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Master's Thesis of Public Administration

**A Study on Effectiveness and
Challenges of Implementation of
Right to Information in Nepal:**

**A Lesson Learnt from Acts on Disclosure of
Information by Public Agencies, Korea**

**네팔 행정정보에 대한 권리 실현과
관련된 효과성과 과제에 대한 연구:
한국 공공기관의 정보 공개에 관한
시사점을 중심으로**

August 2016

Graduate School of Public Administration

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A Study on Effectiveness and Challenges of Implementation of Right to Information in Nepal:

A Lesson Learnt from Acts on Disclosure of Information by Public Agencies, Korea

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Abstract

A Study on Effectiveness and Challenges of Implementation of Right to Information in Nepal:

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This research paper is a comparative study of different dimensions of Right to Information between Nepal and Korea. According to various indicators, regarding corruption, governance and socio-economy, produced by different international organizations, Nepal's status seems very critical. These indicators clearly show the picture of integrity, transparency and application of rule of law, which are very weak and vulnerable in Nepal.

In the other hand even though Korea, still, is not recognized as a fully clean country regarding application of transparency and integrity, even if she has made a remarkable progress on this issue and far

ahead compared to Nepal. Regarding openness, governance and transparency she is relatively more successful and therefore, of course there are many lessons to be learnt from the experience of policy implementation of Korea.

This research is focused on implementation part of Right to information policy, laws, strategies and cases of both countries. The research has also focused on comparing public officer's knowledge, ideas and system of both countries. Effectiveness of public policy implementation also depends on information flowing system and people's awareness in this regards. Analyzing global corruption index and its frameworks in a comparative manner are used here to analyze in order to find the causes of lesser effectiveness in Nepalese context. Also, this research analyzes the commonalities and differences between the two countries' legal provisions including right to information related constitutional and legal provisions. It has focused on some key areas on how to strengthen the Nepalese provisions to consolidate rule of law, encourage integrity, adopt openness, and build transparency. The ultimate goal of this research is to suggest government of Nepal to implement and adopt openness by properly implementing the RIA as Korea has been practicing since her long struggle to democratization.

Transparency requirements that have been imposed across the last twenty years are now seen as less trustworthy, and, are apparently

less trusted than they were before the requirements were introduced. How to develop trustworthiness in national system and national affairs is the vital concern of Nepal in this time.

There is no doubt about the requirement of transparency in public and professional systems. And corporate lives have been greatly increased in many parts of the world. Open government is also the guiding principle of freedom of information act, 2007, whose purpose is to make provision for disclosure of information held by public authorities or by person providing services. Government, corporations, and, their critics seemingly converge in seeing transparency as indispensable for accountability and good governance, for preventing corruption and improving performance, and for increasing trustworthiness and trust.

There is quite a large measure of consensus about the way that transparency is supposed to work. It is supposed to discipline the institutions and the office-holders by making information about their performance more public. Publicity is taken to deter corruption and poor performance, and to secure a basis for ensuring better performance and more trustworthy performance. Government needs to focus its activities on public awareness, civil service capacity building, adaptation of ICT, private sector whistling, and decentralization of policy approaches.

To enhance open, transparent and democratic governance in the country, the government of Nepal needs to come with the result based policy implementation system. The policy making process also should be open and transparent.

Finally, the research concludes with conceptual development which includes effective policy implementation tools for developing countries. For the effective policy implementation trust side's awareness, responsible side's capacity development, information management and institutional development are recommended as the basic tools. Not only Nepal, other developing countries also have the same problems of policy management; so the conceptual development of this research would be helpful to think in this regard.

Key words: Governance, Openness, Right to Information, Transparency, Institutional Development.

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책갈피가 정의되어 있지 않습니다.

Abbreviations and Acronyms

ACA:	Anti Corruption Agency
ACRC:	Anti Corruption and Civil Rights Commission
ADIPA:	Act on Dissemination of Information by Public Agencies
CBS:	Central Bureau of Statistics
CPAA:	Commission for the Prevention of Abuse of Authority
CPI:	Corruption Perception Index
DFID:	Department for International Development
GoN:	Government of Nepal
HRD:	Human Resource Development
MOI:	Ministry of Interior
MOHAGA:	Ministry of Home Affairs and General Administration
NIA:	National Information Agency
NIC:	National information Commission
NIDC:	National Information Data Center
OECD:	Organization for Economic Cooperation and Development
PPP:	Public Private Partnership
RIA:	Right to Information Act, 2007
RTI:	Right to Information
TI:	Transparency International
UN:	United Nations
UNDP:	United Nations Development Program
WB:	World Bank

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Chapter One

1 INTRODUCTION

1.1 Historical and Political Background

1.1.1 Nepal a Brief Review

Nepal, a Himalaya country with the top of the world, Mt. Everest had been united by then king Prithvi Narayan Shah during his reign, 1743-1775 AD. After his death his successors also continued unification process and extended the boarder of this nation till 1816 before the Sugauli Sandhi (a treaty done with the then British India at the place named Sugauli). The Gorkha conquest in the late eighteenth century united into the kingdom of Nepal a number of petty Hindu principalities and semi-autonomous tribal groups (Caplan, 1971).

In 1846 Jang Bahadur Rana took over the reign and his Rana successors ruled the nation till 1951 for 104 years as a family rule. In 1951 democracy was established in Nepal but because of political instability the then king Mahendra took over the democracy and deployed authoritarian Panchayat system in 1961. This reign continued for 29 years until restoration of constitutional monarchical democracy in 1990. In the beginning three years of democratic restoration, the nation was relatively more stable and the economic and social performances were relatively okay. After 4 years of

restoration of democracy, Nepal again fell into the trap of political instability, badly. As a result, The Maoist party declared armed civil war against the state in February, 1996. Also, the unhealthy game to form and drop down governments was continued by until the Maoist civil war stopped in April, 2006. During that extremely instable period several corrupt acts, for example, selling and buying of parliament members were practiced by political parties. Although two different parliament and one local elections were held during the period of political instability and conflict, because of the lack of absolute majority of any party in parliament the government couldn't make any effective effort towards development and people's welfare.

On June 1, 2001, the entire royal family including King Birendra, Queen and Crown Prince with many of their closest relatives was assassinated. The royal member, Gyanendra was crowned as the king. He, then, dismissed government and the elected Parliament to wield absolute power. In April 2006, the second People's Movement was launched jointly by the parties focusing most of their energy in the capital city, Kathmandu, which resulted in the restoration of democracy and compelled the King to step down and restore the Parliament.

On November 21, 2006, the Comprehensive Peace Agreement (CPA) was made between government and Maoist rebels committing to democracy and peace, and the Constituent Assembly (CA) election

was held on April 10, 2008. On May 28, 2008, the elected CA declared Nepal a Federal Democratic Republic, abolishing the 240 year-old monarchy. Nepal today has President as the Head of the State and Prime Minister as an executive head of Government. The CA was formed to write new constitution, but it couldn't complete that mission even after its repeatedly done extension. And now, recently a new CA election is held and new elected government is formed, but the socio-political and economical fate of the country is still unstable and uncertain. And the political parties are still struggling to form consent on major constitutional issues, and the new and long waited constitution is yet to be finalized. The new constitution is promulgated on 20 September 2015 but the implementation is not started yet. Some political issues are still going on the way of unrest.

1.1.2 Republic of Korea a Brief Review

Korean history dates back to 2333 BC when, according to story, the legendary figure Dan-gun established Gojoseon as the first Korean Kingdom. And then it was spited as three different kingdoms Goguryeo, Baekje and Sill, and finally unified as a strong kingdom namely Silla from 676 to 935. This kingdom promoted the Buddhism, Buddhist culture and arts, and reached its popularity at the peak during this period. Later in the Goryeo Dynasty period which was founded in 918 by King Wang Geon, Buddhism became the state

religion, thereby politics and culture was greatly influenced by Buddhism.

The Joseon Dynasty was founded by Goryeo General, Lee Sung-gye at the end of the 14th century and designated Seoul as the capital, took on Confucianism as the state ideology and put forth a colossal sway over the whole Korean society. King Sejong, in 1443, invented the Korean alphabet Hangeul.

From 1910 to 1955 Korea was colonized by Japan and under Japanese colonial rule Koreans suffered severely in economic, social, cultural and in humanitarian way until it liberated on August 15, 1945. The sorrow of Korea had not still been over; Koreans soon faced the tragic division of their motherland into North Korea and South Korea along the 38th Parallel line by the military intervention of the United State and then Soviet Union. From June 25, 1950 North Korea started to attack South Korea and the battle was persistent over the next three years until pending to an end on July 27, 1953, with an settlement signed at Panmunjom (<http://english.visitkorea.or.kr>) (Keuk, 2011). Thousands of peoples were killed and most of the physical infrastructures were totally destroyed during the war and the South Korea become economically very weak.

After eight years of the end of Korean War Park, Chung-Hee, an army general, took power by a military coup on May 16, 1961 and started systematically to industrialize and modernize the country until

he got assassinated in 1979. Even though the ruling period of Park Chung-Hee is still politically controversial, but most of the Koreans accept the fact that Park Chung-Hee put the foundation of economic and social development and opened the door of industrialization and modernization in Korea. And therefore, Korea is now successful to make much more progress on economic development and political democratization and transform from aid receiver to aid donor country, enjoying honor of the higher income country status as well as an OECD member.

By any standard, Korea was one of the poorest countries in the world in 1960. ... The living standard around that time was not much higher than those in the world's many poorest countries now (Keuk, 2011). Corruption in Korea is still a serious challenge for stability and further development of the nation. Most of the corruption cases in the military government period didn't come into public, but after democratization of the country in 1989 many and big corruption scandals, in which high profiled politicians, even president and their relatives and elites were involved, came to surface. Kelly Olsen on Washington Post - Thursday, July 7, 2011 in an article write which shows the status of corruption in Korea as:

Legacy of Corruption Still Exists in South Korea 'note downs that contentions of multibillion-dollar deception at the banks and disclosures by South Korea's big business corporations of in the shade

contact are forcing the country to fight one more with a legacy of deep-rooted corruption. ... Just last year, south Korea was basking in the global spotlight as the proud host of the Group of 20 economic summit, drawing praise for its journey from grinding poverty to affluence in six decades that included the Korean War and a transition from military rule to a boisterous democracy' (Washington Post, 2011).

Therefore, if there is a state, there is also an existence of corruption. It cannot be separated completely from the government as well as from the entire society. So the issue is how to minimize it rather than mitigate. According to Tummala (2009) the main difficulties to control corruption are inadequate and inefficient enforcement mechanisms, lack of political will, and more importantly the cultural context of social tolerance and easy forgiveness. These kinds of difficulties exist to the most of the countries in the world. Administrative corruption is a problem with which all world countries have been grappling to a larger or lesser extent. Act on Disclosure of Information by Public Agencies, 1996 Act enacted in 1996 by the South Korean government with the intention of ensuring public right to know and to secure the involvement of people in State affairs. The Act is enforced to promote transparency in the operation of state affairs. Act provides an obligation to the government for disclosing

the matters concerning the information possessed and managed by public agencies.

1.2 Background of the Study

Right to information is considered as the heart of democracy. It ensures public right and access in government affairs. The main objective of right to information is to make open and transparent governance system. Nepal is a country where the global index of governance and transparency are low graded even though it has right to information act and other many governance governing policies are implemented. First, right to information was mentioned in Constitution of Nepal, 1989 but due to lack of proper legal provisions, the constitutional right was not properly acted. After the second democratic movement current constitution proclaimed and the right to information is guaranteed as the constitutional and moral rights even though this right could be suspended during crisis in the country. After the constitutional provision Right to Information Act was acted by the constitutional assembly in 2007. It was taken as a revolutionary step for an open and transparent government. Including this act governance act 2007, public service delivery directive, 2009, electronic media related act, 2007 and more laws are enforced in Nepal. It could be taken as good intension of democratic government to make its mechanism open and transparent.

In the other hand, as mentioned above the governance indicators of Nepal in international arena are not good. Nepal is securing its position out of 100 in Transparency International Report since all the governance policies including right to information have been introduced in Nepal. Here, the most important thing of this study is to find out the effectiveness of the Right to Information since it is considered to be one of the revolutionary policies in Nepal. For this purpose the study is focused to find the opinion of major stakeholders of law first, government officers who implement the law. Second, people who are affected by the law and third, record management, situation of record as managed.

Global practice of Right to information was started in 1948; after the United Nations (UN) Declaration of Human Right. UN charter is based on to ensure life, liberty and property of human beings. Freedom of right to speech, right to press, right to know, right to justice, right to choose all these rights are related to right to information. This declaration was a milestone of democratization of global position.

Most of the countries in the world have adapted right to information law as a fundamental tool to enhancing citizen participation in governance, improving citizens' understanding of public policy choices and decision-making processes, and enabling them to assert claims on service entitlements, scrutinize public

officials and public expenditures, and exercise a more direct form of social accountability.

As other countries, Republic of Korea introduced Act on Disclosure of Information by Public Agencies in 1996. Nepal adopted the Right to Information Act in 2007 with large coverage of new hopes of open, transparent, participatory and responsible government. The right to information act is also known as the backbone of democracy. It protects people's right and creates access in public affairs. After seven years of law enforcement, transparency and open governance system is not improved in a visible manner in Nepal. At the same time, Transparency International Report (2014) ranked Nepal in 126th position as a corrupted country. And, Korea is ensured 43th position as a moderate country in corruption indicator. Likewise, other open and transparency indicators are not in favor of Nepal.

Effective implementation of law depends on the provisions like accepted provisions, actors' role, public access, record management, resources used, tools and monitoring and evaluation etc. Any policy should be analyzed properly on the basis of implementation ability, acceptability, viability, feasibility and appropriateness. Right to information is a multidimensional issue. This is also a global issue and accepted as one of the fundamental human rights. So, the provision should be result oriented. All the appropriate measures should be adopted in the policy frame work.

Comparison with other countries best practices and provisions can be helpful for the effective implementation and evaluation of public policy. On the background of this concept this research will be conducted to find out the differences, similarities, provisions and practices of these both RIAs of Korea and Nepal. And, as a government officer, this will be helpful to implement best practices of RIA for better results.

Transparency is the availability of information to the general people and clarity about the government rules, regulations and decisions¹., transparency denotes government according to fixed and published rules, on the basis of information and procedures that are accessible to the public and (in some uses) with clearly demarcated fields of activity...The Oxford Dictionary of Economics (Black 1997:476). These ideas clearly suggest that those who believe in transparency as a doctrine of governance have more than one characteristics in mind: for instant, decisions governed by clearly established and published rules and procedures rather than by ad hoc judgments or processes; methods of accounting or public reporting clearly who gains form and who pays for any public measure; and governance that is intelligible and accessible to the general people. Eighteenth century political scientist(Nicholas de La Mare, 1713) saw the street lightening, open spaces with maximum exposure to public

¹See <http://www.adb.org/Document/Policies/Governance/gov340.asp> (accessed 22 April, 2015)

view, surveillance, records and publication of information as key tool of crime prevention, reflects a perhaps more engineering approach to social transparency (Hume 1981: 44-5). Brikinshaw (2006:189-91) considers that openness and transparency are close meaning and both convey something wider than access to information. He points to the way in which open government has sometimes been used in a derogatory sense in the United Kingdom, with openness being claimed as the governments not a means of creating rights (p.190), thus avoiding the creation of enforceable legal obligations. According to him, openness means concentrating on process that allows seeing the operations and activities of government at work-subject to necessary exceptions (p.190).

The most important objective of right to information is to keep transparency of the national affairs and systems. The study focuses on the ideas that can make Nepalese government system more transparent and public accessible. Right to information is considered as a major tool for transparency so the research study will try to find its effectiveness of this policy to make open and transparent system with comparison to Korean practice.

1.2.1 Governance in Nepal

Nepal's current history is full of political transitions and instability. Difficult geo-politics and weak/low endowments of

physical and human resources impose significant challenges. Liberal economic and developmental policies have resulted in significant gains; however, these gains have not accrued equitably across the diverse population (WB)².

For the transparent and effective public service delivery, Government of Nepal implemented citizen's charter with compensation in 2013. To achieve the goal of the charter, people have been provided with enough access to the government activities, programs and services. This is also one step for open governance system in Nepal.

Although Nepal's civil service is not overstaffed by some measures, it suffers from poor incentives, fragmented decision-making, large numbers at the lower levels, and inflexible working practices. Immediate priorities for the government include addressing human resource management and development within the civil service, wage decompression, health insurance, a contributory pension scheme, and an effective promotion and transfer policy. Expanding the inclusiveness of the civil service through a program of affirmative action remains an important priority³.

Nepal has made considerable progress with tax policy and

²seeThe World Bank Group: Public Sector Management in South Asia assessed 03.05.2015. Permanent URL for this page: <http://go.worldbank.org/7AOWA3AOY0>

³Ibid pg. 6

administrative reforms in recent years. However, overall revenue collection remains low and two issues have to be addressed: improving tax administration to further strengthen the revenue effort and make the tax department more private-sector friendly; and removing loopholes and price distortions arising from exemptions of some products and services, and taxes and duties on others that create a bias against foreign trade.

A number of initiatives to combat corruption have been taken, including the establishment of a National Vigilance Center and the Commission for Investigation of Abuse of Authority (CIAA). While the record on enforcement and prevention has improved, considerable work remains in improving the capacity, professionalism, and outreach in these units. Expanding enforcement activities to the districts and expeditiously processing anti-corruption cases will be an important area of Governance activity.

Nepal has an independent judiciary with three tiers: the Supreme Court, 16 Appellate Courts, and District Courts in each of its 75 districts. In comparison with other countries in South Asia, Nepal's judiciary is fairly okay. According to a recent study by Transparency International, less than half of citizens who had regular interaction with the judiciary reported encountering corruption, as opposed to a major proportion of respondents in many other countries of the region.

The Government has introduced an improved public expenditure process—the Medium Term Expenditure Framework (MTEF). By prioritizing public expenditures, aligning policies and spending priorities, focusing on an Immediate Action Plan (IAP), reducing budget transfers and increasing capacity, the government has improved fiscal discipline and improved the budget's pro-poor impact. Notwithstanding this impressive process, the MTEF process still needs to be broadened and deepened across the public sector and additional measures are needed, including: harmonizing donors, increasing institutional capacity, and improving the alignment of plans to budgets.

Since the introduction of Right to Information Act (hereafter RIA) in 2007, Nepalese governance system is considered as a step towards open government system in practice. As the democratic system in the country, people seem willing to get access in public affairs and participation in governance system. But, there are still some lapses in good practice. As a whole the governance system is facing many obstacles for addressing public needs.

1.2.2 Governance in South Korea

Korea is a developed and politically stable country. Korean experience of economic and developmental transformation is being a benchmark for other developing countries in the world. In Korea, the

procedural dimension of democratic quality is present. However, Chong-min Park and Jung Hyun Bae (2008) conclude in their paper that the Korean kept out equality because its actions reflect more institutional and lawmaking outcomes than practical value of institutions. They mentioned that the rule of law is nearly all missing in Korean democracy. Accountability; vertical and horizontal, are reasonably wanting. In difference, civil rights; like freedom of expression and freedom of association as well as competition such as electoral competitiveness is slightest lacking. Overall, democracy in Korea is further lacking in providing the rule of law, and vertical accountability than competitiveness of electoral competition and basic civil rights associated with public contestation for power⁴. This advocates that political tradition and practices linked with liberal and representative democracy; are deeply displeasing while those associated amid with electoral democracy comparatively satisfying (Park 2007)⁵. In this, they look at how normal Koreans evaluate the feature of their democracy. They believe democratic value as regime worth rather than government quality. Hence, they undertook to spotlight on institutional recital rather than government's performance. As the studies on democracy evaluation highlight, they suppose that democratic quality is multi-dimensional. Many intellectuals and scholars of democracy recognize diverse criterion or values of

⁴See Chong-min Park and Jung Hyun Bae, *The State of Democratic Governance in South Korea: From the Perspectives of Ordinary Citizens* (2008) accessed online at 2015.5.21

⁵Ibid pg 6

democracy. They choose seven dimensions of democratic value such as the rule of law, competition, participation, accountability, freedom, and equality while highlighting those ceremonial scopes of democratic institutional quality. Analyzing the 2006 AB Korea survey evidently tells that public judgment of quality vary from one element to another. They initiated that the rule of law and accountability are most missing while freedom and competition slightest missing in Korean democracy. There is also no doubt on Korean democracy that there is a competitive electoral democracy on observation of normal citizens. This finding is dependable with the description of Korean democracy along with worldwide suffrage, free, fair and periodic elections, and multi-party democratic competition and vacillation of parties in power. In spite of institutional democratization in Korea for the last two decades, conversely, Korea is distressing from corruption, and misuse or illogical use of authority. Democracy is weak on the basis of rule of law-or rule based rule, and political and bureaucratic accountability. It looks like that improving the quality of democracy and democratic institutions in Korea require the advancement of a Rechtsstaat, a state that runs according to the rule of law. Without effective and efficient institutions of accountability, Korean democracy may worsen into a “declarative” or an intolerant populist democracy.

Here it would be better to highlight that the Disclosure of Information Law gives people the right to look over the government records or accounts and documents. Although it permits more exceptions, nevertheless, the government is beneath strain to allow the people to have access to proceedings and to remain the public informed always. The advanced development of ICT and recent development of e-governance also improved government transparency. People can have access to information on government procurement, budgetary management, and contracting, which is published on the Internet. The government becomes more accessible and transparent through the advancement of e-governance at all.

On the basis of Constitution of Republic Korea, the parliament induced the Act on Disclosure of Information in Public Agencies in 1996, actually after Korea's re-back in liberal democratic system. Korea is also known as 'the miracle' in fast development and prosperity in the world who has good experience of successfully shifting the state affairs from the poorest to the richest within less than a half century. Her experience of development and successful implementation of laws/ policies can be benchmark for other developing countries; like Nepal. Nepal and Korea's development process was started in the same time with per capita income about 70 USD. Geopolitics of both countries is similar. Both countries lie between two largest economy and power. Nepal lies between China

and India and Korea lies between China and Japan. So, that policy, practice and experience adopted by Korea could be lessons for Nepal's prosperity.

1.2.3 Arguments against Freedom of Information (FOI) and Openness

Today, openness, meaning open process and access to the information are readily acknowledged as necessary components of responsible and responsive government. But the arguments used to oppose them, and which have gained in currency, centered on the belief that they undermined representative democracy and efficient and effective government by exposure to tendentious or scurrilous criticism. They would drive decision making into ever secret recesses or expose individuals to danger or unjustified invasions of privacy. Information overloads corrupts wisdom and knowledge and descends to spin and spam. Most dramatically, openness involving too much access to information could endanger public and national security. National security is, inevitably, afforded the widest of exemptions, even exclusions, from access, under FOI laws (Christopher H & David H., 2006)⁶.

⁶See Transparency: the key better to governance? pg. 51

1.2.4 Some Arguments in Favor of FOI and Open Government

Information held by the governors is held on trust to be used in the public interest. Reliable information is essential for accountability. It is essential to test efficiency and effectiveness of governmental policies and programs. Access to information used for us or about us is a central feature of human integrity and autonomy. Power wielders who are better informed than subject are able to exploit and abuse less well- informed individuals. The opposite of openness, secrecy, is a cloak for arbitrariness, inefficiency, corruption. Secrecy is a way to ‘silence...the voice of the critics and hide the knowledge of the truth’ (Lord Shaw, in *Scott v. Scott*, 1913, AC 417, 477)⁷

1.2.5 Transparency and Right to Information

Transparency is widely supposed to make institution and their office holders both more trust worthy and more trusted. Yet, in Nepal many institutions and office-holders on which transparency requirements have been imposed across the last twenty years are now seen as less trustworthy, and, are apparently less trusted than they were before the requirements were introduced. Does this suggest that transparency does not improve trustworthiness? Or that it increases trustworthiness without increasing trust? Or is it the evidence for declining trust-worthiness and trust? How confident can we be that

⁷Ibid pg 6

transparency supports either trustworthiness or trust? These are the vital questions in Nepal and have practical importance currently.

There is no doubt about the requirement of transparency in public, professional systems. And corporate lives have been greatly increased in many parts of the world. In Nepal transparency was identified as one of the basic standards for conduct in public life by the Corruption Control Act, 2002 and many codes of conducts issued by the government. Transparency has now become a standard component of corporate governance, and, has been built into complex regulatory culture that penetrates so much of institutional and professional life (Morgon 2003). Transparency is also the guiding principle of freedom of information act, 2007, whose purpose is to make provision for disclosure of information held by public authorities or by person providing services ⁸. Government, corporations, and, their critics seemingly converge in seeing transparency as indispensable for accountability and good governance, for preventing corruption and improving performance, for increasing trustworthiness and trust.

There is quite a large measure of consensus about the way that transparency is supposed to work. It is supposed to discipline instructions and their office-holders by making information about their performance more public. Publicity is taken to deter corruption

⁸For the text of Right to information act, 2007 See www.nepallawcommission.gov.np (accessed 21 June 2015)

and poor performance, and to secure a basis for ensuring better performance and more trustworthy performance.

1.3 Research Questions

The research questions of this research study will be based on the comparison of the provisions and effectiveness of RIA in Nepal and Korea are identifies as follows;

1. In some extent of effective implementation of the Right to information, how government officers are adopting the policy and how is the awareness level of people in regards to implementation of the Right to Information Act in Nepal?
2. Does Right to Information Act of Nepal have different provisions and practice with the Act on Discloser of Information by Public Agencies of South Korea?
3. What are the factors that might explain how effectively the law works in South Korea, where there is evidence of the law working well? How Nepal can use the provisions for better result? In Nepal, where exactly is it not being used, what constraints and challenges can be identified?

1.4 Objectives of the Study

1. To find out the cause, challenges and constrains for effective implementation of Right to Information Act, Nepal

2. To compare the provisions and practice of Right to Information Act of Nepal, with the provision and practice of the Act on Disclosure of Information by Public Agencies of South Korea, to find out the similarities, differences, implement ability and effectiveness of the laws.
3. On the basis of lesson learnt from the comparison, to suggest the Government of Nepal what provisions and practices should be adopted for the effective implement ability of acts.

1.5 Justification

Comparison with another policy can be an effective tool to assess the provisional effectiveness of public policy. In this time no one nation can remain isolated with global approaches and trends. Comparative analysis approach will be used for this research. In this research two countries' legal provisions with system, practice, process, methodology, and tools will be analyzed. Likewise, some indicators and appeal ratio will be analyzed to know the effectiveness of public policy. So the findings will be identified on the ground reality of the legal provisions for effective implementation of RIA in Nepal. It is equally important to know that not only legal provisions, other human psychology, behavior and system kind of factors might play important role in effective implementation of public policies. If there are not differences in provisions, the second circumstances might be the

causes of lack of proper implementation. The implication of this research is to identify the effectiveness of law, awareness level of people and officers and to recommend the government to use the best practices identified in Korea. Identification of basic requirements for effective implementation of the law will be fruitful to the government of Nepal and other developing countries for open and transparent governance system.

The Nepalese Right to Information Act passed in 2007, for instance, was characterized as “a great and revolutionary law,” one with the potential of “fundamentally altering the balance of power between the government and citizens.”⁹ RIA laws are relatively new in most countries and because their adoption has been a difficult and contested process, much of the research in this area has focused on analyzing with the global good practices. No comparative research has been conducted over the Nepalese provisions and Korean provisions in this regards. Many global indicators are measuring the transparency, accountability and public access on public entities. This research will compare the RIA provisions, category and classification of information, role of civil service and public offices and current global good governance indicators between Nepal and Korea. The research conducted by a government officer will be helpful to suggest

⁹see<http://ccrinepal.org/> assessed on May 21, 2015

the Government of Nepal to implement the best provisions and practices practiced in Korea to maintain open and good governance system as the Nepalese context and culture. Findings of this research will be helpful to fulfill the gap of mentioning public access in public entities. The research will be based to attempt the above questions and to address this gap. Most of the researches in this area are related to different dimensions. Some are based on record keeping, some are based on the means of transparent manner, and some are based on Information. This research is conducted by incorporating all these items on the basis of the provision mentioned in both countries RIAs. So, this will be a comprehensive research in this field.

Targeted transparency policies are designed to change the behavior of information users and or disclosers in specific ways. Their particular aims vary wide. But, in general the regulatory rationale for transparency presupposes the existence of some type of information asymmetry between disclosure and users. The aim of government intervention is to provide the public with adequate information to make more informed and make more socially beneficial decisions. Information asymmetry alone is not sufficient to trigger government intervention, however. The cases analyzed here suggest for the government intervention when such gaps create one of four public problems.

First, government intervention takes place when information imbalances substantially increase the risk borne by the public. For example, the failure of reveal its enormous losses in off-balance sheet entities substantially increased risk faced by the investors. Likewise, manufactures exclusive knowledge of hazardous chemical in the workplace and toxic pollutants emitted into surrounding communities left workers and neighborhood residents exposed to hidden health risks.

Second, government intervention takes place when lack of information seriously impairs the quality of critical services provided by public schools kept confidential student test scores, attendance and failure rates, teacher qualifications and achievements, and other measure of performance, families could not judge the relative quality of available schools Gormley and Weimer (1999)¹⁰. Likewise, hospitals' exclusive knowledge of the prevalence of media errors has prevented patients from choosing relatively safe facilities. Thus, targeted transparency policies can provide organizational 'report cards' to enhance performance. People with more complete performance information can better match benefits and costs with public services as they decide where to live and work¹¹.

¹⁰See Archon Fung, Mary Graham and David Well, full disclosure the perils and promise of transparency (Cambridge University, 2006) page 40

¹¹ See Ibid, the classical description of link between public goods and location is Tiebout, 1956

Third, government interventions when information imbalances prefecture unacceptable patterns of discrimination or other social inequalities. Unfair practices that are hidden can deny social benefits to some people. So long as the numbers and size of mortgage loan made by local banks, saving and loans, and other lending institutions to inner-city residents, minorities, women, and children, and other groups were not made public, neighborhoods experiencing systematic discrimination in lending could not fight back. Similarly, the inability of workers or state and local offices to find out about pending plants closures or large scale layoffs kept them either attempting to contest closure decisions or adequately preparing for their impacts Shrenberg and Jakubson (1990)¹².

Fourth, government intervention- when information imbalances allow corruption to persist in important institutions that serves the public. For example, the inability of union members to find out about governance practices or financial spending by their elected leaders reduced the pressure on union officials to be responsive or in some cases to act with integrity. Likewise, confidentiality of campaign contributions prevents voters for judging whether candidates are beholden to well-heeled interests.

Here, those issues are some examples in Nepal, where we can find many policy lapses in this regard. There are many concerns

¹² See Eharenberg and Jakubson, 1990, for a decision of problems arising from voluntary disclosure of plant closing decision.

where people really need open information related to their life, liberty and property as the democratic value and for dignified lives.

The purpose of this research is how government of Nepal can improve the situation to implement right to information act in a proper manner of public desire. And, to identify the practices of effective implementation of RIA of Korea in this regards.

Chapter Two

2 REVIEW OF RELATED LITERATURE AND CONCEPTUAL ANALYSIS

2.1 Review of Comparative Legal Study

A Government develops a system and various policies to deliver public services. But, all the policies cannot be as effective as they are expected to be. The ill or weak policies could be a lesson for government to form new public policies as per the public demand and government's necessity. After the endorsement of public policies, the government needs to evaluate whether the developed policies are effectively implemented or not. In legal study, comparison of one policy with another policy is considered as an effective tool to assess the provisional effectiveness. As Republic of Korea adopted Act on Discloser of Information by Public Agencies, 1996 and amended in 2004, Nepal also proclaimed Right to Information Act in 2007. Most of the Asian countries passed RIA after 1990 like, Kazakhstan (FOI Act, 1993), Japan (Law concerning Access to information, 1999 came into power in 2001 and amended in 2003), China (Open Government Information Regulation, 2008 which came into effect in 2009) and Indonesia (FOI Law, 2008 which came into force in 2010). In South Asia, countries such as Afghanistan, Bhutan, Maldives and Sri Lanka

have not adopted any legislation related to RIA. Only Nepal (2007), Bangladesh (2009), Pakistan (2002) and India (2005) have such laws.

There are many approaches to study laws and effectiveness of government system. This research contents somehow provisions of behavioral approach, legal-institutional approach, structural-functional approach and comparative approach. Because of the comparison of two legal acts' provisions, some dimensions are necessary to study. Implementation of the policy consists of mainly with three phases- design, implementation and results. The proposed research study examines how the related dimensions of laws are different with each others. Dimensions, including system arrangement, information arrangement, service arrangement, output and trends of public concern are comparable and can be analyzed.

Legal researcher like; Venter (1990) mentioned that the comparative method [of legal research] is a unique, systematic, jurisprudential method, which applies to result new knowledge and innovative ideas about the legal systems in regard of which we apply it, by taking cognizance of the similarities and differences of those legal systems. In this brief survey concentrate on four aspects of the so-called comparative method of legal research:

- (a) What it entails in policy;
- (b) Why it can be meaningful to employ it;

(c) How to do this kind of legal research; and

(d) How to report one's findings in legal field

For the comparative study of law/comparative method Edwards referred by TJ Scott (1990) defines that the most important point to denote is that comparative law is not a branch of law as such but is, in fact, a method or process of comparing laws. A more suitable term here, would be comparative method. Since the mid of the twentieth century an increasing worldwide interest has been shown in the development of comparative policy studies. Scott makes the point that a study of the nature of law is too restricted if carried out solely within a single frame of reference, e.g. that of the typical Western adherence to the doctrine of subjective rights – in particular property rights. He opines that this aspect of a comparative study of laws enables jurists and states like to be better understanding foreign practice of law.

The move towards globalization and modernization, the rising importance of efforts to achieve a unification of policy formulation and legal rules in different countries are also seem important to compare principally in the orb of a like right to information. In the global context there are many examples of how “borrowing” or “legal transplants” have come about in the development of national law. Church & Edwards (1262) show that it was the motivation of the Code Napoléon which led to the taking one of many French legal

institutions throughout Francophone Africa and countries like Syria and Indochina.

This facilitated a comparative study of French law in the countries concerned. Similarly, the importation of the English common law into the United States, Canada, India, Australia and New Zealand fostered comparative legal studies in those countries. In order to take timely note of and prepare for social changes and turmoil that has already materialized elsewhere. (a) To “export” one’s own legal culture. (b) To settle on policies: which should find application in one’s own legal system’s legislation, case law and academic publications. (c) This method of research enhances a broad understanding of legal methodology, it informs about the social function of the policies and it also promotes insight into specific legal principles or legal principles in general.

Doing this kind of research the methodology of comparative legal study should consist of preliminary observations and Classification of legal families. The provision recommended by Zweigert&Kötz, referred by TJ Scott (1990) are (i) its historical background and development; (ii) its predominant and characteristic mode of thought in legal matters; (iii) especially distinctive institutions; (iv) the kind of legal sources it acknowledges and the way it handles them; and (v) its ideology. David and Brierly (1978) emphasized on the proceeding from a similar basis, identify only four

major groupings. Church & Edwards (1266-1269) classify the legal families into six groups which are: (a) Romano-Germanic family, (b) Common law family, (c) Socialist legal systems, (d) Religion-philosophical laws, (e) African customary law and (f) Mixed legal systems. The idea of comparing the law as they suggest is the “Macro-scale” and called micro-scale comparison.

Classification of legal families and the factual comparison between the practiced polices are these ways where the comparative method may be used to the best advantage in improving one’s national law. It gives the comparative opportunity of seeing whether innovations carried out in allied legal systems are worthy of imitation. Comparison on the micro-scale characterizes the work of the legal theorist of systematic in contradistinction to the work of the legal or political philosopher who may be regarded as being concerned with comparison on the macro-scale.

Lawson, FH (1977) commences the idea to carry out this type of research with the important observation that there is commonly identifies or standard method of undertaking comparative legal research. In spite of this basic uncertainty, he points out that it has become meaningful and practical for legal researchers. He also points to three phases of characterization of every comparative legal research: (a) Researching specific elements of different legal systems, in order to gain information on the content of the applicable foreign legal. This

is good idea to entails researching one's own legal policies in respect of the same subject (eg the rules pertaining to acquisitive prescription). (b) Analyzing those acknowledged elements in the foreign legal systems, each against the background of its own legal and community framework, in order to understand its full impact, as well as in the own legal system. (c) Considering the similarities and differences existing between the chosen elements in one's own legal rules, and those of the foreign systems.

However, only comparable things can be significantly compared. Thus, it is important to make the correct choice out of foreign systems. In this context, for the choice of suitable legal systems in order to make comparison, there are two important observations to be made: 1) the influence of chronology, and 2) the influence of different broad cultural frameworks.

As mentioned in the above legal study area and methodology, the researcher will compare the legal provisions on the basis of formulation based to implementation of two right information acts of Korea and Nepal.

2.2 Right to Information Law

The free flow of information seats at the spirit of the extremely belief of democracy and is key to effective value for human rights. At a distance from the value of the right to freedom of expression, which

comprise the right to seek, receive and pass on information and ideas, it is not possible to work out the right to vote, human rights violence take place in clandestine, and there is no way to depiction corrupt, and inefficient government. Central to the guarantee in practice of a free flow of information is the standard law that public bodies grasped information not for themselves but on behalf of the people. These bodies hold prosperity of information and, if this is held in undisclosed, the right to freedom of expression, assured under the international law as well as most constitutions, is gravely destabilized.

The importance of the right to access in public information held by public organizations, sometimes referred to as the right to know, has been documented in Sweden for over two hundred years. Outstandingly, however, over the last twenty years it has increased widespread appreciation in all areas of the world. This is replicated in trustworthy announcement sign of this right by a number of international organizations, including UN actors and all human rights systems, in detailed assurance for this right in various of the new constitutions assumed in countries undertaken democratic transitions and in the way of laws and policies giving realistic result to this right by a speedily increasing number of countries and international organizations. A basic value behind the right to know is the belief of highest revelation, which institutes a trust, is that all information detained by public bodies should be subject to open unless there is a

prime public interest justification for non-disclosure. Abdul W. K. (2003) as well entails the foreword of efficient methods in the course of which the people can get right of entry on information, together with demand determined systems as well as positive publication and broadcasting of key matter.

More than the last forty years there has been a remarkable raise in the figure of countries that have accepted freedom of information policies. A landmark was the US Freedom of Information Act (FOIA) of 1966, and many countries started to follow the FOIA model on access to government documents. Bansir David (2006) established that seventy countries have now taken on complete Freedom of Information Acts with in forty years. Fifty countries have legislation pending. The performance of an act is only the starting. There is still a great deal on this work to be done. Governments must change their domestic cultures and civil society must aware to demand information from public agencies. Weak point in acts, execution or mistake may have left admittance largely displeased. There have also been troubles with documentation maintenance, state top secret and the abuse of privacy exceptions.

It is equally important to know that how endorsing legislation assuring the right to know in accordance with the code of maximum disclosure of information. How public administration adopts it and how the government governs the rule are the key issues to implement

the right to information in a proper way. If government keep trying to make key information secret the right to freedom and democratic exercise cannot work anymore.

Mendal Toney (2003) describes the answers of a number of these questions by telling the international values which have been known in this part and a number of the key features of efficient freedom of information legislation. Importantly, it illustrates the way in which international organizations have dealt with these difficult issues specially UNDP and WB. Global Campaign for Free (2014) gives name of information as the oxygen of democracy. In such information is necessary to democracy at number of levels. Basically, democracy is about the ability of individuals to engage effectively in decision making that affects them. Values on Freedom of Information Legislation (1999) describes as information a foreword to resulting that the spirit of the people shall be the source of the authority of government. The electorate must have access to information.

Freedom of information is also a key instrument in combating corruption and unlawful activities in government. As U.S. Supreme Court Justice Louis Brandeis (1890) famously noted that right to information is a little sunlight and is the best disinfectant. As Justice elaborated, observers frequently spotlight on the more political portions of freedom of information but it as well serve up a number of other key social goals. The right to access in one's private information,

for example, is part of fundamental human pride but it can also be necessary to effectual individual decision-making. Access to medical records, for example, often ravenous of in the lack of a legal right, can lend a hand individuals craft judgment about treatment, financial planning and so on.

An aspect of freedom of information that is often neglected is the use of this right to facilitate effective business practices. This is an important advantage of freedom of information legislation, and helps rejoin the concerns of some governments about the outlay of implementing such legislation. These rationales for freedom of information legislation relate equally, if not with extra vigor, to developing countries as to more develop. Universal Declaration of Human Rights (1948) is a base of the right freedom where it is clearly mentioned that democracy is not the safeguard of a little chosen countries but a right of people universally. This is a central piece of the right, but it obviously goes beyond that. One additional aspect, addressed in most freedom of information laws, is the responsibility on public bodies to make public, even in the nonexistence of a demand, key information, for example about how they act, their policies, prospects for public partaking in their effort and how to make a demand for information. Not likely the other two features of the right, which recount to information previously detained by public

bodies, this third part posits a optimistic responsibility on States to compose sure that certain main types of information are accessible.

UN (1997) entails an encouraging responsibility on States to make certain right to use to information, mainly with look upon to information detained by government in all kinds of storage space and recovery systems. This views explain to understood in freedom of expression is the people's right to access to information in national affairs and to be known with what governments are doing on citizen's behalf, not including which fact would pine away and people's participation in government would remain disjointed.

The UN Special Rapporteur (2002) remarked down its essential significance; not only to democracy and freedom, but also to the right to take part and to understanding of the right to development. Citizen, as a principle, have the right to get access to the public affairs but even though constitutional, legal and institutional arrangement in the country like Nepal, public still have many barriers to have easy access in the national affairs. Kreimer S.F. (2011) suggests that transparency does well when it is implanted in a broader mesh of legislation and regulation, what he calls the ecology of transparency. He proposes that the United States FOIA has been effective because the federal government is enclosed by NGOs and media outlets with the resources to insistently apply the right to information. Even though,

presence of international and national non-government organizations, Nepal seems less effective in implementing of the law.

Roberts (2010) also spots out that the countries that at first took on disclosure policies were politically stable democracies with a long tradition of regarding citizen rights and the rule of law, an active well-liked press, and strong and self-governing nongovernmental organizations. The understanding of the countries built-in in this analysis shows that those provide evidence of the effectiveness of RTI in accessing information both of individual interest for citizens and for holding government accountable were ones with better rankings on a number of governance indices, including the rule of law, voice and accountability, political rights, and civil liberties.

RTIA advocates demonstrate its transformative potential and continue to press energetically for more effective implementation. Public authorities and civil society organizations have developed a number of practical innovations that may be useful for other developing countries to adopt when considering similar laws.-Robert, 2010

Dokeniya A. (2013) talks about on implementing RTI to bring out information on several issues related to mismanagement of public funds, nonperformance of service-delivery agencies, instances of fraud, corruption or nepotism, in both urban and rural areas. It can be

said that human rights, governance, and anticorruption bodies can pursue a legal activism or court case strategy, pursuing cases on a number of topics, as well as perceptive issues like public procurement contracts and conflict-of-interest cases, with substantial success. WB (2004), focused on service delivery, highlighted information as critical to making service providers more accountable for performance and the delivery of services—in strengthening both the short and long routes of accountability. Accountable public service can act properly for transparency and implementing right to information properly.

WB (2007) recommends some strategy for the proper implementation of RIA. The strategy highlighted the role of information—on budgets, on procurement, and various other state records, and particularly access and use of this information by the multitude of actors that make up the governance ecosystem—civil society groups, media, advocacy groups, and citizens—as indispensable for improving accountability.

In 1946, the United Nations General Assembly adopted Resolution 59(I), positioning that the freedom of information is a primary human right and the benchmark of all the freedoms to which the United Nations is sanctified. The right was afterward implanted in international and regional human rights instruments like in Article 19, of the Universal Declaration of Human Rights as an intrinsic civic and

political right of citizenship in democracies, a necessary complement to freedom of expression and media rights.

Borah S. K. (2013) explains that Right to Information Act is a means of good governance. It composes public administration and the whole governance systems more responsible to the citizen and makes public access on government affairs.

Right to information makes people alert with the public administration and provide them a chance to engage in decision making process, which creates public ownership in the government policies and programs, including local bodies to central government. Right to information promotes democratic beliefs by encouraging openness and transparency in the public mechanism. It decreases the opportunities of corruption and abuse of authority by public servants. Since the act is equipped for public interest, hence its success and effectiveness also depends on how they exercise the act. If citizens are not conscious in this regard or people are not ready to use their right it might make difficulty for optimum implementation. Lack of public awareness is a cause to make public service more reserved. This situation might be a cause of Nepal for proper implementation of public policies and programs.

A broad range of researchers have pioneered the development of indexes for measuring and assessing openness around the globe. Some of these efforts use surveys and polls to establish the subjective

perceptions of individuals, advocacy groups, and officials about their own and other governments. Others combine evaluations of experts, researchers, and journalists, observing as outsiders the legal and practical realities of each society. Several more economically-oriented approaches examine aspects of regulation and corruption by looking specifically at market and business-related factors. Like others, Sheila C. (2001) presents a survey of eight countries in Southeast Asia that index and compares the accessibility of public records in each country. The survey looks at the freedom of information policy and the availabilities of 45 different categories of public records in each country, and on that basis, the countries are ranked according to their openness. It illustrates that the public office or government body that preserve each type of record and the availability of such records can comfort right to information in a suitable way. Without proper record management the use of right to information is almost difficult.

Nepal is the country where record management is still not pointing out as an important side for effective implementation of laws. She is facing the same problem as Sheila presents the in her survey. In compared with Korea where they have better system of record management. Korea almost all the record is digitalized.

Kaufmann, K. and Zoido L. (1999) developed six indicators to measure the governance of a country. As he mentioned in the report governance is the set of traditions and institutions by which authority

in a country is exercised, specifically in ‘voice and accountability, political stability and absence of violence, government effectiveness, regulatory quality, and rule of law and control of corruption’. The authors conclude that governance matters: they show empirical evidence of a strong causal relationship from governance to better development outcomes.

Global Integrity Project (2001) developed a quantitative assessment in the form of the Public Integrity Index. Countries are rated based on six broad categories: Civil Society, Public Information and Media; Electoral and Political Processes; Branches of Government; Administration and Civil Service; Oversight and Regulatory Mechanisms; and Anti-Corruption Mechanisms and Rule of Law. The study includes two indicators: whether citizens have a legal right of access to information, and whether access to information functions effectively in practice. Sub indicators focus on the legal availability of government records and the opportunity of appeal for government denial of access. Likewise, The Freedom of the Press survey (1941) calculates the numerical scores for each country and, based on this score, designates countries as either “Free,” “Partly Free” or “Not Free.” The countries were categorized on the basis of marks they have got. Freedom House (2005) also publishes a survey of political rights and civil liberties annually. Each country is given a numerical rating and a freedom designation based on two categories,

political rights and civil liberties. This survey does not attempt to rate governments or government policy, but rather the real-world rights and freedoms enjoyed by individuals, and public agencies, therefore, it reflects more broadly the interaction between governments and nongovernmental actors.

Transparency International (TI) Report (2003) published a report related to role of information to reduce corruption. Transparency International focused its analysis on the right to access to information as an integral part of the struggle against corruption. The report includes regional assessments, data and research, and shorter reports on different right to information issues. On the basis of the TI report, it can be said that in the absence of openness in government system, there happens to be wider presence of malpractices to capture the national resources.

Along with growing online engagement with components in relation to information of public policy processes and services, the UK and US administrations have also begun to publish public sector data in maintaining of both better clearness but also to backer the formation of pioneering new services stranded on that data. In 2010, at EU level, the European Commission published an e-Government Action Plan which is called a component of the Digital Agenda Flagship Initiative which is a key pillar of the EU 2020 Growth Strategy. The EU Action Plan contains a strong focus on empowering

people and businesses sector to connect in the process of policy-making by escalating intelligibility and attracting public access to government information.

Brasilia Meeting (2012) focused on making a novel international inventiveness intended to uphold transparency, empower citizens, decrease corruption and toughen governance through the new Information and Communication Technologies. World Economic Forum (2012) studied digital correlation between countries. It found an affirmative relationship between countries with high levels of digitization and levels of societal transparency, public involvement and the ability of governments to make information available to the public. According to the United Nations e-Government Survey (2012), these new opportunities have stalwartly moved prospects of what governments can and should do, by the contemporary information and communication technologies, to fortify public service and advanced just public-centric developments. Another concern to be taken into account is that if governments excessively grip on thrilling new technologically facilitated possibilities, they may run the risk of ignoring other key elements of resolving important policy problems (Open knowledge Foundation, (2012).

Twenty First century is called century of Information. By using ICT people are more steps- forward than the state. Basically social media, internet and online services are being life of people. Social

media influence the youth directly. It does not only have positive effects, but it brings some difficulties and social disorders as well. The use of digital utilities and resources, in this era, is a major achievement for the use of right to information if it is used in a good manner. Government has to make policy and strong state mechanism to decrease the negative impact of ICT and social media.

Before formulation of the public policy, legislative bodies should pay attention to maintain basic requirements in the law. Comparison with the successfully implemented laws can give a basis idea for the better enforcement. The literature review emphasizes on basic requirements needed for the proper implementation of RIA. Many tested systems, mechanisms, roles, coverage, responsibilities, over-seeing agencies, ways of access are required to get the good governance and transparent state affairs. thus, this research has raised two questions: (I) For the effective implementation of the Right to information, does Right to Information Act, 2007 of Nepal have different provisions required as in the Act on Discloser of Information by Public Agencies, 1996 of Korea?; (ii) What are the factors that make the laws work effectively in Korea; and How can Nepal use the same provisions for better result, where the laws seem to be ineffective? What are the constraints and challenges in the enforcement of such laws in Nepal?

2.3 Approach to Study

On the basis of review of related literature, conceptual framework, the following approach will be taken for assessing the comparison of the two RIAs:

- Comparison of the provisions of two constitutions and laws in regard to dissemination of information, coverage of public bodies, and duty of public offices.
- Comparison of process of information access, appeal process, time and cost.
- Comparison of system in regard to record management, public methodology, use of tools.
- Comparison of five years data from corruption index published by Transparency International.

The research is based on comparative and inductive research approach.

Chapter Three

3 RESEARCH METHOD

3.1 Research Design

This research is conducted to find the effective implementation of RIA of Nepal on the basis lesson learnt from Korean provisions and practices. The comparison has done in terms of their legal base, policy/strategy, working procedure, and response of responsible authority. In this research the researcher analyzed some cases which were decided by the courts or semi judicial authorizes in this regards. The research is based on empirical and descriptive method in terms of its design. So the comparative Study was based on the following information:

1. Opinion of high level officer/authority in this regard
2. Opinion of both countries officers for implementation of RIA
3. Case study
4. Observation of Nepalese offices
5. Public opinion/survey in terms of awareness level general people in Nepal
6. Constitutional and legal status and provision;
7. Open government strategy, protection policy and government support;

8. Administrative procedure and techniques;
9. Corruption index of TI and NIC publication

The researcher used the official data annually published by Transparency International and also the reports published by National Information Centre, Nepal and other reliable sources.

Using these legal documents and reports the researcher created comparative tables, lists, charts and then analyzed it critically based on the contents, tables, lists and charts. This method enables to compare the information two RIA related agencies (NIC, Nepal and NIA, Korea) which was helpful to find out new and better information, so that Nepal can apply Korean experiences for effective implementation of RIA in Nepal.

The interpretation is designed into three parts where these items are included;

Table 1: Research Design

Empirical	<ul style="list-style-type: none"> • Opinion analysis of public officers of Nepal and Korea. • Opinion of higher authority for further planning • Public opinion of Nepalese general people to know their awareness level
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	<ul style="list-style-type: none"> • Observation of Nepalese Offices in terms record management • NIC and TI indicator analysis <p><i>For this purpose Data, Chart and graphs are converted into percentile and analyze in Percentage forms.</i></p>
Case study	Court decision analysis: <i>To know the effectively of legal description.</i>
Comparative	Constitutional and legal provision: <i>Provisions comparison table and analyzed in brief.</i>

3.2 Data Plan

The researcher was prepared comparative tables which show the current status between the two countries basing on prevailing legal provisions and their performance reports and various publications. So, data and information were drawn from: Legislations Related to RIA of Nepal and Korea; Government publications on good governance and anti-corruption of the both countries; Publications of these organizations; Working procedure and documents and publications; Various documents about history, culture, society and economy of the both countries; and Transparency International reports as required.

Similarly, for the effective implementation of law, the actor should be aware and should be trained. According to the RIA provisions, Nepal government should have provided training to the employees for effective implementation of law. To find this provision an interview/ individual/group was conducted with government officers of Nepal and government officers of Korea.

3.3 Population and Sample Selection and Framework

In course of this study, higher authority of National Information Centre, Nepal and National Information Agency, Korea were selected to get the fact of implementation and further activities. To find out the goal and other activities an unstructured interview was held. On the other hand, to find out the practices and capacity development part, thirty five public officers were selected by the random sampling method. Among the thirty five public officials twenty five from Nepal and ten from Korea were selected. To select the sample from the population, representation from different ministries and posts were selected. Secondly, one official from one ministry was selected on the basis of work relation. The main objective of this sample was to find out the implementation practices between two countries. See table:

Table 2: Sample Framework

Methodology	Sample size	Sample Selection	Selection Methodology	Criterion
Semi-structured Interview	2	High Level Officer/Chief of RIA related Agencies	Simple Random But Purposive Selection	One/ One from each country
Semi-structured Interview	35	Officers from each countries	Simple Random Selection	Twenty Five from Nepal /Ten from Korea
Survey (public opinion)	100	Clients who came in the highly public relation offices in Nepal	Random	Anyone can be the respondents

3.4 Sources of Data

The study was based on primary and some secondary data and both. Primary sources of information were collected in order to achieve the real and factual result from this research. All the possible and useful data as far as available will have collected. The major sources of data are as follows:

a) Primary Data:

Interview: For the primary data an interview with related high level offices was made with chief/higher official of Nepal and Korea. To find out the system, adaptation, empowerment and training, individual/group interview was conducted with Korean and Nepalese officials. For this instant, a semi structured (closed and open) interview method was applied to get accurate and actual information of implement ability.

Survey: A survey was conducted to find out the awareness level of general people. People who had come to the highly public relation offices in Nepal were chosen as respondents. The method of sample selection was random, anyone could be the respondents. This survey was a general survey to identify the real awareness level of people. No criterion was made to select the respondents. Just general people who came to the selected offices for service were considered as the respondents. Total hundred service seekers in different five offices of government of Nepal were respondents for this opinion survey purpose. This survey was conducted with the help of office staffs and volunteers selected by the researcher.

b) Secondary Data: Secondary data are collected from following sources:

To compare the effectiveness of law to make open and transparent government, five years TI reports data were compared. To know the awareness level of people, the data of NIC was compared as the ratio of appeal. Including these, the following sources were used for secondary data.

- NIC reports to compare the awareness/appeal ration in Nepal
- Existing provision of two acts
- Published report from National Information Commission.
- Publication of Transparency International
- Different relevant websites
- Publication of books reports and seminar paper of different institutions etc
- Daily, weekly and monthly newspapers and magazines, which are related to the research, if available
- Other related records and data relevant to the study

3.5 Validity of Research

Due to geographical, population size of people, economic, social and political development, and the policy could not be implemented in the same manner. But, if the theme and purpose are similar then the

provision should be similar and lesson can be learnt. Due to global exchange of culture, practice and constitutionalism of ideas, policy implication can also be transferred. Right to information act is internationally accepted and practiced policy, so the finding of best practice and implementable provision of Korea will be helpful to Nepal to implement the policy effectively.

3.6 Methods of Interpretation and Analysis of

Data

The information received from different sources had been firstly tabulated into separate formats systematically in order to achieve the desired objectives. After that, the information was tabulated and analyzed. For the purpose of analysis, generally the following tools have been used:

Tabulation and provisions and trends analysis

1. Grouping the responds in the comparative form
2. Percentage and other i.e. graphs, charts and diagrams as needed
3. Issues wise comparatively and analysis
4. Constitutional and legal comparisons table and interpretation

Chapter Four

4 ANALYSIS AND INTERPRETATION

4.1 Empirical Studies

For most of the research work, empirical studies play a vital role to find out the actual status of research matters. No very empirical studies have been conducted before and after the implementation of Laws/policies in Nepal. Before 1990, Nepal was in a closed political system. After 1990, establishment of multiparty democracy, right to information was mentioned as a constitutional provision, but due to lack of proper law and implementing agency the provision was just secured as an article of the constitution. After 2007, reestablishment of democratic and republic state, the interim constitution has guaranteed right to information as a fundamental right of Nepalese people. And, on the basis of this provision, RIA, 2007 was implemented and it was expected to be a great revaluation in democratic system. In the beginning period of implementation, there was lack of skilled and trained human resource. Administrative structure was also not set up properly. However, in present context, different informative programs, seminars and meeting are being held to make the businessmen, consumers and public aware to the right.

For the purpose of empirical study, two kinds of survey tools were used as semi-structured interview and public survey. Bureaucracy is a backbone of state to implement policies in a proper way. To find the adoption and implementation of policy, a semi structured interview was held with the officers of government of Nepal and Korea. For the policy and planning of implementing right to information related agencies, Chief Commissioner, National Information Commission, Nepal and Director of National Information Agency, Korea were selected for the interaction separately. The result and interpretation of the empirical studies can be presented as follows:

4.1.1 Understanding the Policy by the Public Officers

Public officers need proper knowledge about right to information policy to implement it effectively. To know whether the respondents are familiar with RIA or not, a question, “Do you know, what RIA is?” was asked to both countries public officers. The survey provides the following results:

Table 3: Perception of Respondents on RIA

Responses	A		B		C		Total
	No	%	No	%	No	%	
Nepal	25	100	-	-	-	-	25
Korean	9	90	1	10	-	-	10
Total	34		1				35

A = Yes

B = Some how

C = No idea

Source: interview Survey, 2015

Survey result shows that the most of the respondents are familiar to RIA. It is revealed that 100 percentages of the total respondents of Nepalese and 90 percentages Korea bureaucrats know RIA as well.

Only 10 percentages Korean officer know but very few about RIA. But most of the Nepalese officer answered that they know the law by their own efforts. Mostly, they knew the law when they were preparing the public service exams. It can be concluded that all officers of Korea and Nepal are familiar to RIA.

Civil servants' knowledge plays implement role to implementation policy effectively. To know whether the respondents have known the main reason of applying RIA or not, a question, "Do you know what the main reason for applying RIA is?" was asked. The survey provides the following results:

Table 4: Views of Respondents on Reasons for Applying RIA

Responses	A		B		C		D		E		Total
	No	%	No	%	No	%	No	%	No	%	
Nepal	11	4	5	20	9	36	-	-	-	-	25
Korea	-	-	8	80	1	10	1	10	-	-	10

A = Reducing corruption

B = Transparency

C = Promote Effective

D =All of above

E= No idea

Source: Interview Survey, 2015

Survey results shows that the most of the respondents are familiar to the reasons of applying RIA. But the interesting point here is Korean officers don't believe that right to information reduce corruption. It is revealed that 44 percentages of the Nepalese Officers believe that RIA reduces corruption. 20 percentages officer think it is a tool of transparency and 36 percentages Nepalese officers believe RIA promotes effectiveness in governance system. Out of 100, none Korean officer believe RIA reduces corruption. 80 percentages Korean officer believe that the reason for applying RIA is to promote transparency. 10 percentages Korean officer believe that it is a tool for effective governance system.

It can be concluded that though majority of bureaucrats know the reasons of applying RIA. RIA is a major tool for open and transparent governance. Transparency reduces corruption. But, the idea of transparency between Korean and Nepalese officer seem different.

Korea have many other tools to reduce corruption and system openness, the reason might cause the Korean officers don't believe RIA only can reduce corruption.

4.1.2 Effectiveness of Law

Table 5: Views of Respondents on Effectiveness of RIA

Responses	A		B		C		D		E		Total
	No	%	No	%	No	%	No	%	No	%	
Nepali	-	-	25	100	-	-	-	-	-	-	25
Korean	2	20	8	80	-	-	-	-	-	-	10
Total	2		33	95							35

A = Effective

B = Less effective

C = worst

D = I don't know

Source: Interview Survey, 2015

This table shows that Korean and Nepalese officers believe that effective implementation of the RIA is less effective in both countries.

All Nepalese officers believe that the implementation of RIA is less effective in Nepal. On the other hand, 80 percentages Korean officer believe that RIA implementation in Korea is less effective but 20 percentages believe that RIA is implemented effectively. Here overall 95 percentages of government officers believe that RIA implementation in their countries is less effective. The result in both countries is quite similar.

4.1.3 Procedure of Dissemination

To know the respondents' knowledge of RIA in depth, a question "do you know the producer of RIA?" was asked. The survey result on this aspect is presented below:

Table 6: Information Dissemination Procedure

Responses	A		B		C		D		Total
	No	%	No	%	No	%	No	%	
Nepal	9	36	15	60	1	4	-	-	25
Korea	-	-	6	60	3	30	1	10	10
Total	9		21		4		1		35

A = Very well

B = somehow

C = very few

D = No idea

Source: Opinion Survey, 2015

According to the survey table, in total 36 percentages Nepalese officers know the procedure of RIA very well. Similarly 60 percentages of the respondents know somehow. However, 4 percentages respondents replied that they have very few knowledge about it. Out of 10, 60 percentages Korean officers know the somehow procedure of RIA implementation; whereas, 30 percentages know very few and 10 percentages Korean officers have no idea about it. The result shows that majority of the civil servants know the process but all are not completely aware about the procedure. In this case, Nepalese bureaucrats are better in knowing the procedure than Korea counterparts. Out of 25, 9 people know very well about the procedure but no one from Korean side knows the process very well.

4.1.4 Classification of Information

To have deep knowledge on classification of information according to the laws, a question was put to the respondents. The result on this aspect is presented as below:

Table 7: Views on Classification

Responses	A		B		Total
	No	percentages	No	percentages	
Nepal officers	25	100	-	-	25
Korea officers	10	100	-	-	10
Total	35	100			35

A =Yes

B = No

Source: Opinion Survey, 2015

As shown in the above table, all the respondents have agreed with the current classification. They were also asked if you are not satisfied what should be there. But, no further suggestions were found. It means the classification of information as publishable information and secret information are perfect as mentioned in the laws. In the other hand, as the government officers, they are conscious to follow the system according to law.

4.1.5 Tools Using to Disseminate Public

Information

To know the respondents' views with regard to the tool to use in their offices, the question was put like “what tools do you use to flow information?” opinion result is summarized in the table below:

Table 8: Views on Tools Using for Public Information

Responses	A		B		C		D		Total
	No	%	No	%	No	%	No	%	
Nepal	2	8	2	8	20	80	1	4	25
Korea	10	100	-	-	-	-	-	-	10

A = Web

B = Board

C= Both

D= No idea

Source: Opinion Survey, 2012

Survey result shows that 100 percentages information is uploaded in web site in Korea, but in Nepal 80 percentages information published by using tools like, web sites and notice boards. Only 30 percentages internet (NTA, 2014) penetration is available in Nepal. It might be the cause to depend on board is lack of internet access in remote areas. Even if in urban and developed area this situation exists. Thus, it can be concluded that Nepal still has not been adopted IT in all sectors and to disseminate information as well. Nepalese people and offices do not still trust the digital information system. Korea is the top most country in internet penetration and uses. As a developed and leading country in digital world, Korean offices are using web site to flow the information very effectively and efficiently.

4.1.6 Training

Civil service is the backbone for effective implementation of policies. If they are capable and skilled, the implementation will be effective. To find the training part of civil servants as mentioned in

the laws, the question related to training was asked. The result is as shown in the following table;

Table 9: Views of Respondents on Training

Responses	A		B		Total
	No	%	No	%	No
Respondents					
Nepal	2	8	23	92	25
Korea	-	-	10	100	10

A = Yes

B = No

Source: Interview survey, 2015

The survey result shows that 100 percentages of Korean and 92 percentages of Nepalese bureaucrats do not have any training in this regards. The result is quite similar in both countries. It seems that both governments are not paying attention to the capacity building program. Due to the lack of training, public officers are performing the policy poorly. This table supports this idea. This table shows that they know the policy by their own efforts or self-study, not by training as written in the laws.

4.1.7 Constrains to Implement Effectively

For the effective implementation of policy the ecology is also most important part. If there is any ecological constrain, it could lead

towards difficulty to implement the policy effectively. For the proper enforcement, it is necessary to find out constrains. Government offices/ officers are responsible to make it effective and they have to know constrains to implement the law effectively. So, the same question was asked to the public officers of both countries. The response was as follows:

Table 10: Constrains of RIA

Respondents	A		B		C		D		Total
	No	%	No	%	No	%	No	%	No
Nepal	7	28	11	44	7	28	-	-	25
Korea	-	-	-	-	-	-	10	100	10
Total	7		11		7		10		35

A= system

B= Record Management

C= Lack of Resource

D= No constrain at all

Source: opinion survey 2015

Survey result shows that 44 percentages officers' say that the main constrain for effective implementation of RIA is the record management system in Nepal. They think that the weak record management is really problematic. Other 28 percentages each

Nepalese officer thinks that lack of proper system and lack of resource are the major causes. It seems that different offices have different problems to implement the law. Dokeniya A. (2013) focuses in record management in her study. Government of Nepal should think about the issues of information management, proper resources and a systematic institutional development. These things are basic foundation for effectively implementation of policies. On the other hand, Korean government officers do not feel any constrain to flow the information. They think that information system, record management and resources for effective implementation of laws are properly managed.

4.1.8 Challenges of Implementing RIA Effectively

Here, challenges mean possible threats or hurdles and opportunities to implement the policies effectively. The intention of finding out the challenges was how they are aware with the future obstacles on the basis of present scenarios.

Table 11: Challenges of RIA

Respondents	A		B		C		D		Total
	No	%	No	%	No	%	No	%	No
Nepal	7	28	11	44	7	28	-	-	25
Korea	-	-	-	-	-	-	10	100	10
Total	7	28	11		7		10		35

A= Public Awareness

B= Digitalization of all information

C= Political support

D= Governance effectiveness

Source: interview survey 2015

Above table shows that the main challenge that Nepalese officer's feel is digitalization of information. 44 percentages officer think digitalization is main challenges for Nepal. Use of ICT is increasing, but still, there are many lapses in implementing ICT in Nepal. The penetration is also very low. On the other hand, political support and public awareness are the other issues to be addressed in this regards. They think public awareness and political support are the second challenges for the proper implementation of RIA. All Korean officers think government effectiveness is the only challenge in Korea. As increasing size of aging population, expectation and competition between international arenas are Korea's further areas of concentration of governance system. Her leading role in ICT advancement and innovation is helpful to reduce challenges in advance.

4.1.9 Use of ICT, Digitalization of Information/Data/Record

This survey was based on open ended interview, especially interaction with NIC chief Nepal and NIA, director of Korea. The response was as follows;

Table 12: Use of ICT

Respondents	Response
NIC, Nepal	Negligible
NIA, Korea	Almost

Source: interview survey, 2015

This picture shows the status of the use of ICT to enhance right to information and record management. In Korea all the data are digitalized. Data digitalization makes information efficient and effective. In Nepal, very few data are digitalized. It seems that Nepal should adopt ICT policy to digitalize the information to ensure public right, safety and security of information.

4.1.10 Public Opinion

People are major stakeholders of public policy. To find out the level of awareness of Nepalese people in this regards, an open survey was conducted with the help of five volunteers in public places. Due

to lack of time and respondents' motivation to answers, only "do you know about RIA?" was asked. The response result is as below:

Table 13: Views of General People on RIA

Respondents	A		B		C		Total
	No	%	No	%	No	%	No
Public awareness	11	11	19	19	70	70	100
Total	11	11	19	19	70	70	100

A= Yes, I know

B= I heard, but don't know the purpose

C= No idea about it

Source: public opinion Survey, 2015

Survey results shows that 70 percentages people who were seeking service in government offices do not know about the right to information, 11 percentages people know about this. Similarly, 19 percentages people heard about RIA but do not know what the purpose and use of RIA is. The result shows that about 90 percentages general people still do not have any specific objectives and ideas about the law. The government needs to aware them how this right helps in governance system. If they know about the right, it will be easy to ask service from the government offices. Due to their

lower level of awareness, the delivery mechanism is also not effective and malpractice is leading towards corruption.

The result shows that very few people who are well educated and/ or journalists know about that. This figure is matched with the assumption of less awareness of NIC of Nepal.

4.1.11 Public Awareness of the Service

This part is to take out the result of public information about the place of service and responsibility of officers. The following table elaborates the result found in the survey.

Table 14: Peoples’ Awareness about the Service Provider in Nepalese Offices

Respondents	A		B		C		Total
	No	%	No	%	No	%	
People awareness level	13	13	34	34	53	53	100
Total	13	13	32	34	53	53	100

A= Yes, I know

B= I will ask anybody there

C= No idea about it

Source: public opinion survey, 2015

Survey result shows that 53 percentages people who were seeking service in government offices do not know about the service provider or responsible officer at the office, 34 percentages people respond that they would ask somebody there about the service provider. Similarly, 13 percentages people know the place to go for service. The result shows that about 87 percentages general people do not have any idea about the service providers. This data clearly shows that people have lack of awareness and information about the service. It also consumes more time and cost for public service delivery. Government should inform people and concerned authority who recommends the service to public office.

4.1.12 Tools of Notifying General Information to the Clients

This question related to the service and information about the service delivering officers was asked. The following table elaborates the result found in the survey.

Table 15: Service Notification Procedure/Methodology

Respondents	A		B		C		Total
	No	%	No	%	No	%	No
Website	-	-	-	-	-	-	-
Citizen charter	5	100	-	-	-	-	5
Helpdesk	-	-	-	-	-	-	-
All of above	-	-	-	-	-	-	-
Any other	-	-	-	-	-	-	-

Source: Survey, 2015

Survey result shows that 100 percentages offices use citizen charter as the main source of service notification. People who come to the office for a service have to see the citizen charter to find out whether their service is related to that place. It seems that illiterate people or those who do not have idea about the citizen charter would face problems to choose the right person and right place.

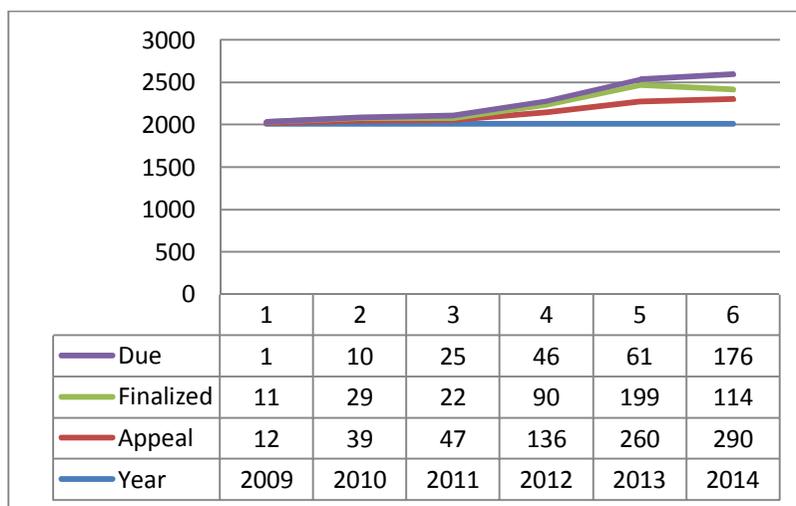
Government of Nepal introduced citizen charter with compensation in 2013. For the effective implementation of this provision, people should be aware to use the provision. Government can disseminate more information for this purpose. Local bodies' capacity enhancement could be helpful in this regards. It is thinkable matter that how notification on written board brings positive results where 65.9 percentage people¹³ are illiterate.

4.1.13 Comparison of Status Issues, Application and Finalized

This part includes issues appealed in NIC, Nepal. Appeal happens after responsible public offices reluctance to dissemination information. It shows the status of appeal and activeness of NIC for this right.

¹³See Economic Survey of Nepal, Ministry of Finance, F/Y 2014-15

Figure 1: Annual Comparison of Appeal



Source: NIA Report

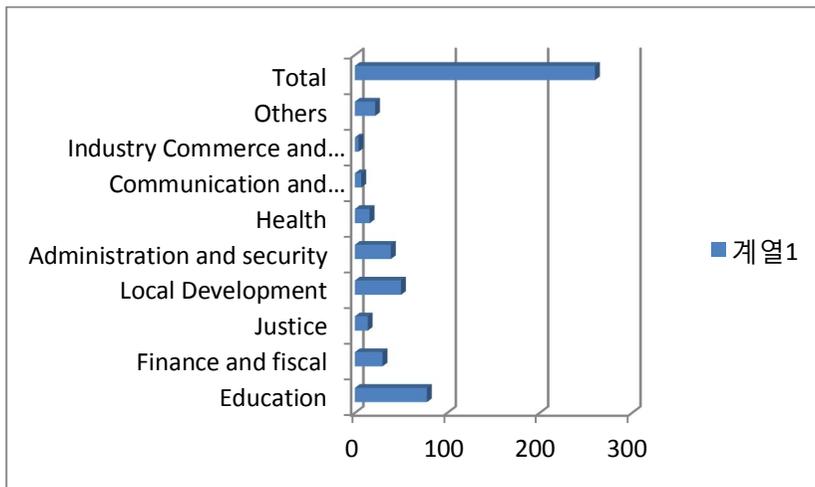
This figure shows that the trend of asking information or appealing is increasing. It means public awareness is uplifting to use the right and getting access on government affairs and decisions. In reverse, the ratio of hindering information might have increased. But, here, the major point is what kind of information people need more and for what they appealed. After studying some appealed application, it was known that most of the issues are filed by well-educated ones, journalist and business people. The awareness level is increasing but still general people's access to NIC seems very low.

4.1.14 Sector-wise Information Appeal

This part is related to what kind of information people need for their daily life. It also shows that what kind of information and sector is should be more open or which one is the most information

hindering sector. If the grievances are more than others, it can be said that these public offices are less active in disseminating public information.

Figure 2: Sector-wise Appeal



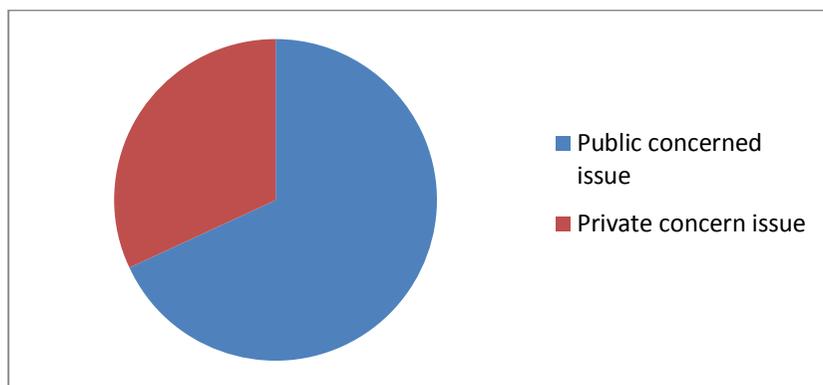
Source: NIC, 2015

This table shows that the most information hindering sector is education. The second is local development which is the most nearer agency to the people. Third highly grievance area is administration and security. Forth, Finance and fiscal issues are appealed. It seems that the public agencies that are related to daily life, budgetary issues, development and finance are still less effective to disseminate public information. The result shows that the agencies that are backbone of national development and democratic system seems close and undemocratic for this purpose.

4.1.15 Appeal on Public and Private Concern Ratio

This part is related to the kind of information people want it be open more. Here, people can be affected personally or socially by decision made by public agencies. Development, infrastructure, education, finance, budget, administrative services are mostly public issues. Moreover, public service delivery and security issues are personal.

Figure 3: Appeal Issues



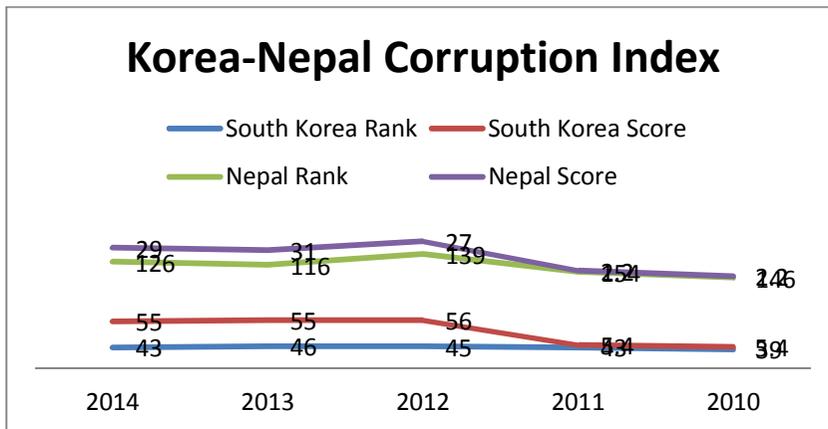
Source: NIC, 2015

This figure shows that people are more aware towards the public affairs. Especially budgetary issue, developmental issue, tax, revenue, projects related issues are concerning area of public grievances. Personal information is basically related to public service and demand issues which are appealed less than public issues.

4.1.16 Transparency Perception Index

The main objective of right to information is to make open and transparent governance (RIA, 2007). Transparency and openness reduce corruption. If the governance system is weak and closed, it is almost impossible to reduce corruption. The major indicator of open, transparent and effective governance is public access and participation in government affairs.

Figure 4: Corruption Ratio Comparison between Korea and Nepal



Source: Transparency International Publications, 2010-2014

This graph shows that the trend of corruption is high in Nepal. Nepal seems to be a corrupt county. After 2010 somehow the ration is reduced and open governance system was getting better. The ration of corruption index looks very ups and downs. The corruption ratio depends on other countries effort and change in position. At the same

time, South Korea is medium country in corruption index. The ration is almost same and constant. Nepal is always out of top hundred counties and South Korea has been securing the top fifty positions in less corruption zone. Nepal has to do more to reduce corruption and to promote good and open governance system.

4.2 Observational Study

In this part of study different offices were observed to find out the status of record management. Record is backbone of information. The holy goal of right to information act is to protect and manage public information. If information is managed and protected, it will reduce time, cost and increase effectiveness and efficiency of information dissemination procedure. As RIA laws are set in place, the importance of records management increases because the absence of sound record management system is often a big constraint to fulfillment of requests timely (Dokeniya A. 2013). She found that 25 percentages government officers in urban area in India have poor record keeping. If the recordkeeping system is poor, the implementation of right to information act will be almost impossible. The research finds that Nepalese record management system is very weak and still managed traditionally. Manual and unmanaged record keeping seems a big problem in Nepal and it is a big constrain for the effective implementation of right to information. During the survey

period the researcher visited five government offices, which are mostly related to public service delivery and public relation directly.

Record management everywhere is rampant. All the records are managed manually and tied in the huge packets. It was found that finding a record is almost difficult to disseminate information to people within the given time according to the legal provisions (see appendix iii).

These pictures and observations conducted show that weak record keeping system is big constrain of Nepalese public sector. To reduce unmanaged record, government of Nepal should adopt information and communication technology system. PMO of Nepal has been adopting computerized system for two years. Other government offices have also been effectively implementing the ideas but all seem in the initial phase. Even though starting innovation, it can find lack of trust for full adoption. It can be concluded that employees feel more secure and continent to use manual recordkeeping system in public offices. Adopting ICT is a big challenge to change the mind set up of employees and creating trustable environment in society.

4.3 Comparison of Constitutional and Legal Provisions

4.3.1 Constitutional Provisions

Constitution is fundamental law of a nation. It links people, government, territory, sovereignty and international identification. Modern constitutionalism emphasis written constitution with check and balance, democratic rights, protection of human rights, timely election, people's sovereignty. Nepal and Korea both counties are based on liberal democratic political exercise. In the liberal democratic system government is considered to be responsible towards people. Government runs as the public will. Here, for the due respect of public voice, choice and right, right to information ensures public access in national affairs. After the declaration of universal human rights in 1948, right to information is universally accepted as a basic right to implement other human rights. It protects people and makes the government responsible towards people. The constitutional provision in this regards is more important for the sake to create government obligation in this regard. The provisions related to Right to Information in both counties are as follows;

Table 16: Constitutional Provisions

Constitutional Provisions of South Korea, 1996 ¹⁴	Constitutional Provisions of Nepal, 2007 ¹⁵
Article 17: The privacy of no citizen shall be infringed	Article 13. Right to equality
Article 18: The privacy of correspondence of no citizen shall be infringed	Article 15. Rights regarding publication, broadcasting and press
Article 19: All citizens shall enjoy Freedom of conscience.	Article 27. Right to information
Article 21: (1) All citizens shall enjoy freedom of speech and the press, and freedom of assembly and association.	Article 28. Right to privacy except in circumstances provided by law
Article 26: right to petition	
Article 29: compensation if violation of this provision by public officers.	

Source: Constitution of Republic Korea, 1996 and Nepal, 2007

¹⁴The constitution of the Republic of Korea, 1948

¹⁵ The constitution of Nepal, 2007

The two countries' constitution has several provisions related to right to freedom, which directly linked with right to information. Constitutional rights are moral right, which are implemented under different laws. Korea and Nepal both countries constitutions are based on liberal democracy, and constructed under fully utilization of constitutionalism. Due to the practice of liberal democracy both constitution guaranteed the freedom of information to protect citizens in the countries. All the rights including freedom of speech, press and petition to the governments are mentioned as the constitutional rights. In the other hand some private information and national interest, security, communal relations, international relation/ diplomacy related information are protected under the articles in both countries. Both constitutions have four articles related to right to information or securing right to information for people. The articles related to right to information, right to press, speech, and freedom, and right to secrecy are specially mentioned. Constitutional provisions are not enough to transfer the right in to action. To change the constitutional right into action, both counties have been introduced right to information. The policy induced by the government helps to assure the constitutional rights. But, the provisions related to right to information is avoidable provision in Nepal. If country faces any problem, crisis or political economic or any other crisis, government can be suspending the right. People cannot enjoy their right during the crisis. In, constitution of Korean, nothing is clearly mentioned for suspension.

4.3.2 Legal Provisions

Right to information is respected as a key right in the democratic society. It is also considered as an important tool for transparency. It assures public access in public affairs. Korea is enjoying Act on Disclosure of Information in Public Agencies since 1996. After that Korea has a lot of policies to implement right to information provisions effectively. Nepal has less experience than Korea in this regards. Nepal endorsed Right to Information Act in 2007. The provisions in both Laws are as follows;

Table 17: Legal Comparison

Act on Disclosure of Information in Public Agencies since 1996, Korea ¹⁶	Right to information Act, 2007 Nepal ¹⁷
Article 1. Purpose: The purpose of this Act is to ensure the people’s right to know and to secure participation of the people in state affairs, and	Preamble, here as; it is expedient to make the functions of the sate open and transparent in accordance with the democratic system and to

¹⁶ Act on Disclosure of Information in Public Agencies since 1996, Korea, online at government of Korean 3.0, <http://www.open.go.kr>

¹⁷ Right to information Act, 2007 Nepal, online at <http://nepallawcommission.gov.np>

<p>transparency in the operation of state affairs, by providing for the necessary matters concerning the obligation to disclose information possessed and managed by public agencies and the People's requestor the disclosure of such information¹⁸.</p>	<p>make responsible and accountable to the citizen; to make the access of citizens simple and easy to the information of public importance held in public bodies; to protect sensitive information that could make adverse impact on the interest of the nation and citizen, and for the necessity to have legal provisions to protect the right of the citizen to be well-informed and to bring it into practice, the 'Legislature-Parliament' has enacted this Act¹⁹.</p>
<p>Article 2. Definition</p>	<p>2. Definition</p>
<p>Article 3. Principle of Information Disclosure</p>	

¹⁸ibrd pg.73

¹⁹ibrd pg.73

Article 4. Scope of Application	
Article 5. Duties of Public Agencies	5. Updating and Publication of Information
Article 6. Holder of Right to Request Disclosure of Information	6. Provision of Information Officer
Article 7. Information of Non-Disclosure	7. Procedures of Acquiring Information
Article 8. Methods of Request for Disclosure of Information	8. Fee for information
Article 9. Decision on Disclosure of Information	9 Complaint may be made
Article 10. Information Disclosure Deliberative Committee	10. Appeal can be made
Article 11. Notice of Decision on Disclosure of Information	11. Provision Regarding Commission
Article 12. Partial Disclosure	
Article 13. Procedures for	

Disclosure of immediately available Information	
Article 14. Duties of Requester	
Article 15. Expenses	
Article 16. Application for Objection	19. Functions, Duties and Powers of the Commission
Article 17. Administrative Adjudication	25. Annual Report
Article 19. Application for Objection, etc. by Third Party	
Article 20. Institutional Management	27. Provision Regarding Classification of Information
Article 21. Provision of Information	28. Protection of Information
Article 22. Preparation, Provision, etc. of Main documents list.	29. Protection of whistleblower
Article 23. Request for Submission, etc. of documents	30. Providing Personal Information

Article 24. Provisions concerning delegation	31. Information not to be Misused
	32. Punishment
	33. Compensation
	37. To be Pursuant to this Act

The both laws have similar provisions but the definition is more broadened in Nepalese law than comparison with Korean. The Nepalese provisions look more specific and vast than the Korean law. Korean law has special and short provisions than Nepalese one. Both have emphasized for the public access in public affairs. Both laws clearly indicate that people have the first right to get public information. Both laws have special provisions of private information, right to secretary, and appeal if any provisions if violets. The provisions in both laws are to make public agencies more responsible towards public will and their performance. There is special provision of information commission in Nepal but in Korea, the appeal could be made thorough Ministry of General Administration and Home affairs. It seems that Korean law has less autonomy than Nepalese law. In Korea executive regulatory is considered highly but in Nepal regulation is considered by different agensis but it is less powerful

than other bodies. These both laws were enforced right after the democratic constitution promulgated in both countries.

4.4 Case study

Ward of Songpa, Seoul Metropolitan City Vs election

Commission of Seoul Metropolitan City

Case number: 2005 Kuhap 10484

Country: South Korea

Date of decision: 12 October 2005

Court / Arbiter: Seoul Administrative Court; reviewable by Seoul High Court (*First instance*)

Relevant law: The Official Information Disclosure Act (*ATI Law*)

Decision:

Local government officials are not entitled to request public information under the access to information law in their official capacity. As such, they do not qualify as "people" entitled to access to government information under the law.

Keywords:

Freedom of expression (including RTI as element of or integral to) Judiciary or quasi-judicial body Political information (including

candidates, elections, political parties) RTI law Scope of information covered Segregability (information should be disclosed if can be segregated from information that may legitimately be withheld) Status of requester (including interest in information, citizenship, legal person, standing)

Case details:

Facts

On 28 January 2005, the Ward of Songpa, head of the local government, requested information from the Seoul Election Commission (SEC) on a report that the Ward had violated the Public Officials Election Act when hosting an event in honor of elderly people. Specifically, the Ward wanted to know what had led the Commission to suspect the Ward of a violation of the election law. The Commission rejected the request, claiming that the Public Official Elections Act prohibits disclosure of the requested information in order to protect those who confidentially report on election-related crimes (articles 262-2), and thus the information is exempt from disclosure under the Official Information Disclosure Act (OIDA) (article 9(1)1). The Ward made two arguments in response: (1) even if the a portion of the requested information is exempt from disclosure, the Commission must separate the exempt portion of the information from the non-exempt portion, and release the non-exempt

portion; and (2) the Commission's vague denial of the request for the information violated the right to information (RTI) law.

Decision

The Court held that the legal basis for the request – the OIDA – did not apply to the Ward because the Ward was acting in his official capacity. The Court explained that the RTI law protects the right to know, which is derived from fundamental principles of people's sovereignty, human dignity, pursuit of happiness, and right to live as a human being, and is included in the freedom of expression the Constitution guarantees as a basic right (Constitutional Court, 88 Honma 22, Sept. 4, 1989). However, the Ward, acting as a local government institution, is fundamentally the subject of public authority in charge of local administration under the Constitution. The conflict between the local government and the central or other public institutions, therefore, does not concern the basic rights guaranteed by the Constitution, rather it is a matter of hierarchy. Because the local government institution is not premised on the "natural rights of character," the RTI law does not recognize it as the "people," and it does not enjoy the same rights as the people, including the right to know and the associated right to access to government information.

This case clearly elaborates the right of people in public affairs. People are the supreme and they can enjoy the legal right than any public authority.

Forests Survey Inspection Request Case Petitioner Vs Supervisor of Country of Incheon

Case number: 1 KCCR 176, 88Hun-Ma22

Country: South Korea

Date of decision: 4 September 1989

Court / Arbiter: Constitutional Court (*Constitutional*)

Relevant law:

Constitution, Article 21 (Constitution)

Decision:

Restriction of access to information is unreasonable—in violation of a person’s right to know—where the information has not been classified as confidential, disclosure does not implicate the invasion of another’s privacy, and such person has a direct interest in the information.

Keywords: Constitution

Freedom of expression (including RTI as element of or integral to) Public interest (including public interest override, information of public interest) RTI law Status of requester (including interest in information, citizenship, legal person, standing)

Case details:

Facts

The petitioner inherited land that became the State's property without his knowledge. The petitioner made several requests to the Supervisor of the County for title records, surveys, and land tax ledgers held by the County. After the Supervisor withheld certain land surveys and private forests use surveys, petitioner filed a constitutional action against the Supervisor.

Decision

The Court ruled that right to information (a “right to know”) is a precondition of freedom of speech and press assured by the Article 21 of the Constitution, and essential to that right is sufficient access to information held, collected, and processed by the government. Further, the public has a claim-right to request disclosure of information held by the government, and the government must comply with such requests. However, access to information can be reasonably restricted

by balancing the direct interests of the person requesting information against the potential harm to the public interest. In this case, restriction of access to information was unreasonable because the records had not been classified as confidential and disclosure did not implicate the invasion of another's privacy, while the petitioner had a direct interest in the information.

Consequences

While this was the first case recognizing a constitutional right to know, it was followed by others. In the Records Duplication Request Case, CC90Hun-Ma133, the Court decided that the Prosecutor's Office acted unconstitutionally when it denied a former criminal defendant the opportunity to obtain his trial records. Following these constitutional cases, the National Assembly adopted the Official Information Disclosure Act in late 1996.

Some courts have interpreted the right to information to be an implied constituent of the right to freedom of expression. For example, in the Forests Survey Inspection Request Case, South Korea's Constitutional Court ruled that the right to information is inherent in the right to freedom of speech and press, specified that free expression and communication of ideas necessitated free formation of ideas as a requirement, and that the free formation of ideas is in turn completed possible by guaranteeing access to ample information.

This decision shows the importance of right to information act. It is a main legal provision to implement freedom of expression and human rights. Human rights are interdependent and unavoidable. As the member signatory country of UN Declaration of Human Right, 1948, right to information act is much necessary to implement all the fundamental rights. And, as a democratic political system, right to information can be a basic tool to make open and transparent government and it protects people's right in national affairs.

Special Order Issued by Chief Information Commissioner Mr. Krishna Hari Baskota and Information Commissioner Mr. Kiran Pokhrel of National²⁰

Information Commission on 17.03.2015

A Special Order has been issued to all ministries and central level agencies as regards to updating and regularly disclosing the information pursuant to the Section 5 (3) of the Right to Information Act, 2007 (the Act) and the Rule 3 of the Right to Information Regulation 2008 (the Regulation), designating Information Officers as stated by the Section 6 of the Act and sending reports concerning the receipt of applications seeking information, the actions taken thereon by itself and the entities under its regime to the National Information Commission (the Commission).

²⁰ See www.nic.gov.np assessed at 2015.08.17

Background:

The Article 27 of the Fundamental Rights under Part 3 of the Interim Constitution of Nepal, 2007, has made constitutional provision to provide all citizens **right** to seek and get information of personal or in the matter of public interest. It is the foremost duty of all to abide by the Constitution as it is regarded as the basic law of the land. In the global perspective, right to information is taken as a crucial indicator to measure the effectual of democracy. The Act has been promulgated to ensure the basic tenets of democracy, like good governance, transparency, and accountable governing system, freedom of speech and press and empowerment of citizens, which is enshrined in the spirit of the Constitution. The Preamble of the Act states that the 'Legislature-Parliament' has enacted this Act with a view to make the functions of the state open and transparent in accordance with the democratic system and to make responsible and accountable to the citizen; to make the access of citizens simple and easy to the information of public importance held in public body, and for the necessity to have legal provisions to protect the right of the citizen to be well-informed and to bring it into practice.

The Order requiring publish/disclose Pro-active Disclosure on Quarterly Basis:

The Sub-section (2) of the Section 3 of The Act provides for legal guarantee to all Nepalese citizens having access to information

held by public bodies. In order to ascertain the proper implementation of the Act, the Section 5, Sub-section (1) of the Act makes it obligatory for every public authority to keep the information updated under its control. The Sub-section (3) of the Section also provides for enlisting and the publication of the information held by a public authority in respect of 13 areas (subjects). The Sub-section (4) stipulates that such publication be made in every three months. Further to this, the Regulation has also listed seven more areas (subjects) for pro-active disclosure, in addition to the subjects laid down by Sub-section (3) of the Section 5 of the Act. In this perspective, pursuant to Section 19 (d) of the Act, the Commission issues following orders to all public authorities in respect of the protection, promotion and exercise of right of citizen to information as their constitutional right:

a. Upon the request of the Secretary of the Commission to public entities vide his letter dated 22/01/2015 as regards to updating and making public the information of their control, the Commission has been informed by such entities that the request has been met. It is found that such information is made public effective from the 16th of July 2014 to 15th of January 2015 at the interval of every three months. In the same way, the public entities may disclose such information at the interval of every three months effective from January 16th to July 15 2015 and intimate the same to the Commission.

b. The provision of regular pro-active disclosure of information, pursuant to the Act and the Regulation, shall be required to follow in accordance to the proviso cited in (a) above from the Fiscal Year 2015/16 and thereafter.

c. The departments, regional and district offices under the public entities are also required to comply with the orders made under (a) and (b) above and intimate the same to the Commission.

2. Order pertaining to the Designation of Information Officers:

So as to realize the effective implementation of the legal guarantee to right of every Nepalese citizen to information held by public entities pursuant to the Sub-section (2) of the Section 3 of the Act, the Sub-section (1) of the Section 6 of the Act has made obligatory legal provision to designate Information Officer to facilitate dissemination of information under the jurisdiction of her/his entity. The Sub-section (2) of the same Section directs the Chief of a public entity to supply the information at its disposal to the Information Officer regularly. The Sub-section (3) of the same Section also espouses that a separate Information Section may be created with a view to ensure regular flow of information as per necessity. Similarly, a Nepalese citizen may seek information registering an application to the Information Officer stating the purpose of that deed, as per the Sub-section (1) of the Section 7. The

Act (Sub-section (2) of the Section 7) also assigns responsibility to Information Officer that she/he shall supply information to the person in need instantly, if the nature of the information sought is of that nature; if not, the applicant shall be supplied within 15 days from the date of the receipt of application. Accordingly, Sub-section (3) of the same Section maintains that if the sought information may not be made available, the information seeker shall be informed of the same stating the appropriate reason; Sub-section (4) affirms that if information sought concerns the life of a person, it shall be supplied within 24 hours; Sub-section (6) establishes that if any possibility subsist that the source of information may be damaged or destroyed or spoilt if it is provided in the format as requested by the applicant, the Information Officer shall provide such information in an appropriate format with stating reason thereof; Sub-section (7) maintains that If any individual submits an application to study or observe the document, material or activity related with information, the Information Officer shall provide a reasonable time to the applicant for the study and observation of such document, material or activity; and Sub-section (8) is concerned with the application received by a public authority asking for an information which is not related to such Body, the Information Officer is obliged to notify the applicant immediately to this effect. In such a situation, without designating an Information Officer, without equipping her/him with all information and necessary resources to facilitate her/him to discharge her/his duty

comfortably, peoples' constitutional right to information cannot be put into practice effectively. In this context, pursuant to the Section 19 (6) of the Act, following orders have been issued to all public authorities to arrange for the designation of Information Officers:

The Information Officer be designated if not yet done. In case of the Information Officer thus appointed is not taking charge of his responsibility for more than seven days for any reason, another Information Officer is assigned. The name, telephone no and photo of the Information Officer be put in the flex board and be placed it in the office making it visible to all stakeholders. The description of Information Officer is appeared in the front page of the official website along with her/his name plate in his room stating his designation as the Information Officer. Intimate the same to the Commission.

All information should be in access to Information Officer that remains under the control of that authority. Adequate logistics and manpower be provided required by her/him. A separate budget should be set aside to her/his access which could be used for the promotion of right to information. Intimate the same to the Commission.

The departments, regional and district offices under the public entities are also required to comply with the orders made under (a) and (b) above and intimate the same to the Commission.

The Order Relating to Updating the Description with regard to Information Sought, Disseminated and Denied:

The Sub-section (2) of the Section 3 of The Act provides for legal guarantee to all Nepalese citizens having access to information held by public authorities. The Section 4 of the Act spells out the responsibility of public entities for the effective implementation of the Act. Section 5 of the Act makes it obligatory for every public authority to keep the information under its control updated and publish it at the interval of every three months. Section 6 of the Act makes provision of the appointment of Information Officer in public entities with a view to furnish information sought by citizens. Likewise the Act has also made provisions of procedures obtaining the information (Section 7), fees to be paid for requesting for information (Section 8), procedure of lodging complaint (Section 9), provision of making appeal (Section 10) and the provision of punishment against holding back information without valid reason, refusal to information or not abiding by the decision or order of the Commission (Sub-sections (1), (2) and (5) respectively of the Section 32). It is evident that the objective of all these provisions of the Act implies in ensuring the effectual protection, promotion and implementation of the people's lawful right to information. In this context, the Act stands for the intention that all public authorities shall aspire for more information requests by the public so that they could

make available the information as requested. The Rule 3 (b4) requires that the public authorities are liable to publicize the description of the information sought and given in the interval of every three months. Pursuant to the Section 19 (b) of the Act, the Commission issues following orders to all public authorities to enhance their initiative thereto complying with the legal provision to this effect:

The record of the applications filed or likely to be filed with that entity, account of the information provided or denial to providing information is furnished to the Information Commission on quarterly basis in the specified format.

The departments, regional and district offices under the public entities are also required to comply with the orders made under (a) above.

The integrated quarterly description of the entity and entities under its regime is sent to the Commission within the fifteen days of the completion of such period.

The above special order issued by NIC shows that even after the implementation of Law, the practice seems still very weak. Public offices, which are responsible for disseminating information to public, are not taking any more responsibilities. Public officers and the information officers disseminate that information only by a press release; which is out of access of general people. According to the Act

public offices should public its information within three months when the law starts in the first time, and then they should update all the information regularly. But, this special statement of regulatory and appealing body looks contempt on the activities of government agencies.

It can be conclude that the real practice of RIA is still very weak. The mind set of government officials are still traditional. No one wants to release information according to the spirit of the law. There is special provision in the law is that all government offices should have appointed information officer. The officers are responsible to public all the publishable information. But, sill they should take order from higher authority. The traditional system and mind sets are big constrains to implement the law effectively.

This order shows that Nepal is still in the initial phase to make the system open and transparent. Even though, after seven years of implementation of RIA, the implementation is seem very weak. The government has not been taking proper steps effectively. According to the issued order we can say that it is still a challenge to change the mind set of public officer and take all the intention into action.

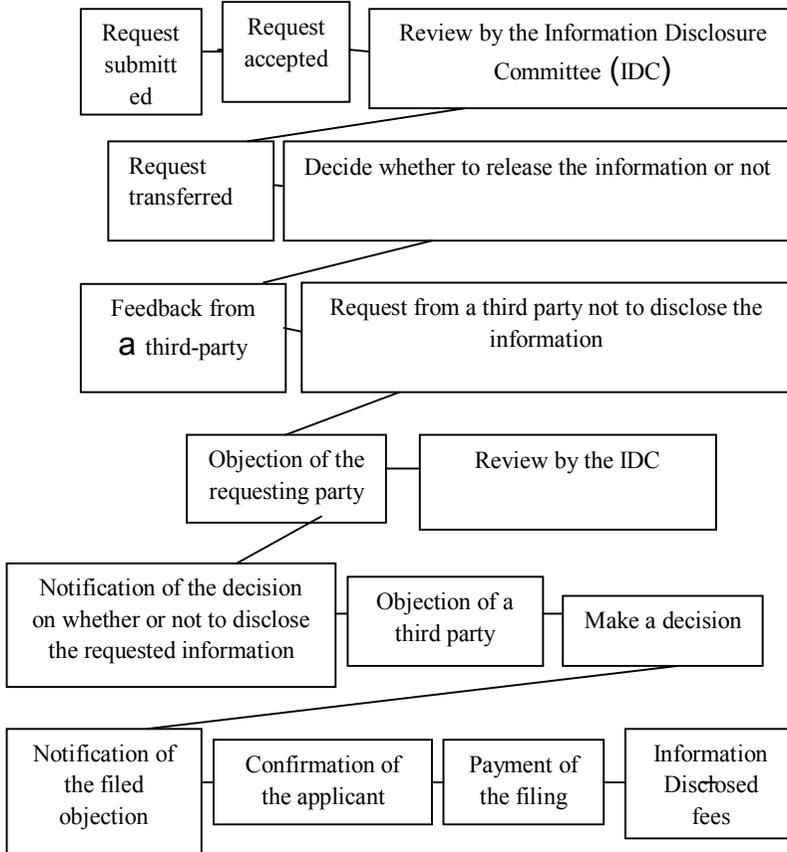
On September 10, 2015 Supreme Court of Nepal dismissed the classification of information has been done by government of Nepal two years back, where one hundred and forty information have been classified as secret information. This ordered shows that legally

government of Nepal has enough provisions but government system still is not been adopting openness by itself.

Korean Practice and Learning

1. Clear Flow of Information and Channel:

Figure 5: Process of Information Disclosure upon Request



2. Executive Responsibility

The Ministry of Government Administration and Home Affairs (MOGAHA) is in charge of the management of the information disclosure process. Each government agency or public organization (i.e. central government agency, local government offices, public schools, local public corporations, institutions funded by local

government funds, special corporations, social welfare corporations, and subsidiaries) has its own division in charge of information disclosure. Under the Ministry of Interior (MOI) there are divisions who coordinate, implement and enforce open and e-governance policies (See Appendix III). Executive activeness makes policy implementation effective and updated.

3. Use of ICT in Information Flowing System

Internet and mobile-based information management and flowing system is used in Korea. All information is digitalized. And the penetration of internet is hundred percent (NIC, 2015)

4. Legal Strength: Information Act and Reduction of Corruption Status in Korea

As for the act concerning information disclosure, there are the Official Information Disclosure Act, the Enforcement Decree of the Official Information Disclosure Act, and the Enforcement Rules of the Information Disclosure Act. Other relating acts include the Personal Information Protection Act and the Civil Petition Treatment Act. Other individual acts contain articles prescribing actions concerning information disclosure.

For the effective implementation there should be clear and simple legal provisions. Korea has a lot of legal provisions who protect public right accordingly. Nepal is enjoying right to

information according to RIA, 2007. It seems that Nepal needs more policies to make it implementable in the real sense.

Chapter Five

5 SUMMARY, FINDINGS AND POLICY

RECOMMENDATION

5.1 Transparency and Right to Information

Transparency is widely supposed to make an institution and their office holders both more trustworthy and more trusted. Yet, in Nepal many institutions and office-holders on which transparency requirements have been imposed across for the last twenty years are now seen as less trustworthy, and, are apparently less trusted than they were before the requirements were introduced. Does this suggest that transparency does not improve trustworthiness? Or it increases trustworthiness without increasing trust? Or, is the evidence of declining trust-worthiness equals to declining trust misleading? How confident can we be that transparency supports either trustworthiness or trust? These are the vital question in Nepal and have immediate practical importance.

There is no doubt about the requirement of transparency in public and professional systems. And corporate lives have greatly increased in many parts of the world. In Nepal transparency was identified as one of the basic standards for conduct in public life by

the Corruption Control Act, 2002 and many codes of conducts issued by the government. Transparency has now become a standard component of corporate governance and has been built into complex regulatory culture that penetrates so much of institutional and professional life (Morgon 2003). Transparency is also the guiding principle of freedom of information act, 2007, whose purpose is to make provision for disclosure of information held by public authorities or by person providing service by them²¹. Government, corporations, and, their critics seemingly converge in seeing transparency as indispensable for accountability and good governance, for preventing corruption and improving performance, for increasing trustworthiness and trust.

There is a quite large measure of consensus about the way that transparency is supposed to work. It is supposed to keep their office-holders disciplined by making information about their performance more public. Publicity is taken to deter corruption and poor performance, and to secure a basis for ensuring better and more trustworthy performance.

Knowledge, capacity, efficiency, Implementation capacity, Legitimacy, Confidence and trust are some very important variables for the better performance to achieve national goal of good governance.

²¹For the text of Right to information act, 2007 See www.nepallawcommission.gov.np (accessed 21 June 2015)

These are the key indicators for governance performance as shown in the diagram below:

Figure 6: Governance



Source: OECD, 2015

These are the indicators by which we can measure government performance for effective and efficient governance system and public policies. Above mentioned indicators and result of public policies including RIA seem weak in Nepal. Nepalese society is strong enough in term of democratic exercise and freedom of speech but the real practice of public access in government affairs for openness and transparency are still lacking. Nepal needs to enhance its capacity and adopt transparency tools to build public trust.

Right to Information and Implementing Open Government Data

- Open government data empowers a new generation of citizens, businesses and civil servants to create socio-economic value and can increase government transparency.

- According to the new OUR data (OECD, 2015) Index, open data efforts were the highest in Korea, France, the United Kingdom, Australia, Canada and Spain.
- While most countries have made significant efforts to make data available and easily accessible, the extent to which governments actively support the reuse of public data varies (especially with regard to the reuse inside public administrations).

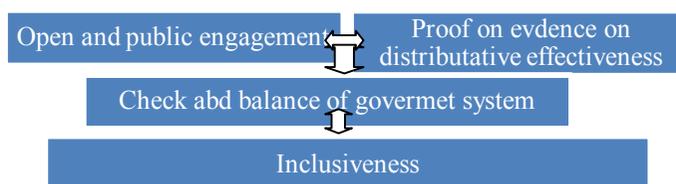
Korea is the best in the world in practicing open data. The information and communication surveillance, smart clouding and internet penetration are high in Korea. In Nepal the internet penetration is about 30 percentages (NTA, 2014). Nepal needs to increase its connectivity capacity for open data system. It helps to keep update and to make service delivery fast and easy manner.

Right to Information and Inclusive Works in Practice

Inclusive policy makings depend on inclusive process, procedures, systems and structures to ensure public policy and their effective implementation. Effectiveness reflects on the perspective of diversified participation of stakeholders. Inclusiveness supports public transparency engagement and openness in the state mechanism that aware citizens about the government system, policy, programs, intension and action. This not only makes open system, it also helps people with ways to express their opinions. Inclusive policy making

process is based on how information is disseminated in public sector for the better policy results and how it ensures public participation in policy decision. This is most important thing to notice here that the appropriate organizational system, structure for acquiring, exchanging, sharing and incorporating that information into decision making result in excellent public inclusiveness. On the other hand, the check and balance provision helps to make balanced, accountable governance system.

Figure 7: Open Data



Source: OECD at a glance, 2015

Civic engagement or public participation in decision making marks highest status in open and transparent governance system. Unless balancing the right, authority and ensuring people's participation in national affairs, inclusive democracy is meaningless. For the holy purpose of open and transparent governance system, openly civic engagement should be adopted fairly from the grassroots level.

Openness and Public Engagement

Many mechanisms have been developed with the objective of ensuring public participation in decision making and policy making process. Innovative governance system ensures public participation on local government to budgetary system. Openness creates opportunities for people as well as government bodies to produce better policies and public service. It is two way engagement and co-production of public decision and service. Moreover, coordination, collaboration, constructive dialogues make great objective for the open governance system which was found lacking in Nepalese policy process. It is, in fact, very essential for open governance system and to reduce bad deeds in and within the state mechanism.

The main objective of openness is to share the common values, benefits to the people from state mechanism. Both countries Nepal and Korea, believe in liberal democracy. So, openness is ornament of democracy and it should be adopted in the right way where all people can feel the distribution of national source is fair and in the right manner.

Access to Information to Open, Useful and Reusable Data

Inclusiveness needs public access to information. Right to information policies lead to the way by creating a design of legal rights for people to access in public sector information. All the

democratic countries had been adopting Freedom of Information policy by different ways. But, the depth and breadth of these laws and implement ability can be found differently (OECD, 2015). The growth of open governance has been a shift from the passive dissemination of information to the active dissemination of information. Particularly in public data that can be analyzed massively, on a large scale. As diversity in nature in terms of language, religion, ethnicity, region, geography, and settlement, Nepal needs to incorporate inclusive democracy with the high value of openness. Open and accessible state affairs can ensure inclusive democracy in a true sense.

From One Way Consultation to Two Way Collaboration Across Policy Making Process

Meaningful public participation is the heart of democracy. It helps to enhance inclusive policy decision making. Public engagement means giving citizens a vital role in decision making that affects their life, liberty and property. Public participation could increase trust in government, governance system and overall in the nation. Public trust enhances to close the gaps between citizens, citizens' expectations and government responses, which gives better policy results. Here, to achieve meaningful public participation depends on strong, democratic leadership and, needs to create adequate communication channels or means of proper communication.

5.2 Findings

- Seventy percent Nepalese people don't know about right to information act and its objectives, and nineteen percentage people know, but they can't use it properly. Almost ninety percent people do not have proper knowledge of right to information and its utilization. On the basis of this figure, it could be concluded that Nepalese policy making process is based on black box model, mostly. Public participation in policy formulation process is not taken properly.

- Nepalese officers believe right to information reduces corruption and it is a tool for transparency. Whereas, Korean officers believe that right to information only does not reduce corruption. This clearly shows that Nepal suffers from lack of other corruption reduction tools. Without responsive mechanism it is difficult to reduce corruption in practical sense.

Korean and Nepalese officers feel differently about transparency and openness. Nepalese officers believe RIA could help to control corruption but most of Korean officers believe it helps to bring openness rather than controlling corruption. Mechanism involved plays a key role to cause such a different thought and actions out of different structures.

- All the information is digitalized in Korea and the procedures are easier to pull out information from web sites, and all public

institutions possess computer based information and technology system, but in Nepal information dissemination by web is in the initial stage. Korea is already in the integration stage but Nepal is in the stage of one way communication, in most cases. Very few practices have been starting in some offices like Department of Custom, Department on Inland Revenue and Public Service Commission. And that is also for limited functions such as, online registering and application submission. The main source of information dissemination is the same old-school styled official board and all the public offices use citizen charter for service delivery. But in Korea everything is based on web and digital media. Korean public offices disseminate all public information by websites. Due to this IT based information system, Korean information system is more effective.

- Record management is weak in Nepal, all the works are either manual or both, manual and automation as well. There is a clear lack of trust on digitalization; that is why offices are using both, computerizing and manual working styles.

The information is paper based and these are bundled in packs. This kind of packing system may cause delay in finding whenever needed, or it can even be lost or misplaced. The result of this kind of difficult record management is sufficient for ineffective disclosure of information. System which consumes more time and cost can be concluded as a cause of weak implementation of public

policies in Nepal. This system also results in delayed decision making in Nepal.

- Nepalese law combined and all provisions are included in one policy but Korea has many policies related to protecting right to information. Different laws make clear an objective implementation of policies. Both legal systems have different background in origin. Nepalese legal system is based on common law system and Korean in Persian com American legal system. Nepalese law focuses on large coverage and includes all kinds of stuffs in a policy bank which is difficult to change and improve timely. Duplicating ideas and over lapping of versions in different policy documents are making the system ineffective and creating loop holes of inefficiency. It seems that Nepal has policy lacking to address different kinds of related policy issues by separate legal provisions like Korea has record management, privacy, official information disclosure and personal information acts.
- The consciousness of right is increasing in Nepal. Public concerns in public issues are rising rather than private issues. People are willing to receive information and openness in daily life related sectors. Education, local development, budgetary, administration and security issues are major concerning areas of people. This is good indicator of public consciousness in public affairs but it should be from the grass root level and benefits should be distributed locally. But the agencies that are backbone for national

development are closed and undemocratic. The result shows that educational, budgetary, local development and administration are some of the top information hindering sectors.

- Most people don't know the exact place and responsible people for their service. Due to lack of clear dissemination of information, the service delivery is less effective. Nepal still has less literacy rate, 65.5 percent people are illiterate²². Due to such a high illiteracy and lack of education, they do not have proper knowledge on public rights. Government of Nepal should adopt the system which will be helpful for illiterate villagers.
- Education, local development and administration and security sectors are mostly information hindering areas in Nepal, which are directly related to people's daily life activities. They want access to those activities, and they want information on their local development. In fact, it is also good symbol that they are conscious about upgrading livelihood and local development.
- Bureaucracy is the key role player for effective policy implementation. The lack of proper implementation of Nepalese law is due to lack of capacity of government officers, truly. They still do not have needful training, planning, job description, well defined role and motivating atmosphere. Likewise, the Korean counterparts have the same problem on capacity development in this regards of right based policy implementation. They are also

²²See detail report of National Census, 2011, Central Bureau of Statistics, Nepal

not properly trained according to policy. Because of the proper development of public service delivery mechanism/system and available modern technology, Korean policy implementation is efficient but they still need capacity development programs. Nepalese and Korean both bureaucrats know about the RIA policy. But, they still do not have proper training and practical knowledge.

- Korean corruption index looks almost similar from 2010 to 2014. The status of Korea is below fifty in world ranking, which is considered to be moderate and falls around the group of better countries. Given Korea is developed, socially open and highly digitalized country, the corruption indicator does not look satisfactory. She has enough margins to improve in terms of corruption. Nepal is beyond hundred in its corruption index since 2010. The interesting thing about Nepal is- the ranking has even been worsening after promulgation of right to information and so many democratic changes taken place.
- Both countries have established right to information as one of the fundamental rights in their constitutions and legal provisions. But the implementation and foundation to implement policy is different. Nepal needs to establish a better mechanism, proper channel, responsive governance system with democratic value.
- Using information technology is another major challenge for effective implementation of right to information in Nepal. Public officers think that due to negotiable and compromised investment

and less priority of government on information technology; it will be difficult to modernize the system for the effective implementation of right to information. They think public awareness could be raised more easily without any investment for this.

- Proper responsibility of officers regarding the dissemination of the public information is still not designed. Nepal needs a clear channel and decision making process like Korea but even information officer's provision in each office seems less effective due to the lack of capacity, responsibility, open culture and well developed system.

5.3 Policy Implication and Suggestions

Public awareness and policy

The survey result shows that there is huge gap between government and people. The government has to think on the most important part of policy stakeholders. First, government should find the answer of this question that how, when and in what sense public participation is ensured in policy process? Nepal is parliamentary democratic country in political system where democratic governance is expected to be exercised by the people. People should be the major stakeholders for policy formulation. Government is expected to be transparent and responsible towards people. Policy depends on

people's acceptances and consciousness. If policy making process is totally influenced by few ad elite stakeholders only in the name of interaction, the result might be same old one as ninety percent people are out of the proper knowledge of policy. The major factor of policy failure in under-developed countries like Nepal is lack of public awareness in policy process.

Public awareness in using and adopting the policies seems very weak. For the proper implementation of public policies people should be aware. State's major concern should be to make public aware and participative from formation to implementation of policies. People are major stakeholders of state, so their capacity development should be considered first. Before formulating policy, government should disseminate the policy for public advocacy and consultation by which they can garner public acceptance and awareness without any high cost and seminars. Public pre-consign in policy would be the best democratic and accepted way for effective policy implementation.

Public Administration and Policy

Public administration implies the execution of public policies to be carried out and requires people, organized officials, calculating means of implementation that are again conditioned by values. The

administrators may be intelligent and competent or ineffective. Organization may be structurally efficient and satisfying or conflict-pro-rational. The values may be same as those of the policy makers or different.

This, then, is the crucial means of the policy-administration relationship. Policy making may be weak or full of error in which case administration is severely limited. On the other hand, administration, either because of structural or personal ineffectiveness, or lack of sympathy and commitment to the policy, can undermine it or change its content. The degree of discretion exercised by administration has come to be recognized in its true significance: policy making is not limited to those whose title endows them with the function.

Policy making (or it is some times more loosely characterized as decision making) and administration together constitute the chief business of government. It is not, of course, the only business of government. Modern democratic man has some expectation to be fulfilled by his government that has a representative function and a justice dispensing function as well. That is, government should, in one way or another, represent the interest of society and guarantee the rights and liberties of citizens under a rule of law, as interpreted by the courts.

It is the chief business of government. The exercise of policy making and administrative functions implies of one group or person over another. In most societies, this influence is granted to the wielders of power by those over whom it is exercised. This transforms power into legitimate authority. In the USA all political power has a legal source of in the constitution. It is, true, to this source that we must look to gain an understanding of the traditional norms and forms of American government.

Policy and administration, once thought to be separate entities, must be viewed as two interrelated arts of same governmental process. Then, we speak of policy we usually mean a principle, plan, or course of action. When we speak about administration, we are also talking about the management of governmental affairs. Since policy making implies formulation and administration, it implies executing or implementing as well. It would appear that two different kinds of acts that must be distinguished. Yet, the two acts are not as separable as they might appear at first sight. Obviously, without policy there can be no administration. These two processes are further interrelated by effect of each on the scope and operations of the other. That is what is to be done determines, in part, how it is to be one. Likewise, though fewer officers acknowledged-what is particularly determined by how.

To explore this paradox further we must consider the components of policy and administration. Policy motivated by needs,

derived through calculation by people, and conditioned by choices of values. The needs motivating policy may be rational or no rational. The people may be intelligent, experienced, and deviated or they may be extremely limited, time-serving novice. The values may be humanistic, egoist, blindly ideological, or confused. Though all these components play a part in policy making, and their relative weight varies with the situation, values are usually the ultimate determinants of policy. Values condition the perception of need for a given policy, but, if the process of policy making is characterized by non-rational, unintelligent calculation, the values to be served by the policy are ultimately sustained. In any ease, once a policy is formulated, to be meaningful, it must be exercised. In order to be executed effectively, certain necessary components of administration must come into play.

Administration implies the executive policies to be carried out and rewire people organized in offices, calculating means of implementation that are, again, conditioned by values. For this purpose public administration should be policy-oriented, fair, capable and up to date. If public administration could not adopt the policy, it would not be implemented properly. These issues are found missing in Nepalese policy implementation. RIA itself is a tool to make public service more efficient, people-oriented, and transparent and open, but due to traditional and lethargic bureaucratic culture RIA adoption is still hard in Nepal.

Nepalese bureaucracy stills seems traditional and it does not enough public trust. To make public service more accountable towards people, especial provisions should be carried out by the government. Capability development should be the first agenda of public service reform.

Government-people and bureaucracy has iron triangle relation in state affairs. These three components of the state are major stakeholders of policy identification to feedback step of policy making. In Nepal bureaucrats are capable enough to understand the policy purpose and ideas for implementation, but the absence of clear line of responsibility, division of works and innovation based information and management system is the real hurdle in the course of building capacity and getting good results. Unfortunately, for the policy purpose only two percent people have got training, which is nothing. Capacity development not only makes civil servant capable, it rather creates innovation, freshness and responsible personality. If people have enough knowledge in any field, it can cause better result due to enhanced confidence. So, proper training and other motivating, and innovating programs are required.

Information management and public policy

Record management is weak in Nepalese public offices. Well and innovation based record management should be adopted immediately. Digitalization of information and security measures

should be priority of government of Nepal. Information is not only a data to disseminate for public access and transparency. It is also source of planning, budgeting, and programming. Information indicates demand and supply chain of public desires. It makes great sense to make a country more open and transparent in all sectors of national affairs. It assures public access in public affairs, so information is a key to change state's traditional role as a provider only. It makes state more responsible towards people. The concept of information should be changed with the perfect meaning as the way of public participation in national affairs and in their concern.

National Information Commission should not be considered as appeal hearing and forwarding agency. It should be proactive to protect public rights. NIC's capacity enhancement and authority enlargement in this regards would be helpful to implement right to information policies effectively. NIC's active role will be helpful to disseminate public information easily rather than current practice of 'silence is safer' culture.

Corruption control and Policy

Right to information helps to keep the governance sector more open by which the goal of state to reduce corruption will be fulfilled. Still, it is considered that only public sector is corrupt more. But it is

equally important that policy should be shifted to the private sector, also. This time researches are focused on private sector's openness. USA whistles blowing act focuses on private sector's openness. In fact, Nepalese private sector is also seems to be holding monopoly and irresponsible towards public. It means non-transparency in all sectors. Thus, whistle blowing in private sector is necessary to implement right to information act as well. Without corporate governance it is not possible to control corruption from the country. So, private sector openness should also be under the umbrella of right to information policy.

Technology and Policy

ICT development is a key achievement in Korea to assure open and transparent governance. In the same way, it helps to make effective public service delivery. It means use of ICT should be adopted for proper implementation of right to information in Nepal. National Information Data Centre (NIDC) Center should be proactive to upgrade information management system as NIA Korea has been doing.

Nepalese bureaucracy in, this regard, seems unskilled and untrained. It is necessary to provide/ develop employees' capacity. Data digitalization and online portal; national portal should be strengthened in Nepal.

Governance and Policy

Decentralization of the activities and implementing agencies can be helpful to aware remote/local people. Right to information and awareness activities should be decentralized across the nation. The practices are focused in capital and core cities. Eighty percentage people in Nepal still live in village area²³. They have lacking of major kinds of human development activities. For the better results of policy implementation all the activities should be focused on local level.

Cultural hindrance in both organizational and social level should be changed through innovation and awareness. The government of Nepal needs to draw clear picture and responsibility to address the grievances of right to information as Korean Government has be practicing.

In much of public and political debate, governance refers to sustaining co-ordination and coherence among wide variety of actors with different purpose and objectives such as political actors and institutions, corporate interests, civil society, and transnational organizations. The main point here is that political institution no longer exercises a monopoly of orchestration of governance. Governance, in policy implementation, is how to maintain the steering role of public institutions. The collaborative approach between stakeholders and aggressive involvement of civil society could be

²³See www.cbs.gov.np assessed at 10.10.2015

helpful for effective adaptation, implementation and utilization of right based policies.

Educating people and adopting public friendly delivery information system is immediate reforming area for effective policy implementation. Audio, audio/visual, volunteer service and ideas bridging people and offices will be helpful for successful discourse service delivery mechanism.

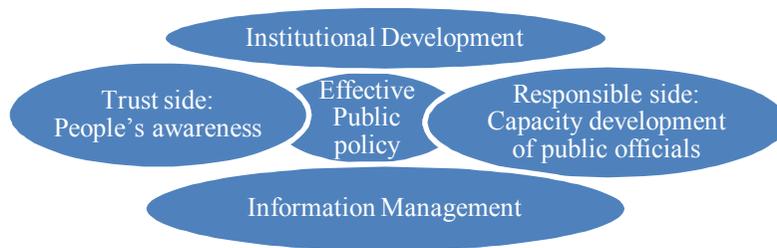
5.4 Limitation of the Study

This research is a lesson learnt from the study (comparative study) of ADIPA of Korea with RIA Nepal. Due to time, cost, resource and other geographical constrain, this research was be limited with thirty five key randomly selected respondents from both countries, public officers. But, the respondents represent entire population who were responsible to implement the policy effectively.

Due to the language barrier, only Nepali general people's survey was conducted to know the awareness level of people in Nepal. The study is also focused in Nepalese context and effectiveness of law so that the Korean provision and respondents are limited in size.

5.5 Conceptual Development

Figure 8: Effective Policy Implementation Tools



Source: research, 2015

The conclusion of this study is that for the effective implementation of public policy the major four components should be arranged well. People are the major stakeholder of policy so they should be aware and policy should be formulated on the basis of public participation. Like same information management and capacity development of public officials plays vital role for effectiveness. On the other hand institutional development including clear and simple policy measures, formulation of necessary policy documents and authorized institution makes strengthen to implement the public policy in a right manner. These four components are necessary for effective implementation of public policy but it seems lacking and inter connected in Nepal. Government of Nepal should consider all these aspect for effectiveness.

References

- Abdel Nasser H. Zaied. 2012. *Information Technology and Computer Science*. InternationalJournal.Vol 4. PP 18-25
- Abdul WaheedKhan .2004.*The world of science*. UNESCO, vol 4

Act on Disclosure of Information by Public Agencies.1996. Act No.
Republic of Korea 5242/0.3/

Alasdair Roberts.2010.*Public Administration Review*.Vol.70, Issue 6,
pp.925-933

Banisar, David.2006. *Freedom of Information around the World: A
Global Survey of Access to Government Information Laws*. World
Bank Group. Washington D.C.

Banisar, David.2007. *Development in Practice*. World Bank Group.
Vol. 17 Issue 4-5

Birkinshaw, P.J. 2006.*Freedom of Information and Openness:
Fundamental Human Rights', Administration'*. Administrative Law
Preview, 58 (1), 177-128.

Black, J. 1997. *Transparent policy measure, in Oxford Dictionary of
Economics*. Oxford: Oxford University Press.

Carlitz Ruth.2013.*Development Policy Review*. Volume 31, Issue
S1.pp 49-64

Christopher S. Lebaknigh, Mung Chiang, Horald Vincent Poor and
Felix Wong. 2010. *Taxonomy of Internet Censorship and Anti
Censorship*. Princeton University

- Church, J and Edwards, AB .1995.*Comparative law/Comparative method in Hosten et al Introduction to South African Law and Legal Theory*.Butterworths. Page 1261-1270
- Church, J and Edwards, AB .1995.*Comparative law/Comparative method in Hosten et al*
- Chydenius Anders.2006. *The world's first freedom of Information Act*.Andrer'sChydnus Foundation, Art Print Ltd. Kokkola
- Constitution of Republic of Korea.1948.
- DokiniyaAnnupama .2013.Implementing Right to Information, lesson from experience. The World bank Group, Washington
- Ehrenberg, R. and Jakubson, G. 1990. *Why Warn?Plant Closing Legislation*. Regulation, 13 (2) 39-46
- European Commission.2010.Eupore 2020: A *strategy for smart, sustainable and inclusive growth*. EU.Brussels
- Gormley, W. and Weimer, D. 1999.*Organizational Report Cards*.Cambridge,Mass: Harvard University Press.
- Hahlo, HR and Kahn, E.1973. *The South African Legal System and its Background*.Juta
- Hosten, WJ .1962. *RomeinseReg, Regsgeskiedenis en Regsvergelyking*. THRHR 16

Hume, L.J. 1988. *Accounting Regulation and Elite*

Structure. Chichester: Wiley.

Introduction to South African Law and Legal Theory . Butterworths, pg

261-1270

Kaufmann, Daniel and Kraay, Aart. 2002. *Growth*

Without Governance. World Bank . Policy Research Working

Paper No. 2928.

Kreimer S.F. 2008. *Freedom of Information Act and the Ecology of*

Transparency. University of Pennsylvania. Law Review 15.335

Lawson, FH. 1977. *The Comparison – Selected Essays*. Vol II and IV

European Studies in Law

Mendel Toby. 2003. *A Comparative Legal Survey*. Macro Graphics

Pvt. Ltd. UNESCO

Muzaffar A. Chiasti, Dorie Meissner, Demetrios G. Papademetrou,

Stephen W. Yele-Loehr. 2003. *America's challenge: After*

September 11. Migration Policy Institute. Washington D.C.

Nepal Book House. 2007. *Interim Constitution of Nepal, 2007*. Nepal

Law Book House. Kathmandu.

Nepal Law Book Publication. 2007. *Right to Information Act*. NLBP.

Nepal. Kathmandu

OECD (2015), *Government at a Glance 2015*, OECD Publishing, Paris.

DOI: http://dx.doi.org/10.1787/gov_glance-2015-en

Oxford University. 2002. *A fragmented World*. Oxford University Press, U.K. P. 3Prakash

Sarangi. 2012. *Corruption in India and the implementation of the 2005 Right to information act*. <http://.ritht2info.org>. accessed at 21.10.2014 Pg. 131-138 (on the meaning of civil law, common law and equity)

Scott T.J. 1990. *A Comparative Research of research Method*. University of Pretoria, South Africa.

Sheila Cononel.2002. *Development Dialogue: Development Cooperation*. Dag Hammarskjöld Foundation. Uppsala.

Tiebout, C. 1956. *A Pure Theory of Local Expenditures*. Journal of Political Economy, 64 (5), 416-424

Transparency International .1995.*Corruption Index*. Transparency International, Berlin. Germany. <http://:transparency.org>

UN Doc. E/CN.4/1998/40, 28 January 1998, para.12 (d), 14.
www.uno.org.accessed at 12.10.2014

UNDP. 2002. *Deepening Democracy in a Fragmented World*. Human Development. UNDP

UNDP.2002. *Report of the Special Rapporteur, Promotion and protection of the right to freedom of opinion and expression*. NY. UN House.

United Nations, December 1948, Article 21. Www.uno.org. Accessed at 12.10.2014

United Nations, Universal Declaration of Human Rights.1948. UN General Assembly Resolution 217 A (III), 10. <http://www.uno.org> accessed at 11.10.2014

United Nations.2012.E-Government Survey. United Nations

Venter, F.1990.Regnavorsing – MetodeenPublikasieJuta.Page 206-244

World Bank.2004.*World DevelopmentReport. World Bank*. Washington D.C.

World Economic Forum Report (2012) pg. 127.
<http://www.worldeconomicforum.org>. Accessed at 10.10.2014

Citation

<http://www.shergaonforests.org/assessed on May 21, 2015>

<http://www.slideshare.net/anupkd/ifla-trend-report>

http://www.ohchr.org/Documents/Issues/HRIndicators/AGuideMeasurementImplementationChapterIII_en.pdf

http://www.wunrn.com/news/2013/05_13/05_06/050613_art.htm

Appendixes

Appendix I

Semi structure Interview

I want to use your opinions as a survey of RIA implementation only. The intention is how many government officers (in general) have taken training as mentioned in Act on Disclosure of Public Information, 1996 and how and what they know about it. Your opinion is considered highly confidential. Questions are open ended.

Name:

Organization:

Date:

1. How long have you been working in this organization?
2. What is your main job in this organization?
3. Do you have any idea of information flowing system in your organization?
4. How often do you meet people in a day?
5. What is the purpose of meeting?
6. When did you know about right to information and how?
7. Have you ever taken any training related to right to information?
8. How do you provide official information to people?
9. How often do you make your official information public?
10. How do you make public? What tools do you use?

11. Do you know the procedure of dissemination of information according to right to information act?
 - a. Yes
 - b. No
12. Do you think right to information is a best tool to reduce corruption in if public offices?
 - a. Yes
 - B. No
13. If yes, how is this best tool?
14. How can it be able to reduce corruption?
15. Do you have any idea to make easier public access in public information?
16. Do you agree with the current classification of information?
17. What do you think about the process and procedures to access in public information are appropriate?
 - a. Yes
 - b. No
 - c. I don't know
18. If no, please what procedure should be incorporated?
19. What do you think the implementation of RIA?
 - a. Effective
 - b. less effective
 - c. ineffective
20. How can we implement RIA effectively?
21. How could it be helpful to make open governance?
22. What do you think main constrains for effectiveness?
23. Do you have any suggestions for effective implementation/further action?

Appendix II

a) Record Keep system in government offices of Nepal



b) Record Management in Korean government offices



Source: observation survey 2015 with the help of different observers

Appendix III

Policy working division at Ministry of Interior (MOI)

Management Support Division

Creative Government & Organization Management Office

Creative Government Planning Bureau

- Creative Government Planning Division
- Performance Management Division
- Administrative Collaboration Division
- Public Data Policy Division

Public Service Policy Bureau

- Administrative System Innovation Division
- Civil Affairs System Division
- Public Information Sharing Division

E-Government Bureau

- e-Government Policy Division
- Regional Informatization Division
- Smart Service Division
- Information Resource Policy Division
- Global e-Government Division

Personal Information Protection Policy Bureau

- Personal Information Protection Policy Division
- Information Infrastructure Protection Policy Division
- Personal Information Protection Cooperation Division
- Personal Information Safety Division

Local Administration Office

Local Administration Policy Bureau

- Local Autonomy Administration Division
- Local Regulation Reform Division
- Civil Society Cooperation Division
- Social Integration Support Division
- Civil Servant Association Policy Division

Appendix IV

List of policies Studied

Korea

The Constitution of Republic of Korea, 1948

Official Information Disclosure Act

Enforcement Decree of the Official Information Disclosure Act

Enforcement Rules of the Information Disclosure Act

Personal Information Protection Act

Civil Petition Treatment Act

Privacy Act

Disclosure of information relating to public law

Law on Public Records Management Act

Act on the provision and use of public data enabled Act

Nepal

The Interim Constitution of Nepal, 2007

The Constitution of Nepal, 2015

Right to Information Act, 2007

Governance Act, 2007

네팔 행정정보에 대한 권리실현과 관련된 효과성과 과제에 대한 연구: 한국 공공기관의 정보공개에 관한시사점을 중심으로

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본 연구는 네팔과 한국의 정보권에 대한 비교연구이다. 다양한 국제 기구가 측정한 부패, 거버넌스 및 사회경제적 지표에 따르면 네팔의 정보권 상황은 바람직하지 않은 것으로 보인다. 상기 지표들은 네팔이 청렴성, 투명성 및 법의 지배 측면에서 매우 취약한 상태임을 명확히 보여주고 있다.

한국의 경우 네팔에 비해 훨씬 바람직한 상황임에도 불구하고 청렴성과 투명성 측면에서 완전하다고 보기 어렵다. 그러나 개방성, 거버넌스 및 투명성 측면에서 한국은 네팔에 비해 상대적으로 많은 성공을 거두었으며 한국의 정책 집행 사례에서 필요한 교훈을 찾을 수 있을 것으로 보인다.

본 연구는 양국의 정보권 정책, 법률, 전략 등 사례 중에서 집행부분에 중점을 두고 있다. 또한 양국 공무원의 지식과 아이디어 그리고 시스템을 비교하고 있다. 공공정책 집행의 효과성은 정보유통시스템과 이에 대한 구성원의 인식에 기반한다. 본 연구는 국제부패지수와 그 프레임워크에 대한 비교 분석을 이용해 네팔의 저효과성의 원인을 찾아보고자 한다. 또한 헌법 및 법률 상 정보권 조항들의 공통점과 차이점에 대한 분석을 시도하고 있다. 특히 네팔의 조항들이 법의 지배 강화, 청렴성 및 투명성 증진, 공개성 도입에 기여할 수 있는 핵심 영역들에 중점을 두고 있다. 이 연구의 궁극적 목표는 네팔 정부가 한국 정부와 같이 정보권의 적절한 도입과 실행을 통해 공개성을 확보할 수 있도록 하는데 있다.

지난 20 년 동안 부여되었던 투명성 관련 요건들은 현재 제도 도입 당시 보다 명백하게 신뢰성을 상실한 상태이다. 국가 시스템과 행정에 있어 신뢰성을 증진하는 것은 현재 네팔에 있어 핵심적 관심사에 해당한다.

공공 및 전문직업 시스템에서 투명성이 필요하다는 것은 의심의 여지가 없다. 또한 세계 많은 국가에서 회사 생활이 크게 증가하고 있다. 공공기관이나 공공서비스를 제공하는 개인이 보유한 정보의 공개를 위한 법적 근거를 마련하기 위해 도입되었던 정보공개법(2007)에서도 열린 정부(open government)는 중요한 원칙으로 작동하고 있다. 정부나 기업 또는 이에 대한 비판자들도 투명성을 굿 거버넌스와 책임성, 부패 방지, 성과 개선, 신뢰성 증진을 위한 필수적 요소로 보고 있다.

투명성의 작동 방식에 대해서는 많은 합의가 존재한다. 대상 기관들의 성과 정보를 공공에 공개하는 방식으로 규율하는 것이다. 공공성은 부패와 낮은 성과를 방지하고 성과의 신뢰성과 더 나은 성과를 확보하기 위한 기반으로 활용되고 있다. 정부는 대중의 인식 확산, 공공 서비스 역량 확보, 정보통신기술의 채택, 민간 부문 고발제도, 정책과정의 탈집권화 등에 그 역량을 집중할 필요가 있다.

국가 내 공개적이고 투명한 민주적 거버넌스를 강화하기 위해 네팔 정부는 성과기반 정책집행시스템을 개발할 필요가 있다. 정책결정과정 또한 공개적이고 투명해야 할 것이다.

마지막으로, 이 연구는 개발도상국의 효과적 정책집행도구를 포함한 개념 개발로 결론을 맺고 있다. 효과적 정책집행을 위해서는 신뢰 측면의 관심과 책임 측면의 역량 개발, 정보 관리 및 제도적 발전이 기본 도구로서 필요하다. 네팔뿐만 아니라 여타 개발도상국은 정책 관리 측면에서 유사한 문제점에 직면하고 있다. 따라서 본 연구의 개념 개발의 유용성이 여타 국가에서도 유의미한 도움이 될 것으로 기대한다.

키워드: 거버넌스, 공개성, 정보권, 투명성, 제도적 발전

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