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Open Government Law in the USA

**Conference given by
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**Organized by the Chaire des Amériques of the University Paris 1 Pantheon-Sorbonne
and IMODEV**

Review by. Ranjit G. SINGH

Prof. Russell Weaver presented the legal framework of Open Government in USA, which was elaborate long time before the Obama Administration initiative for Open Government policy. The implantation of Open Government has to balance two tensions, which are opposite and essential for a democratic society: the desire of a democratic government, in which transparency and openness of public policy is kept, and the necessity of limitation of the government information, due the national security. This balance change with the vision of the President of USA, between President Carter, Clinton or Obama, USA had different approach of Open Government. In order to understand the Open Government in USA, we have to analyse the legal framework of Open Government. In fact, there are three fundamentals laws, which build the framework of Open Government. The most important is the Freedom of Information Act (1966), aka FOIA. FOIA allow to any individual to ask for request information to any government agencies, either federal or state. The government agencies have to answer less than 10 days, but in practice the time is often delay. The FOIA put a presumption of disclosure on the subject that is ask by the individual. This presumption of disclosure is a huge power for individual in order to get information from the government agencies. Nevertheless, the FOIA has also 9 exceptions, which are for example the classified information; inter agencies communications; executive privilege or commercial of trade secrecy. The federal Advisory Committee Act (1972), aka FACA, is a federal law, which is emphasis on open meetings, public involvement by government agencies. The Government in the Sunshine Act (1976) is a law that affects the operations of the federal government, Congress, federal commission and other federal bodies, which is emphasis to create greater transparency in government. The Obama Administration has encouraged the federal bodies to publish more information online and improve the quality of government information, in order to create and institutionalize a model of open government. President Obama sign a memorandum on Open Government and



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Transparency, which emphasis to the government to be more transparent, more participatory and more collaborative. There are a lot of positive and negative responses from public to the Obama Open Government Initiative. Some are saying this is not enough, others are glad to see the openness of the Obama presidency to this subject. Prof. Russel Weaver concluded by this interrogation about the Open Government initiatives, is it a real impact of government initiative or only the natural behaviour of the government in this new age, the digital age.

Plan of the intervention:

- I. Presentation of legal framework of Open Government In USA
 - a. Freedom of Information Act (1966) – FOIA
 - b. Federal Advisory Committee Act (1972)
 - c. Government in the Sunshine Act (1976)

- II. Initiative of Obama Administration for Open Government
 - a. Presentation of initiatives
 - b. Positive critiques
 - c. Negative critiques

- III. Conclusion