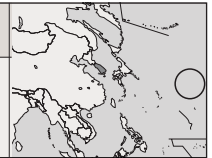


REPUBLIC OF KOREA

THE CURRENT STATUS AND PROBLEMS OF INFORMATION DISCLOSURE IN KOREA



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Introduction

Public officials often complain that when a sensitive political issue arises in Korea, false claims or rumours regarding the issue run rampant on the internet. For example, in 2008 there was a controversy around importing American beef, and many claimed that people can contract mad cow disease just by using a product made from a cow that had the disease. In response, the Ministry of Justice announced that the persons responsible for spreading these claims would be arrested. In March 2010, the Cheonan warship, which belonged to the Republic of Korea Navy, was sunk in the seas near Baengnyeong Island. Though the government officially stated that it was a North Korean torpedo that sunk the warship, internet users who did not believe the government's statement posted their doubts on websites. The Korean government labelled these as "Cheonan warship rumours" and prosecuted the authors under the charges of "disseminating false information". On 28 December 2010, the Constitutional Court ruled that the law used to indict the internet users (the Basic Telecommunications Act, Article 47, Clause 1, "Clause on False Communications") was unconstitutional. However, the Korean government is still adhering to its policy of deleting what it calls false information and claims and punishing the authors of these claims.

Koreans citizens post many "rumours" or express public doubt on the internet because they do not trust the government's announcements; and this distrust stems from a lack of transparency in the way the government discloses information regarding important issues. When the Cheonan warship was sunk, a group calling itself the "Citizens Petitioning for Information Disclosure Regarding the Cheonan Warship", led by civil society, expressed doubt over the government's statements and filed a request for information disclosure to the Ministry of National Defence (MND) and the Board of Audit and Inspection of Korea (BAIK). However, both the MND and the BAIK decided not to disclose the information, citing national security.

When the Korea-US Free Trade Agreement (FTA) was ratified, it was revealed that there were approximately 500 translation errors in the Korean version of the text of the agreement, which caused a stir in Korea. Civil society requested that the Ministry of Foreign Affairs and Trade release an errata in the Korean version of the FTA text listing the errors discovered as the result of proofreading, but the ministry refused to do this. In the lawsuit that followed, the Seoul Administrative Court ruled that "the government should disclose the errata text for the Korean version of the Korea-US FTA," but the government has yet to comply. Such lack of transparency has grown even worse during incumbent President Lee Myung Bak's administration.

Policy and political background

Korea's information disclosure programme began in 1992, when Cheongju City legislated its Information Disclosure Ordinance. After the enactment of this ordinance, the Law on Information Disclosure by Public Offices was passed and proclaimed in 1996, and went into force on 1 January 1998, making Korea the 13th state in the world to adopt a law on information disclosure.

Amendments were subsequently made to the law in order to reflect the changes in telecommunications, and in 2006 an online information disclosure system¹ was established so that users can conveniently search for and request information, be notified of results, and view information conveniently on a single site. Recently, with the increasing use of information and communications technologies (ICTs) such as smartphones, citizens are demanding a departure from the traditional method of requesting and disclosing information, and a move to Government 2.0, in which public offices construct public services based on online information sharing and guarantee citizens' participation in this way.

Current status of information disclosure in Korea

Requests for information disclosure are increasing in Korea. In 2010, the number of requests reached 421,813, which is 16 times more than the 26,000

¹ www.open.go.kr

requests recorded in 1998 when the Law on Information Disclosure came into force. However, information non-disclosure based on a variety of reasons still limits information accessibility. The information disclosure rate of Korean public offices was 90.5% in 2006, 90.8% in 2007, 91.1% in 2008, 91.4% in 2009 and 89.7% in 2010, maintaining an average of 90%. The Law on Information Disclosure by Public Offices outlines nine regulations that govern disclosure. According to the analysis of the causes of information non-disclosure, the overwhelming majority of the reasons for non-disclosure in 2010 were absence of information (15,620 cases or 47%) and legal confidentiality (10,914 cases or 33%), followed by protection of individual privacy (2,724 or 8%), obstruction of fair execution of official duty (1,100 or 3%) and prevention of exposure of business secrets (1,054 or 3%).²

The problem of information non-disclosure in the central administrative government

In 2012, Korea scored the highest on the e-government index in the United Nations survey on electronic government. On the other hand, Korea ranked 43rd out of 183 countries in Transparency International's Corruption Perceptions Index.³ Given this, it is clear that the development of e-government does not guarantee transparency in government. Furthermore, administrative management has grown more closed during the present government.

Central administrative institutions show a higher rate of information non-disclosure than other public offices. The information disclosure management status of the central administrative institutions shows that the non-disclosure rate is on the increase, rising from 11% in 2006 and 2007 to 16% in 2008, 17% in 2009 and 20% in 2010. The government explains that this is because they "possess and manage a substantial amount of sensitive information relevant to policy decisions and national security." This means that, unlike ordinary public information, information critical to national issues is not often disclosed.

According to the Ministry of Public Administration and Security's Information Disclosure Management Manual, 15 administrative ministries are required to disclose eight types of information in their information log, namely the document title, documentation date, duration of preservation, whether the document is disclosed or not, employee

in charge, department in charge, document number, and the document's specific purpose. However, there are only five ministries that comply with this regulation. The Ministry of Education, Science and Technology discloses no information on its information log except document title and document number, and the Ministry of National Defence also does not disclose many information categories. The Ministry of Strategy and Finance has not disclosed its information log since January 2011.⁴

In addition, the central administrative institutions do not disclose reports on outsourced research, the prime example of which is the Ministry of Foreign Affairs and Trade's outsourced research regarding the FTA. From 2005 to 2010, the Ministry of Foreign Affairs and Trade signed 31 contracts for outsourced research in connection with the Korea-US and Korea-EU FTAs, none of which have been disclosed to the public. By not disclosing even the basic information they are required to, the central administrative institutions are infringing on the people's right to know.

Problems in maintaining records

In 2010 it was revealed that the Public Ethics Division of the Korean Prime Minister's Office performed illegal surveillance on Kim Jong Ik and the private company he works at, a revelation which sent shockwaves through Korean society. Kim Jong Ik criticised the policies of the Lee Myung Bak administration and posted video clips featuring the mad cow disease incident on his blog, which appears to have prompted the illegal surveillance. When the Prosecutor's Office proceeded to investigate, the Public Ethics Division destroyed the hard disk on their computers, thereby destroying the critical evidence in the illegal surveillance case. In early 2012, the employee of the Public Ethics Division who attempted to destroy the evidence testified that "[t]he Blue House [the President's office] instructed the destruction of evidence in the illegal surveillance," which caused yet another uproar in Korea.

As can be inferred from the case, Korea is not adept at maintaining records. In 2009, the Lee Myung Bak administration had in reality stopped the appointment of professional record managers, and in 2010 unilaterally submitted a bill that facilitates the destruction of records and eases the qualifications to become a professional record manager under the euphemism of "amending internal administrative regulations." For this reason, though

2 Ministry of Public Administration and Security (2010) *The Annual Journal of Information Disclosure*.

3 www.index.go.kr

4 Information Disclosure Centre for Transparent Society (2011) *The Status of Information Logs in Public Offices*. www.opengirok.or.kr/2646

the law stipulates that professional record managers must be assigned to public offices, many offices do not have record managers – and even those with professional record managers employ them as part-time contractors, making it very difficult for them to fully utilise their professional expertise.

To resolve this issue, the law must be amended so that persons who destroy or terminate records or media that contain records without authority are legally punishable. In addition, civil society and experts assert that a mandatory procedure for record destruction must be established, so that prior to destruction the institution that created the record must be consulted, professional record managers must evaluate the case, and a record evaluation committee that includes outside expertise must evaluate the record.

New trends in information disclosure service

In 2009, a high school student created and distributed a smartphone application that provides information about the bus schedule and routes in the capital area. But the Korean government blocked the application, saying that the developer of the application used public information without consulting in advance. As public sentiment turned against the government, the block was removed, but this case does illustrate how the Korean government has a practice of restricting the people's free use of information, despite emphasising e-government. Furthermore, this case triggered an increase in people's demand for free use of public information.

Government 2.0 has been rising steadily in Korea, accompanied by diverse experiments. The first experiment was "Local Council 2.0" by the Gwacheon City Council and "Seoul Education 2.0" by the Seoul Metropolitan Office of Education. Following the Transparent Council Operation Guidelines, the Gwacheon City Council pledged to post a full copy of the council president's and council vice president's business finances online every month, as well as to post a detailed breakdown of expenses used to support councillors' study-abroad programmes within their first month of study. Meanwhile, for the first time among education offices throughout Korea, the Seoul Metropolitan Office of Education decided to fully publicise not only its own building construction process, but all the construction processes that take place in any of its affiliated organisations and schools. The Office of Education provided this service through the Transparent Education Administration website.⁵ This triggered a

change in the practice of sharing construction work in progress.⁶ Both cases saw daylight thanks to the leadership shown around Government 2.0, and also due to the active participation of civil expert groups, led by the Information Disclosure Centre for a Transparent Society.⁷

In 2011, Seoul City opened the Seoul City Mobile Public Information Open API Service⁸ so that any private smartphone application developer can use Seoul City's public information.

Conclusion

In Korea, ways of accessing public information are limited for citizens, but there is a wide range of attempts to develop government transparency and to enhance the citizens' utilisation of public information. However, there are discrepancies in the provision of public information service between local governments, and the central government does not actively pursue projects that encourage information disclosure, such as promoting citizen participation.

To construct a public information service based on Government 2.0, Korean experts say that amendments in the legislative system, improvement of public information management, improvement in technology and improvement in organisational culture are required. First of all, we must provide information disclosure standards beginning with the production stage of public information, so that task management departments can make decisions on announcements and the disclosure and non-disclosure of information objectively. In addition, improvements must be made in institutions, laws, ordinances and rules regarding information disclosure. Second, we must strictly manage the information that is produced and managed by public offices. Third, we must move away from the existing situation where information is provided through a single channel, and provide diverse routes of accessing public information. Fourth, we must improve the basic attitude of public office employees regarding information disclosure, sharing and use. We must also provide the employees with regular education and training programmes on the topic. Finally, when there is an improvement in organisational culture, public information disclosure will impact on all aspects of public office, and be part of everyday work.

⁶ Kim, Y. S. and Jeon, J. H. (2011) *Study on Public Information Service Based on Government 2.0: Domestic Application Cases*.

⁷ www.opengirok.or.kr

⁸ mobile.openapi.seoul.go.kr

⁵ open.sen.go.kr

Action steps

Spearheaded by the Information Disclosure Centre for Transparent Society, Korean civil society has been engaging in campaigns to increase requests for information disclosure, evaluating the information disclosure status of public offices, developing and managing information disclosure application news sites, and monitoring systems related to the right to know in order to increase the transparency and accountability of public offices. To achieve information transparency and prevent national corruption, the following institutional improvements must be made.

- We must build a Government 2.0-based public information service to expand prior information disclosure efforts, and provide public information in a way that is easy for citizens to search and access in order to increase the usefulness of information.
- We must narrow and specifically define the cases for information non-disclosure to prevent arbitrary non-disclosure.
- We must reinforce punishment for persons who destroy records without authority, and prepare stringent record termination procedures.
- We must challenge and change the central administrative institutions' practice of information non-disclosure. ■