own state-level FOI Law (ESFOIL), making it one of the first, and for a long time, the only state to pass such legislation (Uche, 2020:n.p.). This proactive

step positioned Ekiti State as a potential model for sub-national transparency in Nigeria. The ESFOIL was ostensibly designed to provide a legal basis for citizens and, critically, the media, to demand public records, thereby strengthening the media’s capacity to act as a watchdog over state affairs (Ekiti State Government, 2013:Section 2).

The core problem addressed by this study is the apparent disconnect between the existence of this pioneering law and the perceived level of transparency and accountability in the state. While the law exists, the question remains: has the ESFOIL truly translated into a more robust and effective media watchdog function? Anecdotal evidence and general observations suggest that, despite the law, the culture of secrecy persists, and the media’s ability to access critical information for investigative reporting remains severely hampered (Asogwa, Ibe, & Orji-Egwu, 2021:7). Furthermore, a detailed comparative analysis of the ESFOIL and the federal FOIA is necessary to understand if the state law contains unique provisions—either strengthening or weakening—the right to information, which could explain its effect on watchdogism. This study, therefore, seeks to move beyond the mere fact of the law’s existence to critically evaluate its practical effect on access to facts and the media’s watchdog role in Ekiti State.

1.3. Research Questions

This study is guided by the following research questions:

1. What are the key provisions and material differences between the Federal FOIA and the Ekiti State FOI Law (ESFOIL)?
2. To what extent has the ESFOIL facilitated the media's watchdog function and access to public information in Ekiti State?
3. What are the major challenges and prospects for the effective implementation of the ESFOIL in promoting transparency and accountability?

1.4. Objectives of the Study

The primary objectives of this study are:

1. To critically analyze the provisions of the Ekiti State FOI Law and compare them with the Federal FOIA.
2. To evaluate the impact of the ESFOIL on the practice of watchdog journalism and the media’s ability to access public records in Ekiti State.
3. To identify and examine the structural, institutional, and cultural barriers hindering the effective implementation of the ESFOIL.
4. To offer evidence-based policy recommendations for improving compliance and maximizing the law's potential for transparency and accountability.

1.5. Significance of the Study

This study holds significant theoretical and practical importance. Theoretically, it contributes to the sparse literature on sub-national FOI implementation in developing countries, particularly in a federal system like Nigeria where state-level resistance is the norm. By focusing on Ekiti State, a pioneer in this regard, the study provides a unique case for understanding the dynamics of transparency policy adoption and implementation outside the federal capital. Practically, the findings will serve as a crucial resource for policymakers in Ekiti State, media practitioners, civil society organizations, and other Nigerian states contemplating the domestication of the FOIA. It provides a critical assessment of what works and what does not, offering a blueprint for strengthening the legal and institutional framework necessary for the law to truly empower the media and citizens.

2. CONCEPTUAL AND THEORETICAL FRAMEWORK

2.1. Conceptual Clarification

2.1.1. Access to Facts/Information

Access to facts **or** access to information is the legal and practical right of individuals to obtain documents and data held by government agencies (Mendel, 2008:12). It is often viewed as a derivative

of the fundamental right to freedom of expression, which includes the freedom to "receive and impart ideas and information without interference" (Nigerian Constitution, 1999:Section 39). The core philosophy is that public information is a public good, and the government acts as a custodian, not the owner, of the information (Darch, 2014:20). In the context of FOI laws, access to facts is operationalized through a formal request mechanism, compelling public institutions to disclose records unless a specific, narrowly defined exemption applies (Banisar, 2006:40). The Ekiti State FOI Law, like its federal counterpart, seeks to formalize this right, asserting that "every person has a right to access or request information or records kept by any government or public institution" (Ekiti State Government, 2013: Section 2).

2.1.2. *Watchdogism*

Watchdogism refers to the media’s role in monitoring the activities of government and other powerful institutions, alerting the public to any misconduct, abuse of power, or failure to perform duties (Christians, Glasser, McQuail, Nordenstreng, & White, 2009:105). This function is central to the media’s democratic mandate, as it serves to hold the powerful accountable and ensure that public resources are managed responsibly (McQuail, 2010:180). The watchdog role is inherently dependent on the media's ability to access non-public information. Without legal instruments like the FOIA, journalists often rely on leaks, whistleblowers, or informal networks, which are precarious and susceptible to manipulation (Antai, 2023:n.p.). The FOIA is thus seen as a vital tool that provides the legal leverage necessary for journalists to move from being mere "lapdogs" or "guard dogs" to effective watchdogs by providing a formal, legal pathway to information (Wasserman, 2010:55).

2.1.3. *Freedom of Information Act (Foia)*

The Freedom of Information Act (FOIA) in Nigeria, enacted in 2011, is the primary federal legislation governing the right to information. It is a proactive law that mandates public institutions to keep records, publish certain information proactively, and respond to requests within seven days (Federal Republic of Nigeria, 2011: Section 4). The ESFOIL, enacted in 2013, is the state-level equivalent, designed to apply specifically to institutions within the Ekiti State Government's jurisdiction (Ekiti State Government, 2013: Section 1). The existence of a state-level law is particularly significant because, for years, state governments across Nigeria have challenged the applicability of the federal FOIA to their institutions, creating a legal vacuum that the ESFOIL was intended to fill (Uche, 2020:n.p.).

2.2. **Theoretical Framework**

The analysis of the ESFOIL's effect on watchdogism is best grounded in two complementary theories of the press: the Social Responsibility Theory and the Democratic Theory of the Press.

2.2.1. *Social Responsibility Theory of the Press*

The Social Responsibility Theory (SRT), a modification of the Libertarian Theory, posits that the media, while enjoying freedom, has a corresponding obligation to society (Siebert, Peterson, & Schramm, 1956:74). This obligation includes: (1) providing a comprehensive and truthful account of the day's events; (2) serving as a forum for the exchange of comment and criticism; (3) projecting a representative picture of the constituent groups in society; and (4) being a watchdog over the government (Christians et al., 2009:108).

The ESFOIL directly supports the SRT by providing the legal mechanism for the media to fulfill its watchdog duty. The law transforms the media's moral obligation into a legally enforceable right to access the facts necessary to hold power accountable. The theory suggests that if the media is to be socially responsible, the state must provide the necessary legal environment, which the ESFOIL attempts to do. The effectiveness of the ESFOIL can, therefore, be measured by the extent to which it enables the media to meet its social responsibility mandate in Ekiti State. A failure of the law's implementation is, in essence, a failure to support the media's socially responsible function. The theory further implies that when the state fails to enforce its own transparency laws, it creates a moral hazard, undermining the media's capacity to act responsibly and potentially forcing journalists to rely on less ethical or less verifiable sources. This is a critical point in the Ekiti context, where the legal framework exists, but the institutional support for the media's responsible function is lacking, leading to a gap between the normative expectation of the SRT and the practical reality of media performance. The SRT,

therefore, provides a strong normative lens through which to critique the implementation deficit of the ESFOIL.

2.2.2. Democratic Theory of the Press

The Democratic Theory of the Press is rooted in the philosophy of participatory democracy, arguing that a functioning democracy requires an informed and engaged citizenry (McQuail, 2010:185). The theory holds that the media's primary role is to facilitate this process by ensuring the free flow of information, which is essential for citizens to make rational choices, participate in governance, and hold their representatives accountable (Curran, 2002:15).

FOI laws are the legal embodiment of this theory. They are designed to dismantle the information asymmetry between the government and the governed, thereby strengthening the democratic process (Darch, 2014:25). The ESFOIL, by granting "every person" the right to information, directly supports the democratic ideal of an informed citizenry. The law's effect on watchdogism is a critical indicator of its success under this theory, as an empowered media is essential for translating the abstract right to information into tangible accountability. If the ESFOIL is not effectively utilized by the media to uncover facts and inform the public, the democratic quality of governance in Ekiti State is diminished, regardless of the law's existence. The theory posits that the health of a democracy is directly proportional to the quality of information available to its citizens. The failure of the ESFOIL to be effectively implemented, therefore, is not just a bureaucratic failure but a democratic deficit. It perpetuates the information asymmetry that the law was designed to correct, leading to citizen apathy, reduced political participation, and an erosion of trust in public institutions. The Democratic Theory thus frames the ESFOIL as a necessary, though insufficient, condition for democratic consolidation in Ekiti State.

3. THE LEGAL AND POLICY LANDSCAPE OF FOIA IN NIGERIA AND EKITI STATE

3.1. The Federal FOIA (2011)

The Nigerian Freedom of Information Act (FOIA) of 2011 marked a significant shift in the country's legal framework, moving from a culture of official secrecy, largely enshrined in the Official Secrets Act, to one of transparency and openness (Ogbodo, 2012:105). The Act's core provisions include: the right of any person to request information, the obligation of public institutions to proactively publish certain information, a seven-day statutory period for responding to requests, and the right to judicial review for wrongful denial (Federal Republic of Nigeria, 2011:Sections 1, 2, 4).

Crucially, the Act defines a "public institution" broadly to include "any legislative, executive, judicial, administrative or budgetary office of the Government of the Federation" (Federal Republic of Nigeria, 2011: Section 31). This broad definition led to a protracted legal debate over whether the federal FOIA automatically applies to state governments and their institutions. While legal opinion and several court judgments have affirmed its applicability, many state governments have continued to resist, arguing that the Act is a federal law that cannot bind state entities without a corresponding state law (Premium Times Editorial, 2025:n.p.). This legal ambiguity and political resistance created the policy vacuum that the Ekiti State Government sought to address.

3.2. The Ekiti State Freedom of Information Law (ESFOIL)

The Ekiti State Freedom of Information Law (ESFOIL), enacted in 2013 (though some sources cite 2011), was a pioneering legislative effort in Nigeria (Ekiti State Government, 2013: Preamble). Its enactment was largely attributed to the political will of the then-state administration, which sought to project an image of progressive governance and commitment to transparency (Fayemi, 2012:n.p.). The ESFOIL is structurally similar to the federal FOIA, affirming the right of access to public records and mandating proactive disclosure.

3.2.1. Critical Juxtaposition: Federal Foia vs. Esfoil

Despite their shared objective, a critical analysis reveals several material differences between the federal FOIA and the ESFOIL. These differences are not merely semantic; they have significant implications for the ease of access to facts and the effectiveness of the media's watchdog function (Uche, 2020:n.p.). The table below summarizes the most salient distinctions:

Feature	Federal FOIA (2011)	Ekiti State FOI Law (ESFOIL)	Implication for Watchdogism
Response Time	7 days (with a possible 7-day extension) (Section 4)	14 days (with a possible 7-day extension) (Section 5)	Weaker: Doubles the initial waiting period, potentially delaying time-sensitive investigative reporting.
Penalty for Record Destruction	1 year imprisonment (Section 10)	3 years imprisonment (Section 11)	Stronger: Higher penalty acts as a greater deterrent against the willful destruction or falsification of public records.
Penalty for Wrongful Denial	Provides for judicial review and sanctions against officials who wrongfully deny information (Section 7)	No explicit provision for punishing "wrongful denial" of information requests.	Weaker: Absence of a direct sanction for denial removes a critical enforcement mechanism, encouraging institutional resistance.
Training of Officials	Explicitly mandates the training of public officials on the Act (Section 13)	No explicit provision for the training of state government officials.	Weaker: Lack of mandatory training contributes to low awareness and institutional capacity for compliance.
Jurisdiction	High Court or Federal High Court (Section 31)	State High Court (Section 31)	Clearer: Explicitly assigns jurisdiction to the State High Court, removing the ambiguity of the federal law's application.

The most critical difference lies in the enforcement mechanisms. While the ESFOIL's provision for a three-year jail term for the destruction of records is a commendable step towards deterring malfeasance, the absence of a clear penalty for wrongful denial is a major weakness (Uche, 2020:n.p.). This omission is not merely a technical oversight; it fundamentally alters the power dynamic between the requester and the public institution. Under the federal FOIA, the threat of sanction for wrongful denial serves as a powerful deterrent against arbitrary refusal, encouraging compliance. In Ekiti State, however, the ability of public officials to deny information with impunity, knowing that the only recourse for the requester is a lengthy and costly judicial review, creates a significant hurdle for journalists. The delay and cost associated with litigation often defeat the purpose of timely access to facts, thereby undermining the media's capacity to perform its watchdog role effectively (Antai, 2023:n.p.). Furthermore, the extended response time of 14 days, double the federal standard, is a practical impediment to investigative journalism, which often operates under tight deadlines. This difference suggests a legislative intent in Ekiti State that, while outwardly embracing transparency, subtly prioritizes bureaucratic convenience over the public's right to know. The ESFOIL, therefore, represents a localized compromise that, in key areas of enforcement and timeliness, falls short of the robust standards set by the federal Act. This nuanced difference is crucial for understanding the limited practical effect of the law on watchdogism in the state. The law's strength in punishing record destruction is offset by its weakness in compelling disclosure, creating a legal framework that is strong on deterrence of past acts but weak on proactive enforcement of the right to information. This imbalance is a central theme in the analysis of the ESFOIL's implementation challenges.

3.3. The ESFOIL and the Watchdog Mandate

The ESFOIL is a direct enabler of the media's watchdog mandate. By legally establishing the right to information, it provides journalists with a powerful tool to investigate and expose corruption, inefficiency, and abuse of power within the state government (Ekiti State Government, 2013:Section The law’s Explanatory Memorandum encourages both citizens and non-citizens of Ekiti State to access state information to promote public accountability (Uche, 2020:n.p.). This explicit link between access to information and accountability underscores the law's potential to revolutionize investigative journalism in the state. However, the mere existence of the law is insufficient; its true effect is determined by the extent of its utilization and the degree of institutional compliance. The law provides the legal shield, but the media must possess the institutional sword—the capacity, resources, and political will—to wield it effectively. The following section delves into the practical realities of this dynamic. The law's potential is enormous, offering a pathway for journalists to move beyond reactive reporting to proactive, evidence-based investigative work. This shift is crucial for transforming the media from a mere conveyor of government information to a genuine fourth estate of the realm, a transformation that the ESFOIL was designed to facilitate. The challenge lies in activating this potential against the headwinds of institutional inertia and political resistance.

4. EFFECT OF ESFOIL ON WATCHDOG JOURNALISM AND ACCESS TO FACTS

4.1. The Watchdog Function in Practice: A Review of Empirical Evidence

Despite the pioneering nature of the ESFOIL, empirical evidence suggests that its effect on the media's watchdog function in Ekiti State has been marginal, a phenomenon often described as the paradox of legislation and implementation (Asogwa et al., 2021:8). The law, while progressive on paper, has not led to a significant surge in high-impact investigative journalism rooted in FOI requests. This is largely due to a combination of factors, including low utilization by the media, institutional resistance, and a lack of political will for enforcement.

The media's watchdog role requires not just the right to information but the capacity and willingness to use it. In many Nigerian states, including those with no FOI law, journalists often rely on traditional, informal methods of information gathering (Mohammed, 2023:n.p.). The formal, bureaucratic process of an FOI request—which involves drafting a letter, submitting it, and potentially engaging in litigation—is often perceived as too slow, cumbersome, and expensive for the fast-paced nature of news production (Antai, 2023:n.p.).

4.2. Media Utilization and Awareness

Studies examining the use of the FOIA across Nigeria, which can be extrapolated to the ESFOIL, consistently point to low utilization rates among journalists (Asogwa et al., 2021:7). While awareness of the law is generally high among media professionals, the actual application of the law remains low (Eze, 2024:n.p.). The reasons for this low utilization are multifaceted:

1. **Perceived Futility:** Many journalists believe that submitting an FOI request will be a futile exercise, as public institutions are expected to deny the request or simply ignore it, forcing them into a costly and time-consuming legal battle (Nkpolu, 2038:n.p.).
2. **Lack of Training:** Despite the importance of the law, many journalists lack the specialized training required to draft legally sound FOI requests, track them, and follow up with the necessary legal action (Egielewa & Aidonjje, 2021:n.p.).
3. **Fear of Retaliation:** Journalists, particularly those working in state-owned media or those heavily reliant on state government patronage, often fear professional or economic retaliation for aggressively pursuing information that may expose government malfeasance (Obajuluwa, Talabi, Otunla, & Ajisafe, 2020:n.p.).

In Ekiti State specifically, while the law is celebrated, the practical evidence of its use in major investigative reports remains scarce. The media's watchdog function is thus often limited to reporting on officially sanctioned events or relying on information provided by political opposition or civil society groups, rather than information legally compelled from the government itself. This observation aligns with the findings of Asogwa, Ibe, and Orji-Egwu (2021:8), who noted that despite the FOIA, the media's utilization of the law remains low, leading to a reliance on traditional, less reliable sources. The practical impact of the ESFOIL, therefore, is not measured by the number of laws enacted, but by the number of high-impact investigative reports it has enabled. The scarcity of such reports in Ekiti State, compared to the potential of the law, suggests a significant gap between legal provision and journalistic practice.

4.3. Media Utilization and Awareness: The Journalist's Dilemma

Studies examining the use of the FOIA across Nigeria, which can be extrapolated to the ESFOIL, consistently point to low utilization rates among journalists (Asogwa et al., 2021:7). While awareness of the law is generally high among media professionals, the actual application of the law remains low (Eze, 2024:n.p.). The reasons for this low utilization are multifaceted, creating a complex dilemma for the journalist in Ekiti State:

1. **Perceived Futility and Legal Burden:** Many journalists perceive the FOI request mechanism as a futile exercise. The process is bureaucratic, and the expectation of denial is high, forcing the requester into a costly and time-consuming legal battle (Nkpolu, 2038:n.p.). The financial and temporal costs of litigation are often prohibitive for local media houses and individual journalists, especially when compared to the fast-paced nature of news production. The 14-day response period in the ESFOIL, double the federal standard, further exacerbates this issue, making the law impractical for breaking news investigations (Uche, 2020:n.p.).

2. **Lack of Specialized Training and Capacity:** Despite the importance of the law, many journalists lack the specialized training required to draft legally sound FOI requests, track them, and follow up with the necessary legal action (Egielewa & Aidonjio, 2021:n.p.). The technical nature of the law, coupled with the need for precise legal language in requests, acts as a significant barrier to entry for many practitioners. Furthermore, the lack of a dedicated legal aid structure for journalists in Ekiti State means that the burden of enforcement falls squarely on the media house, a burden few can bear.
3. **Fear of Retaliation and Patronage:** The media landscape in Nigeria, including Ekiti State, is heavily influenced by political and economic patronage. Journalists, particularly those working in state-owned media or those heavily reliant on state government advertising revenue, often fear professional or economic retaliation for aggressively pursuing information that may expose government malfeasance (Obajuluwa et al., 2020:n.p.). This self-censorship, driven by the need for survival, is a powerful inhibitor of the watchdog function, rendering the legal protection of the ESFOIL moot in the face of economic pressure.

In Ekiti State specifically, the media's utilization of the ESFOIL is often confined to high-profile cases championed by civil society organizations or national media outlets, rather than being a routine tool for local journalists. This suggests that the law has not been fully integrated into the daily practice of journalism in the state.

4.4. Government Compliance and the Culture of Secrecy

The most significant barrier to the ESFOIL's effectiveness is the pervasive culture of secrecy and institutional resistance within the Ekiti State bureaucracy. The law requires a fundamental shift in the mindset of public officials, moving from an assumption of secrecy to an assumption of openness (CSCSD, 2017:n.p.). This shift has largely failed to materialize, creating a hostile environment for the implementation of the law.

Institutional Resistance Tactics: Public institutions in Ekiti State, like their federal counterparts, often employ various tactics to frustrate FOI requests. These include:

- **Ignoring Requests (Silent Denial):** The most common tactic is simply failing to acknowledge or respond to the request within the 14-day statutory period, a practice known as "silent denial" (Mohammed, 2023:n.p.). This forces the requester to initiate legal action to compel a response, a process that is often too slow for the news cycle.
- **Imposing Excessive Fees:** Charging exorbitant fees for searching and duplicating records, effectively pricing the information out of reach for journalists and citizens. This tactic exploits the financial vulnerability of local media and CSOs.
- **Misapplication of Exemptions:** Public officials often broadly and incorrectly apply the law's exemptions to withhold information, citing national security, personal privacy, or commercial confidentiality even when the information is clearly in the public interest.
- **Claiming Non-Existence of Records:** Falsely claiming that the requested records do not exist, a tactic that is difficult to challenge without prior knowledge of the record-keeping system (Antai, 2023:n.p.). This is often compounded by the genuine problem of poor record management.

4.5. The Flaw of No Sanction for Wrongful Denial:

The ESFOIL's failure to include a penalty for wrongful denial is a critical legal flaw that empowers institutional resistance. Without the threat of a direct sanction, public officials have little incentive to comply, knowing that the only recourse for the requester is a lengthy and costly court process (Uche, 2020:n.p.). This institutional inertia effectively neuters the law's power to compel disclosure, rendering the media's right to access facts a theoretical rather than a practical reality.

4.6. The Judicial Role and the Enforcement Challenge

The judiciary is the ultimate guarantor of the ESFOIL, with the State High Court explicitly granted jurisdiction to review denials of information (Ekiti State Government, 2013: Section 31). However, the effectiveness of this judicial review is hampered by several factors:

1. **Cost and Time of Litigation:** The process of filing a lawsuit, pursuing it through the courts, and obtaining a judgment can take months or even years. For journalists working on a time-sensitive

story, this delay makes the judicial route impractical (Antai, 2023:n.p.). The slow pace of the Nigerian judicial system is a systemic challenge that even a progressive law cannot easily overcome. The financial burden of legal fees, court appearances, and the opportunity cost of time spent away from core journalistic duties often serve as an insurmountable barrier, effectively making the right to judicial review a right reserved for well-funded civil society organizations rather than the average journalist or citizen.

2. **Lack of Precedent and Publicized Cases:** While the federal FOIA has generated a robust body of case law, the number of cases specifically litigated under the ESFOIL remains alarmingly low. This dearth of judicial activity means that the law's interpretation and boundaries remain untested and undefined. A lack of strong, publicized judicial precedents affirming the law's power reduces the pressure on public institutions to comply voluntarily. The absence of a centralized mechanism for tracking and publicizing ESFOIL cases further obscures the law's enforcement record, allowing public institutions to operate in a legal vacuum where the risk of judicial challenge is perceived as minimal. This lack of judicial affirmation is a major factor contributing to the institutional impunity observed in the state bureaucracy.
3. **Enforcement of Judgments and Institutional Resistance:** Even in the rare instances where a court orders the release of information under the ESFOIL, the enforcement of that judgment presents a significant challenge. Public institutions, often backed by the state apparatus, can employ delaying tactics or subtle non-compliance, further frustrating the requester. The government, as the defendant, often controls the mechanisms of enforcement, creating a fundamental conflict of interest that undermines the rule of law. The judiciary's power ends at the issuance of the order; the political will of the executive arm is required for its execution. The reluctance of the executive to enforce judicial decisions against its own agencies sends a clear signal to the bureaucracy that non-compliance with the ESFOIL carries little to no consequence, thereby severely limiting the law's practical effect on watchdogism. The challenge is not the law itself, but the political culture that resists its enforcement. This systemic failure in the judicial enforcement chain is arguably the most significant institutional barrier to the ESFOIL's success.

4.7. The Paradox of Legislation and Implementation: A Critical Assessment

Ekiti State's status as a pioneer in enacting a state-level FOI law is a source of pride, but it also highlights a critical paradox: the mere existence of a progressive law does not guarantee a culture of transparency or an empowered watchdog media. The ESFOIL has provided the legal foundation for access to facts, but the institutional and cultural superstructure required for its effective implementation is missing. The law's effect on watchdogism is thus a story of unfulfilled potential, where the legal tool is available but remains largely unused or ineffective due to systemic barriers. The ESFOIL, in its current state of implementation, functions more as a symbolic gesture of transparency than a practical instrument of accountability. The challenge for Ekiti State is to move from the symbolism of legislation to the substance of implementation, thereby transforming the media's theoretical right to information into a practical reality for the benefit of democratic governance. This requires a multi-pronged approach that addresses the legal, institutional, and cultural deficits identified in this study. The ultimate success of the ESFOIL will not be judged by its presence on the statute books, but by the tangible impact it has on the quality of governance and the vibrancy of the media's watchdog function in Ekiti State. The next section will detail the necessary steps to bridge this implementation gap.

5. CHALLENGES TO EFFECTIVE IMPLEMENTATION

5.1. Challenges to Effective Implementation: A Deeper Dive

The challenges to the effective implementation of the ESFOIL in Ekiti State are structural, institutional, and cultural, forming a complex web of resistance that frustrates the law's intent.

5.1.1. Structural and Legal Deficits

The most glaring structural deficit is the omission of a penalty for wrongful denial in the ESFOIL (Uche, 2020:n.p.). This is a critical legal flaw that sends a clear signal to public officials that non-compliance carries no direct, personal consequence. While the federal FOIA includes such a provision, its absence in the state law creates a loophole that is actively exploited by the bureaucracy. Furthermore, the extended 14-day response period (double the federal standard) fundamentally undermines the law's utility for the media, which often requires information on a much shorter timeline to maintain the

relevance of their investigative work. This structural weakness is compounded by the lack of a dedicated, independent oversight body with the power to investigate complaints and impose administrative sanctions, leaving the judiciary as the sole, slow, and costly recourse.

5.1.2. Institutional and Bureaucratic Inertia

Institutional resistance is deeply rooted in the state's bureaucratic culture. The lack of political will from successive administrations to champion the law's enforcement is a major impediment (Premium Times Editorial, 2025:n.p.). The law was enacted under a specific political climate, and the enthusiasm for its implementation has waned, leading to a state of institutional inertia. This is exacerbated by a severe capacity deficit among public officials. The absence of mandatory, continuous training means that many officials are genuinely unaware of their obligations, or they lack the technical skills to manage records and process requests efficiently. The problem of poor record management is not just an excuse for non-disclosure but a genuine systemic issue. Public records are often not digitized, not properly indexed, or simply non-existent, making compliance a logistical nightmare even for those willing to cooperate (CSCSD, 2017:n.p.).

5.1.3. Cultural Barriers and the Watchdog's Constraints

The most enduring challenge is the culture of secrecy that pervades the public service. This culture, a legacy of authoritarian rule, views public information as a state secret and public office as a private domain (Ogbodo, 2012:101). This mindset is the antithesis of the transparency that the ESFOIL seeks to promote. On the media's side, the challenge is the pervasive self-censorship driven by economic dependence on the state. The media's financial vulnerability makes it susceptible to political pressure, leading to a reluctance to pursue aggressive, FOI-based investigations that could jeopardize advertising revenue or access to official sources (Obajuluwa et al., 2020:n.p.). The low public utilization of the law also contributes to this cultural inertia, as the government faces little pressure from an uninformed or apathetic citizenry.

5.2. Prospects for Enhanced Watchdogism: Leveraging the Legal Framework

Despite the significant challenges, the ESFOIL provides a crucial legal foundation that can be leveraged for enhanced watchdogism in Ekiti State.

5.2.1. Legal and Advocacy Leverage

The mere existence of the law, even with its flaws, provides a powerful legal leverage for civil society and the media. Every denial, even if unpunished, can be used to frame a narrative of government opacity and resistance, thereby increasing public pressure. This is a key strategy: shifting the focus from the legal success of the request to the political failure of the denial. Furthermore, the law provides a clear focus for civil society advocacy. Organizations can use the ESFOIL as a benchmark to measure government performance, conduct public awareness campaigns, and provide legal support to journalists pursuing FOI requests (CSCSD, 2017:n.p.). The law is a tool for mobilization, even if it is not yet a tool for guaranteed disclosure.

5.2.2. Judicial and International Pressure

A few strategic, high-profile court cases, even if time-consuming, can establish strong precedents that force institutional compliance across the state. The judiciary, as the third arm of government, remains the most viable avenue for challenging executive overreach. Furthermore, Ekiti State's participation in initiatives like the Open Government Partnership (OGP) can be leveraged to create international and national pressure for the full implementation of the ESFOIL. OGP commitments often include specific targets for transparency and access to information, providing external accountability mechanisms that can bypass local political resistance.

5.2.3. Technological Solutions

The prospect of enhanced watchdogism can be significantly boosted by technological solutions. The state government can be pressured to adopt a centralized, digitized FOI portal for submitting and tracking requests. This would reduce the bureaucratic friction, provide a clear audit trail, and allow CSOs to monitor compliance rates in real-time. This technological intervention would address the problems of poor record-keeping and silent denial simultaneously.

5.3. Policy Recommendations: Bridging The Implementation Gap

To bridge the gap between the ESFOIL's progressive intent and its constrained effect on watchdogism, the following policy recommendations are proposed:

1. **Legislative Amendment and Reform:** The Ekiti State House of Assembly must prioritize the amendment of the ESFOIL to include a clear and enforceable penalty for the wrongful denial of information requests. Concurrently, the response period should be reduced from 14 to 7 days to align with the federal standard and the needs of the media.
2. **Establishment of an Independent Oversight Body:** The State Government should establish an Independent Information Commission with the power to investigate complaints, issue binding compliance orders, and impose administrative fines on non-compliant public officials and institutions. This body would provide a faster, cheaper, and more accessible alternative to judicial review.
3. **Institutional Capacity Building and Proactive Disclosure:** The State Government must establish a dedicated FOI Implementation Unit within the Ministry of Justice, responsible for mandatory, continuous training of all public officials on their obligations under the ESFOIL. Furthermore, public institutions must be compelled to move beyond reactive compliance to proactive disclosure of key public interest information, such as budget execution reports, procurement records, and contract details, utilizing the state's official website and a dedicated FOI portal.
4. **Media and CSO Empowerment:** The State Government should partner with media organizations and CSOs to establish a Legal Aid Fund to support journalists and citizens in pursuing litigation against institutions that wrongfully deny information. This partnership should also focus on continuous training for journalists on how to draft effective FOI requests and utilize the law strategically for investigative reporting.
5. **Annual Compliance Reporting and Public Scrutiny:** The State Government should mandate all public institutions to submit annual FOI compliance reports, detailing the number of requests received, granted, denied, and the reasons for denial. These reports must be publicly accessible and subject to review by the State House of Assembly and civil society. This mechanism will introduce a system of public accountability for compliance.

5.4. Government Compliance and Culture of Secrecy

The most significant barrier to the ESFOIL's effectiveness is the pervasive culture of secrecy and institutional resistance within the Ekiti State bureaucracy. The law requires a fundamental shift in the mindset of public officials, moving from an assumption of secrecy to an assumption of openness (CSCSD, 2017:n.p.). This shift has largely failed to materialize.

Institutional Resistance: Public institutions in Ekiti State, like their federal counterparts, often employ various tactics to frustrate FOI requests. These include:

- **Ignoring Requests:** Simply failing to acknowledge or respond to the request within the 14-day statutory period (Mohammed, 2023:n.p.).
- **Imposing Excessive Fees:** Charging exorbitant fees for searching and duplicating records, effectively pricing the information out of reach for journalists and citizens.
- **Claiming Non-Existence of Records:** Falsely claiming that the requested records do not exist, a tactic that is difficult to challenge without prior knowledge of the record-keeping system (Antai, 2023:n.p.).
- **Poor Record-Keeping:** The law's effectiveness is predicated on the existence of well-kept records. However, poor record management practices in many government offices serve as a convenient, and sometimes genuine, excuse for non-disclosure (CSCSD, 2017:n.p.).

The ESFOIL's failure to include a penalty for wrongful denial exacerbates this problem. Without the threat of a direct sanction, public officials have little incentive to comply, knowing that the only recourse for the requester is a lengthy and costly court process (Uche, 2020:n.p.). This institutional inertia effectively neuters the law's power to compel disclosure, rendering the media's right to access facts a theoretical rather than a practical reality.

5.5. The Judicial Role

The judiciary is the ultimate guarantor of the ESFOIL. The law explicitly grants the State High Court jurisdiction to review denials of information (Ekiti State Government, 2013:Section 31). However, the effectiveness of this judicial review is hampered by several factors:

1. **Cost and Time of Litigation:** The process of filing a lawsuit, pursuing it through the courts, and obtaining a judgment can take months or even years. For journalists working on a time-sensitive story, this delay makes the judicial route impractical (Antai, 2023:n.p.).
2. **Lack of Precedent:** While the federal FOIA has generated a body of case law, the number of cases specifically litigated under the ESFOIL remains low. A lack of strong, publicized judicial precedents affirming the law's power reduces the pressure on public institutions to comply voluntarily.
3. **Enforcement of Judgments:** Even when a court orders the release of information, enforcing that judgment against a recalcitrant public institution can be challenging, further discouraging requesters from pursuing the legal route.

5.6. The Paradox of Legislation and Implementation

Ekiti State's status as a pioneer in enacting a state-level FOI law is a source of pride, but it also highlights a critical paradox: the mere existence of a progressive law does not guarantee a culture of transparency or an empowered watchdog media. The ESFOIL has provided the legal foundation for access to facts, but the institutional and cultural superstructure required for its effective implementation is missing. The law's effect on watchdogism is thus a story of unfulfilled potential, where the legal tool is available but remains largely unused or ineffective due to systemic barriers.

6. CHALLENGES, PROSPECTS, AND POLICY RECOMMENDATIONS

6.1. Challenges to Effective Implementation

The challenges to the effective implementation of the ESFOIL in Ekiti State are structural, institutional, and cultural.

Structural Challenges:

- **Legal Weakness:** The omission of a penalty for wrongful denial in the ESFOIL is a critical structural flaw that must be addressed (Uche, 2020:n.p.).
- **Poor Record Management:** The absence of a robust, digitized, and centralized record-keeping system makes compliance difficult, even for willing officials (CSCSD, 2017:n.p.).

Institutional Challenges:

- **Lack of Political Will:** Despite the initial political impetus for the law's enactment, successive administrations have shown varying degrees of commitment to its enforcement, often prioritizing political expediency over transparency (Premium Times Editorial, 2025:n.p.).
- **Capacity Deficit:** The lack of mandatory training for public officials, as noted in the comparison with the federal FOIA, means that many officials are unaware of their obligations or lack the technical capacity to process requests efficiently (Asogwa et al., 2021:7).

Cultural Challenges:

- **Culture of Secrecy:** A deep-seated bureaucratic culture, inherited from the colonial and military eras, views public information as a privilege to be granted rather than a right to be exercised (Ogbodo, 2012:101). This culture is the most difficult barrier to dismantle.
- **Low Public Utilization:** The law's effectiveness is also hindered by the low rate of utilization by the general public and even the media, which reduces the pressure on the government to comply (Eze, 2024:n.p.).

6.2. Prospects for Enhanced Watchdogism

The challenges to the effective implementation of the ESFOIL in Ekiti State are structural, institutional, and cultural.

Structural Challenges:

Legal Weakness: The omission of a penalty for wrongful denial in the ESFOIL is a critical structural flaw that must be addressed (Uche, 2020:n.p.).

Poor Record Management: The absence of a robust, digitized, and centralized record-keeping system makes compliance difficult, even for willing officials (CSCSD, 2017:n.p.).

Institutional Challenges:

- **Lack of Political Will:** Despite the initial political impetus for the law's enactment, successive administrations have shown varying degrees of commitment to its enforcement, often prioritizing political expediency over transparency (Premium Times Editorial, 2025:n.p.).
- **Capacity Deficit:** The lack of mandatory training for public officials, as noted in the comparison with the federal FOIA, means that many officials are unaware of their obligations or lack the technical capacity to process requests efficiently (Asogwa et al., 2021:7).

Cultural Challenges:

- **Culture of Secrecy:** A deep-seated bureaucratic culture, inherited from the colonial and military eras, views public information as a privilege to be granted rather than a right to be exercised (Ogbodo, 2012:101). This culture is the most difficult barrier to dismantle.
- **Low Public Utilization:** The law's effectiveness is also hindered by the low rate of utilization by the general public and even the media, which reduces the pressure on the government to comply (Eze, 2024:n.p.).

6.3. Prospects for Enhanced Watchdogism

Despite the challenges, the ESFOIL offers significant prospects for enhanced watchdogism in Ekiti State.

- **Legal Leverage:** The law provides a non-negotiable legal basis for demanding information. Every denial, even if unpunished, can be used by the media to frame a narrative of government opacity and resistance, thereby increasing public pressure.
- **Civil Society Advocacy:** The presence of the law provides a clear focus for civil society organizations (CSOs) to advocate for compliance, conduct public awareness campaigns, and provide legal support to journalists pursuing FOI requests (CSCSD, 2017:n.p.).
- **Judicial Affirmation:** A few strategic, high-profile court cases, even if time-consuming, can establish strong precedents that force institutional compliance across the state.
- **OGP Alignment:** Ekiti State's participation in initiatives like the Open Government Partnership (OGP) can be leveraged to create international and national pressure for the full implementation of the ESFOIL.

6.4. Policy Recommendations

To bridge the gap between the ESFOIL's progressive intent and its constrained effect on watchdogism, the following policy recommendations are proposed:

1. **Legislative Amendment:** The Ekiti State House of Assembly should immediately amend the ESFOIL to include a clear and enforceable penalty for the wrongful denial of information requests, mirroring the spirit of the federal FOIA.
2. **Institutional Capacity Building:** The State Government must establish a dedicated FOI Implementation Unit within the Ministry of Information or Justice, responsible for mandatory, continuous training of all public officials on their obligations under the ESFOIL.
3. **Proactive Disclosure Mandate:** Public institutions must be compelled to move beyond reactive compliance (responding to requests) to proactive disclosure of key public interest information, such as budget execution reports, procurement records, and contract details, as mandated by the law (Federal Republic of Nigeria, 2011:Section 2).
4. **Annual Compliance Reporting:** The State Government should mandate all public institutions to submit annual FOI compliance reports, detailing the number of requests received, granted, denied, and the reasons for denial. These reports must be publicly accessible.

5. **Media and CSO Empowerment:** The State Government should partner with media organizations and CSOs to establish a Legal Aid Fund to support journalists and citizens in pursuing litigation against institutions that wrongfully deny information.

7. CONCLUSION

The Ekiti State Freedom of Information Law (ESFOIL) stands as a testament to the state's early commitment to transparency and accountability in Nigeria. However, this study has demonstrated that the law's effect on access to facts and the media's watchdog function has been significantly limited by a confluence of legal, institutional, and cultural barriers. The ESFOIL's failure to sanction wrongful denial, coupled with a pervasive culture of bureaucratic secrecy and low utilization by the media, has created a situation where the right to information exists in law but is often denied in practice.

The paradox of a pioneering law with constrained effect underscores a crucial lesson for governance in Nigeria: transparency is not merely a matter of legislation, but a function of political will and institutional culture. For the ESFOIL to fulfill its potential, the Ekiti State Government must move beyond the symbolic act of enactment to the difficult work of institutionalizing compliance, enforcing sanctions, and actively promoting a culture of openness. Only then can the media in Ekiti State fully leverage the law to perform its vital watchdog role, thereby strengthening democratic accountability and ensuring that public power is exercised in the public interest.

Further empirical research is needed to quantify the exact number of FOI requests made and the success rate of those requests in Ekiti State, providing a more granular understanding of the law's practical impact.

REFERENCES

- [1] Akinyemi, T. (2013). The Nigerian Media and the Challenges of the Freedom of Information Act. *Journal of Communication and Media Research*, 5(1), 50-65.
- [2] Antai, S. J. (2023). Freedom of Information Act (FOIA) and the Challenges of Investigative Journalism in Nigeria. *Akwa Ibom State University Journal of Mass Communication*, 8(1).
- [3] Asogwa, F. N., Ibe, N. M. A., & Orji-Egwu, A. O. (2021). Freedom of Information Act and Journalism in Nigeria 2011-2021: A review of a decade of utilisation and practice. *The Melting Pot*, 4(1), 1-12.
- [4] Banisar, D. (2006). *Freedom of Information and the Right to Know*. Transparency International.
- [5] Christians, C. G., Glasser, T. L., McQuail, D., Nordenstreng, K., & White, R. A. (2009). *Normative Theories of the Media: Journalism in Democratic Societies*. University of Illinois Press.
- [6] CSCSD. (2017, August 17). *Harnessing the FoI Act for Transparency*, Devt. Civil Society Coalition for Sustainable Development.
- [7] Curran, J. (2002). *Media and Power*. Routledge.
- [8] Darch, C. (2014). *The Right to Know: Transparency, Information Freedom and Global Politics*. Pluto Press.
- [9] Egielewa, P. E., & Aidonojie, P. A. (2021). Media and Law: An Assessment of the Effectiveness of the Freedom of Information Act by Journalists in Nigeria using Auchi, Edo State as a Case Study. *International Journal of Current Research in Humanities and Social Sciences*, 7(1), n.p.
- [10] Ekiti State Government. (2013). *Ekiti State Freedom of Information Law, No. 4 of 2013*. Ekiti State Gazette.
- [11] Eze, O. U. (2024). Knowledge and Use of the 2011 Freedom of Information Act among Journalists in Nigeria. *Open Journal of Social Sciences*, 5(1), n.p.
- [12] Fayemi, K. (2012, March 27). *Fayemi Charges Journalists On Objective News Reporting*. Ekiti State Government Official Website.
- [13] Federal Republic of Nigeria. (2011). *Freedom of Information Act, 2011*. Official Gazette.
- [14] Florini, A. (2007). *The Right to Know: Transparency for an Open World*. Columbia University Press.
- [15] McQuail, D. (2010). *McQuail's Mass Communication Theory (6th ed.)*. Sage Publications.
- [16] Mendel, T. (2008). *Freedom of Information: A Comparative Legal Survey (2nd ed.)*. UNESCO.
- [17] Mohammed, J. D. (2023). Uses and challenges of Freedom of Information Act among journalists in Kogi State. *Cogent Social Sciences*, 9(1), n.p.
- [18] Nigerian Constitution. (1999). *Constitution of the Federal Republic of Nigeria, 1999 (as amended)*. Official Gazette.
- [19] Nkpolu, O. (2038). *An Appraisal of the Freedom of Information Act and its Impact on the Practice of Journalism in Rivers State*. (Unpublished Master's Thesis). University of Port Harcourt.

- [20] Obajuluwa, T. M., Talabi, F. O., Otunla, A. O., & Ajisafe, I. O. (2020). Integration of Information Communication Technology in Journalism Practice: A Survey of Journalists in Ekiti Metropolis, Nigeria. *Asian Research Journal of Arts & Social Sciences*, 10(1), n.p.
- [21] Ogbodo, S. (2012). The Freedom of Information Act 2011: A New Dawn for Media Practice in Nigeria. *Journal of Law, Policy and Globalization*, 4(1), 101-110.
- [22] Premium Times Editorial. (2025, April 21). FOI Act verdict: Now, no escape for dodgy states, MDAs. Premium Times.
- [23] Siebert, F. S., Peterson, T., & Schramm, W. (1956). *Four Theories of the Press*. University of Illinois Press.
- [24] Uche, C. E. (2020, August 18). Material Differences Between the Freedom of Information Act and the Ekiti State Freedom of Information Law. Medium.
- [25] Wasserman, H. (2010). The Media and the Watchdog Role. In T. L. Glasser (Ed.), *The Handbook of Journalism Studies* (pp. 53-65). Routledge.

Citation: Omowumi Adebola Adeniyi-Agbaje PhD. “Access to Facts and ‘Watchdogism’: Effect of the Freedom of Information Law in Ekiti State”. *International Journal of Media, Journalism and Mass Communications (IJMJMC)*, vol 11, no. 2, 2025, pp. 22-35. DOI: <https://doi.org/10.20431/2454-9479.1102003>.

Copyright: © 2025 Authors. This is an open-access article distributed under the terms of the Creative Commons Attribution License, which permits unrestricted use, distribution, and reproduction in any medium, provided the original author and source are credited.