Chapter - 5

Conclusion

'Open Government in the most basic sense is the notion that the people have the rights to access the documents and proceedings of Government.' (Lathrop and Ruma, 2010). It is a term used as an alternative formulation to 'freedom of information' or 'access to information' (Chapman, Hunt 2008). In a wider sense it is synonymous with transparency. But it is an even more comprehensive concept than both. Transparency is the Core component of open government, freedom of information being a means to secure transparency and greater openness in the affairs of government. Open government means the transparency of government actions, the accessibility of government services and information and the responsiveness of government to new ideas, demands and needs. Open government is one where the business of government and administration is thrown open to all, at all levels, so as to ensure effective public participation, scrutiny and oversight. Transparency implies openness of both organizations and individuals constituting it and requires openness of information, processes, policy, decisions,
actions and outcome. In an open government there may be three components. They are –

a) Right to information

b) Civic engagement in the processes of governance, and

c) Accountability for what the government or the public servant says and does.

In a democratic country every organ of the state ought to be accountable to the people’s mandate. India being a democratic country with welfare philosophy, it is the duty of the government to keep collaboration with the citizens so as to enhance the welfare measures for the people, the co-ordination of the civil society is must and as such openness of governmental action with reasonable restriction is to be upheld by the three organs of the government. It is implicit in the Constitution of India that we have adopted a democratic form of government, where a society has chosen to accept democracy as its creedal faith, hence, it is elementary that the citizens ought to know what their government is doing on their behalf. The citizens have a right to decide by whom and by what rules they shall be governed and they are entitled to call on those who
seems to survive without accountability as the basic postulate of accountability is that the people should have information about the functioning of the government. It is possible only if people know how government is functioning that they can fulfill the role which democracy assigns to them and make democracy a really effective participatory democracy. A popular government without information or the means for obtaining it, is but a prologue to force or tragedy or perhaps both. The citizens' right to know the facts, about the administration of the country, is thus, one of the pillars of a democratic state. And that is why the demand for openness in the government is increasingly growing in different parts of the world.*1

Since the dawn of human civilization, 'Law' regulates the human conduct and behaviour assigning, upholding and promoting all dignities to life and personal liberties of the people in our civil society. Law punishes the evils too through the well set rules and norms flourished through the jurisprudence or legal theory. But no law can indeed effectively work unless there is an element of acceptance and getting it accepted by the people and the society at

*1. S.P. Gupta-vs-Union of India; AIR 1982 SC 149; 1981 Supp SCC 87
large. Regarding the smooth functioning of law, it will be quite immaterial when no voluntary interaction is made between the true organs of government and the subjects to be governed. Human conduct must be in accordance with the prescription of law and it is necessary that there should be appropriate awareness about what the law requires and the effect of its disobedience to create an element of acceptance that the requirement of law is grounded upon a philosophy which should be followed. And the same would be possible only when steps are taken in an adequate manner to make people aware of the indispensable necessity of their conduct being oriented in accordance with the requirements of law. In a democracy the citizens have right to know about the affairs of the government, which having been elected by them, seeks to formulate sound policies of governance aimed at their welfare. To ensure the continued participation of the people in the democratic process they must be kept informed of the vital decisions taken by the government and the basis thereof. Again the present millennium is considered to be an era for transparency and accountability on the part of the public authorities and is stimulated by the growth of information technology and increased globalization. It enhances the accountability of the government, improves decision making, provides better information
about elected representatives, enhances government credibility with its citizens and provides powerful aid in the fight against corruption.

The passage of Right to Information Act in 2005 by Government of India ensured timely response to citizen request for government information, making a paradigm shift in the citizen-government relationship in India. The real impact of the landmark legislation is fully reflected in the famously quoted statement of a poor village women when she told a public servant “without the Act our lives were at stake, and with it now, your job is”. The Act sets out a practical regime of right to information for citizens. The main objectives of the law on RTI are: to operationalize the fundamental right to information; to set up systems and mechanisms that facilitate people’s easy access to information; to promote transparency and accountability in governance; to minimize corruption and inefficiency in public offices and to ensure people’s participation in governance and decision making. According to section 2(j), ‘right to information’ includes the right to –

a) Inspection of work, documents, records;

b) Taking notes, extracts or certified copies of documents or records;
c) Taking certified samples of material;

d) Obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device.

The Supreme Court in its interpretation of Article 19 of the Constitution vis-à-vis right to information has rightly stated that right to information is a fundamental right under Article 19(1)(a) of the Constitution. The right of free speech and expression includes the right to receive and impart information. For ensuring the free speech right of the citizens of this country, it is necessary that the citizens have the benefit of plurality of views and a range of opinions on all public issues. A successful democracy requires an 'aware' citizenry. Diversity of opinions, views, ideas and ideologies are essential to enable the citizens to arrive at informed judgment on all issues touching them.*

Once again, Supreme Court was of the opinion in Secretary, Ministry of Information and Broadcasting, Government of

India-vs-Cricket Association of Bengal,*3 that, the democracy can not exit unless all citizens have a right to participate in the affairs of the polity of the country. The right to participate in the affairs of the country is meaningless unless the citizens are well informed on all sides of the issues, in respect of which they are called upon to express their views. One-sided information, disinformation, misinformation and non-information, all equally create an uniformed citizenry which makes democracy a farce when medium of information is monopolized either by a partisan central authority or by private individuals or oligarchy organizations. This is particularly so in a country like ours where about 65 percent of the population is illiterate and hardly 1.5 percent of the population has an access to the print media which is not subject to pre-censorship.

In modern constitutional democracies, it is axiomatic that citizens have a right to know about the affairs of the government which having been elected by them, seeks to formulate sound policies of governance aimed at their welfare. However, like all other rights, even this right has recognized limitations; it is, by no means, absolute. In transactions which have serious repercussions on public security,

* 3. Ibid
secrecy can legitimately be claimed because it would then be in the public interest that such matters are not publicly disclosed or disseminated. It is now recognized that while a public servant may be subject to a duty of confidentiality, this duty does not extend to remaining silent regarding corruption of other public servants. Society is entitled to know and public interest is better served if corruption or maladministration is exposed. The whistleblower laws are based upon this principle.*4

Accordingly, the Kerala High Court in its various decisions has rightly stated that every and each citizen have right to know whether a society is a public authority or not? But the same can be resolved by the authorities under the Right to Information Act, 2005.5 The term “a public authority” as defined under section 2(h)(d) of the Act has rightly given the concept whether aided college in the state of Kerala is a public authority or not? Regarding this matter also the Kerala High Court made it clear through the concept of RTI Act, 2005.6

*5. Thalapalam Service Co-operative Bank Ltd.-vs-Union of India and others; AIR 2010 Ker. 6; ILR 2009 (3) Kerala 821; 2009 (4) KLT 50
*6. Sree Narayana College-vs- State of Kerala; 2010 (1) KLT 691
The question of fundamental right was raised regarding the right to have information through RTI Act, 2005. Moreover it is a fundamental right as guaranteed by the Constitution under Art. 19(1)(a). According to section 8(1)(j) of the Act (i.e. RTI Act, 2005) that the copy of the valued answer sheet cannot be refused to the candidate on the ground that it is personal information. A candidate writing an examination has a right to have his answer paper values correctly and has a right to know whether the same has been done properly and correctly. Both the public authority and the examiner have a public duty to get the valuation done correctly and properly, which is a public activity and duty.\(^7\)

The concern High Court of Kerala also pointed out that according to section 2(h) and 5(1) of the Right to Information Act, 2005, a temple falling under the provisions of Hindu Religious and Charitable Endowments Act and the office of such temple is not an administrative unit or office under a public authority as provided under section 5(1) and therefore they cannot be brought within the

\(^7\) Treesa Irish w/o Milton Lopez—vs- The Central Information Officer, The Appellate Authority, The Central Information Commission and Union of India (UOI); ILR 2010 (3) Kerala 89.
The Constitutional method of political participation of people at the grass roots is achieved through the process of devolution to the lower echelons of governance. Even though the Government of India had initiated the process of devolution of powers as early as in the 1950’s through the Panchayati Raj system, and introducing the element of participatory rural works programme through financial participation of beneficiaries, the Union Government brought in the 73rd and 74th amendments to the constitution to more firmly institutionalize local governments as the third tier of the state. One of the key objectives of local level Governments is to ensure that the process of planning for development in the country follows a bottom up participatory development approach. The best examples of this is ‘Peoples Planning’ in Kerala, the southernmost state of the Union.

5.1 Civic Participation:

Civic participation takes the form of informing, consulting, engaging, collaborating and empowering, as has been suggested by the International Association for Public Participation. In participatory governance, government has an obligation to provide information, receive feedback, receive complaints, give answers, enforce sanctions - disciplinary, civil and criminal, empower citizens, confer rights on the citizen - civil, political, economic, and social, promote social capital, facilitate participation, promote collaboration, and be inclusive, equitable, responsive, open, transparent and accountable to the people.

India is at different stages of this spectrum of participation in public affairs. A winning start has been made in the matter of right to information. Active citizen and civil society engagement in governance processes including decision making, is essential if one were to realize the objectives of good governance. Among the key goals of community participation are –

a) Improving technical efficiency by overcoming information asymmetry, providing communities with information on
quality through various forms of monitoring and evaluation, and ensuring that service providers spend resources for necessary technical resources.

b) Enhancing allocation efficiency through greater attention to the priorities of communities, increased transparency on budgets and public resources with public budgeting and public expenditures tracking systems, and reduction in 'rent seeking', and

c) Tightening mechanisms of accountability involving increased transparency from community involvement with public sector agencies like community participation in school management, and community participation in public hearings etc (Cummins, 2007)

Following are a few of the administrative accountability measures employed by government agencies in India for securing participation:

i) Public disclosures.
ii) A law on community participation to institutionalize citizen participation in local decision making citizen charters stipulating standards of service delivery and penalty for non compliance.

iii) Conventional and on line help line for grievance redress.

iv) Arrangements for feedback on services.

v) Whistleblower protection mechanism.

vi) Public service delivery legislation conferring right to public services with grievance officer to quickly investigate and grant relief.

vii) Ombudsman to independently enquire into complaints.

viii) Chief /Vigilance officer who reports directly to the government.

ix) Integrity pacts for procurement.

x) Third party inspection of quality of works and supplies.

xi) Independent evaluation studies.
5.2. Transparency, improved citizen Centric service delivery and participatory governance:

The Government of India has recommended the following few points which are being followed up and will further the cause of transparency, improved citizens centric service delivery and participatory governance. The are –

a) Suo motu disclosures under the RTI Act, 2005 should not be confined to the seventeen items provided in section 4(1) of that Act but other subjects where public interest exists should also be covered.

b) Citizens’ charters should be made effective by stipulating the service levels and the remedy if these service levels are not met.

c) Regular citizens’ feedback, survey and citizens’ report cards should be evolved by all government organizations for gauging citizens responses to their services. These should be used as inputs for improving organizational efficiency.

d) Citizens should be actively involved in all stage of the welfare and development programs implemented by the government.
e) Social audit should be made mandatory for all developmental programmes and be institutionalise for improving local service delivery.

f) Evaluation tools for assessing the performance of local bodies should be devised wherein citizens should have a say in the evaluation.

g) Reward schemes should be introduced to incentivize citizen’s initiatives.

h) School awareness programmes should be introduced, highlighting the importance of ethics and means of combating corruption.

i) Citizens may be involved the assessment and maintenance of ethics important government institutions and offices.

The Right to Information and open Government are considered to be two of the most important topics in the field of Administrative Law in today’s era. At the present moment, democratic countries have started laying immense importance to have an open and transparent government.
Indeed there are quite a few things, which need to be kept confidential in the interest of public security or national interest, and sometimes, the law may impose secrecy in the interest of the individual, but secrecy should never be more than what is absolutely necessary. What is indeed necessary in a modern democracy is to draw a balance between what is 'secrecy' and 'open government' with an accent on the latter. There are a number of reasons to suggest an open government.

Primarily participation in government by the people is regarded, as an important aspect of democracy and people cannot participate unless they have information as to what is going on in the country. A modern democratic state being answerable to the people, the people are entitled to know what policies and programmes, how and why, are being followed by the government. Another important factor justifying the openness in government activities is that, being an activist entity, the government gathers a vast arsenal of powers in a welfare state. These powers are used to affect economic interests and the personal liberty of the individual. Therefore, it is extremely essential that these powers are exercised for public good, not improperly and for the purposes of which the powers are conferred.
Hence, this objective can be best ensured by giving access to the individual to governmental information and shroud in secrecy as to how the government exercises its power in individual cases.

Leading authors have declared that there are several aspects of open government, which have been enumerated as the following:

1) Presentation of documents by the government in the court in the course of litigation;
2) Official Secretary; and
3) Access to Information.

Therefore, attention of the Central and State governments have to run towards further meaningful and systematic efforts to strengthen freedom of information and participatory governance. The following initiatives will have to be thought of in order further the cause of more open administration:

i) More progressive proactive publication and updating of information useful to the public, including online.
ii) Strict adherence to the mandate of the R.T.I. Act covering supply of information sought under the Act swiftly, following the salutary principle of secrecy as an exemption, treating information as a ‘public good’.

iii) Quick reduction of backlog of information sought.

iv) More effective records management and retrieval.

v) Publicizing information on financial disclosures.

vi) Furthering measures to improve the country’s budget transparency from the present 67%, which is a comparison not to bad, and taking action for putting information on budget allocations, releases, expenditure, procurement etc.

vii) Enactment and enforcement of whistle blower protection law, to further the cause of openness and improve discipline and accountability.

viii) Putting in practice the principle of ‘Open Meeting’, including passing of the open meeting law.

ix) 24/7 channels for feedback, complaints, secure protected whistle blowing.

x) Furthering measures for a more enabling environment for civil society participation in public affairs affecting the citizen.
Pending finalization and earnest implementation of the national policy on open data, data sharing and accessibility, social media in governance, and National Information Technology Infrastructure and nationwide Distributed Database with Public Information Infrastructure are under way.\footnote{Strengthening Open Government: India Country Paper – By – Mohammad Taqiuddin, Deputy Executive Director and Shabbeer Saik, Programme Manager, Centre for God Governance, Hyderabad. Paper presented at the 6th Multi-country Study Mission on Public Governance Conference; Seoul, Korea.}

5.3. Technologies/Social Media as Open Government Instrument:

Though the Right to Information Act, 2005 has become the governing law regarding public disclosure of governmental information and accessibility to public data, data-sharing policies in India are still complex in nature, as various provisions under law define and determine the scope of data provided. Taking note of this, the Department of Science & Technology (DST), Government of India was assigned the task of developing a comprehensive National Policy for Data Sharing and Accountability, by the cabinet, in June, 2010.

To ensure the relevance of open government data mechanisms have to be put in place to takes its benefits to the
common person and to marginalized communities, both by the government as well as by civil society organizations. Concrete steps on these lines will help realize the dream of Open data in the near future in India.

Technology is revolutionizing the way governments are being run. In this knowledge society the relationship between the citizen and government is mediated by information systems and their automation. Automation of government internal business and external regulation and service delivery is a must for any e-Government plan, a beginning towards which has been initiated through the National e-Government Plan. National Information Technology infrastructure and nationwide distributed database with public information infrastructure are under way.

Data bases in India suffer from non-standardization, incomplete data collection at all levels, poor quality and unreliability of data, inconsistency in the methodology and technology employed, absence of universal digitization capability, slow digitization of past data, issues of inter-operability of systems etc. In order to effectively
solve these problems Government has initiatives like national policy on open standards which has been published for soliciting public comments.

Social Media is being progressively used for seeking feedback from citizens; pronouncement of public policy; issue based as well as generic interaction and brand building or public relations. In order to encourage and enable government agencies to make use of web 2 technologies which is dynamic medium of interaction the Department of Information Technology, Government of India has released a draft social media strategy. The Fame work & Guidelines for Use of Social Media for Government Organization hopes to help the government enhance its outreach and interact with the Indian internet users. The Planning Commission of India has taken the initiative and put itself on Facebook with a page on the “Twelfth Plan,” 2012 through 2017.

5.4 Requirement of limited openness of Government:

In a democracy, government is of the people by the people and for the people. As per the provision of the Constitution our country is also having a democratic form of government where
people’s participation in the governmental functions are the basic requirement in all the times. At present it is widely accepted principle that democracy does not consist merely in people for exercising their power of casting vote to select their favourite candidates for a period of five years and once the vote is cast, then automatically it will pave the way for the successful completion of their tenure without any interest in the government. Today it is common ground that democracy has a more positive content and its co-ordination has to be continuous and spreading all over. This means inter-alia that people should not only cast votes rationally and intelligently but should also exercise sound judgment on the conduct of the government and the merits of public policies so that Indian democracy does not remain merely a sporadic exercise voting but becomes a continuous process of governance- an attitude and habit of mind. But the same can be fulfilled in a democracy if there is an open government where there is full access to information with regard to the functioning of the government. Now the concept of openness is mostly available in almost all such statute which are enacted by the legislature with regard to ‘information regime’, e.g. The Right to Information Act, 2005 etc. In addition to that statute there are some other Acts already on the statute Book which restricted the direct flow of access to
information, such as, The Official Secrets Act, 1923 etc. and also some statutory rights like ‘right to privacy’, ‘Parliamentary privileges for both M.Ps and M.L.As’ etc. Meaning thereby, through these restrictive mechanisms the government through bureaucrats, the administrators have fulfilled their hidden corrupt intention and the same is becoming a threat to a participatory democracy day by day. Hence, for the sake of revealing democracy it is manifestly required the basic concept of ‘limited openness of government’ upon such restrictive measures. It is obvious that for the interest of the people or for the security of the state, ‘restrictions’ are quite essential at the point of time. But the researcher has pointed out that, if these restrictive measures are not properly used then the administrators etc are always trying to fulfill their evil intentions keeping in mind and the same are the barriers of democracy. Hence, the only remedial part in this regard may be the ‘limited openness of government’ upon such restrictions which are certainly closed such drama and accordingly the citizen will have a free and fair participatory democracy in deed.

Mentioned may be made that the bureaucrats or the administrators are always trying to use such restrictive measures as their ‘protective veil’ for corruption and maladministration practices.
The said germ of corruption are prevailing from the very grassroot level of the height of every administrative mechanism and destroying and paralyzing our society like a ‘wood-warm’. Therefore to remove the said paralyzing factors, the only remedial part is the ‘limited openness’ on the restrictive part of the statutes. Otherwise, no democracy will survive and as a result there will be pre-mature death of the democracy.

Finally, it can be ascertained that, secrecy breeds corruption. The most comprehensive factor responsible for corruption after independence was the expanding economic functions of the government which includes the Permit, Quota and License Raj are the basic examples of it. But the same may not be happened so, if it will be opened to a limited extent only. And accordingly the researcher would like suggest that there must be ‘limited openness of government’ in all the administrative functions.

5.5 Public Consciousness- crux of a liberal democracy :

Explosion of information and exclusion are two competing trends in democratic policy and governmental secrecy. As already stated through out the research study in preceding chapters
that the right to information is an inalienable component of freedom of speech and expression which ensures people’s active participation in governmental affairs. If the government functions in full public view, wrong-doings may be minimized and administration may be able to achieve the desired goal of transparency.

The Right to Information Act, 2005 is the consummation of a process initiated with the adoption of our Constitution. We gave ourselves a Sovereign, Socialist Secular Democratic Republic accountable to all the citizens of the country. Accountability is based on the premise that citizens have access to information on the basis of which they can determine the justness, or otherwise, of the actions of the state meant for the people at large. Hence, the criticality of the right to information and the Act lies in the means for availing it by the public for whom it is made. We have kept this means simple, with overriding importance given to ‘public interest’, sweeping aside much of the legacy of colonialism. In many ways this act is the logical culmination of the dreams of the founding fathers of the Constitution.

The true determinant of success must be how many people have actually used this act, and their level of satisfaction with
the information so obtained. This Act is for our common benefit in relation to public authority, we are all stakeholders in the Act and must guard against allowing it to become a tool for promotion of and adversarial relationship between different stakeholders. This can only serve to weaken the Act. Considering the diverse and complex nature of our society, the information revolution underway has the potential to make the Act an effective tool of social change. Regarding the implementation of the Act more actively and efficiently the public authorities are shouldering the responsibility without any help from other staff or agencies. It is quite indeed to say that most of the people living in the rural areas, at this present moment they are quite ignorant about their rights and privileges. They do not know about the functioning of the government- at present or in the future. The same is happening due to the ignorance of law by the common people living in those rural areas. It is worth mentioning that majority of the people of our country are living in the village areas and they have no adequate knowledge about the statutory provisions or law made for them. The main motto of the ‘Legislature’ is to make rules for the benefit of the majority people of our country. To fulfill the goal of the legislature it is quite necessary to advance the every element of the society. Otherwise such legislation will be like a ‘white elephant’ and practically it will be of no use. Till date the Government of India and
so many other state governments have undertaken various schemes and projects to educate the people specially the rural areas, to make them aware of those schemes and projects through media (print & electronic), but even then the ultimate goal to activate and advance the people and to bring them to the main stream of national life and administration too has not been achieved due to the administrative lacunas and loopholes running through out the administration, whether national or at state level. The present day trends in the governmental actions seems to be for their partisan ends only in the name of welfare of the people and providing and promoting the goal of social justice and as such the ultimate intention seems to be used the people as 'Vote Bank' in election and to secure themselves for the next tenure i.e. for next five years.

Therefore to make the people advance and more efficient, it is the urgent need of the hour to educate the people mostly living in the rural areas who are socially and educationally backward. As such to keep pace with the situation the researcher would like to suggest to organize a 'legal literacy programme' through out the country through routine wise classes, seminars, conferences etc. to promote and advancement of the ideas of such
people living in those areas. Also for the dissemination of knowledge and ideas the steps may be taken through some educational movies and some ‘related documentaries’ with the help of various awareness programmes of UNESCO*10 an organ of the UNO, various interested NGOs in that area. Otherwise the Act will not be an effective one in its true nature and the administrators are trying to fulfill their intentions with an ulterior motive freely either by excess of power or through abuse of power. In the era of globalization to move with the other advanced countries of the world, it is quite necessary for the people of our country to acquaint themselves with the information of the governmental action meant for their welfare and to act accordingly so that they can contribute for the advancement and well being of the country at all levels, whether social, political, educational and so on. Such will help to prevent and check the corrupt intention and maladministration at all levels of governmental works and actions. Therefore it is obligatory or rather essential for ‘public consciousness’ so that they may act as a ‘watch-dog’ at every moment regarding the administrative actions and maladministration at the same time, following the principle ‘second to none’. Hence, at present public consciousness is one of the essential requirement of a participatory democracy to make it advance, access to information regarding the functions of the governmental actions in all the times which promotes the concept of openness of government with reasonable restrictions.

* 10. The United Nations Educational Scientific and Cultural Organization
5.6: Minimum Educational qualification for MPs and MLAs:

In our country legislative members are the people’s representatives elected by people’s mandate. In this context, it is worth mentioning that while our Constitution has provided certain strict qualifications for the President of India, Vice-President, Prime Minister, Governor of states, Member of Parliaments and the Member of Legislative Assemblies, but fortunately or unfortunately it has not even touched the aspect of academic qualification for these significant constitutional post of ours Parliamentary form of democracy. Because of such loopholes any person without the basic education can compete for such prestigious post of democracy. However, the present socio-political experience of our country prove that without a minimum standard of qualification we can not expect that those persons specifically the legislators can make them free of bias attitudes and corrupt intentions. Without education we can not think of a legislation with ethical and moral standards from the legislators who are lacking minimum educational qualification. Because very often it is seen that within the constitutional parameters the legislators use to enact law for their partisan ends and when necessary they repeal the same enactments and it has become an off seen drama in the present day set up of Indian Parliament e.g. the
POTA and so many Acts of like nature. Thus, it can be suggested that to prevent and check at the same time the excess and abuse of power with regard to corruption and maladministration by the authority concern (i.e. the legislature and the executive), a minimum standard of educational qualification must be fixed for the legislative members including President of India, Vice-President and Governor of States which will help directly or indirectly to uphold the concept of openness of government.

It is further ascertained that the right to information can be effectively exercised in relation with the devolution of power to the people. In order that people can question their representatives, the Panchayat should be required by law to hold 'Gram Sabhas' every two months where villagers can ask for records and inspect them. Social audit of administrative functioning is essential for the realization of democratic goals.

*Justice P.N. Bhagwati* has rightly said that open government is the new democratic culture of an open society towards which every liberal democracy is moving and our country should be no exception. Where a society has chosen to accept democracy as its
ordeal faith, it is elementary that the citizens ought to know what their
government is doing. No democratic government can survive without
accountability and the basic postulate of accountability is that the
people should have ‘information’ about the functioning of the
government. Openness in government is a guarantee against
administrative misconduct. It is, therefore, essential that the people
have as much information about government operations as possible.

The prominent judge of the Supreme Court of India,
Justice V.R. Krishna Iyer in the Maneka Gandhi’s case *11 noted
that, “a government which functions in secrecy not only acts against
democratic decency but also buries itself with its own burial.” Justice
Douglas observed, “Secrecy in government is fundamentally anti-
democratic perpetuating bureaucratic errors. Open discussions based
on full information and debate on public issues are vital to our
national health”.

In this regard the veteran lawyer and constitutional
authority Soli Sorabjee said, “every liberal democracy is moving for
an open government and there is no reason why India should lag

behind. It must be appreciated that a government meets the trust of the governed. Disclosure of information in regard to the functioning of government must be a rule and secrecy an exception”.

On the other hand, bureaucrats prefer secrecy rather than free flow of information. Hence there is a need to provide safeguard against the bureaucracy’s bias attitude towards citizens who make decisions in the larger perspectives with the help of such information.

The right to information equips the citizens to handle their affairs including participation in the governance of the country with adequate knowledge. No wonder, without ‘right to information’ people are playing their role in shaping the nation’s destiny in effectively, in efficiently and in adequately.

Therefore, it can be ascertained that governmental openness in their functions always act as a prevention of governmental misconduct or autocracy and in the same way it protects the participatory democracy where the people is the real authority in true sense of the term. As already stated that it is an urgent need of the institutions like Ombudsman or Lokpal in India
through legislative means for eradicating corruption, maladministration and misuse and abuse of power by the government and its officials. Moreover, in a welfare state, the said hurdles are always becomes and anxiety of the society to have adequate information about the functioning of the government.

Now it is well settled in India that right to information is a fundamental right as well as a statutory right. But despite the fact, still the common man is either unaware or is deprived of the right to have true access to information. Much of the common man’s distress and helplessness could be traced to his lack of access to information and lack of knowledge of decision making process. Thus, he remains ignorant and unaware of the process which virtually affect his interest. Government procedures and regulations shrouded in veil of secrecy do not allow the clients to know how their cases are being handled. Perhaps they shy away from questioning officers handling their cases because of the letter’s snobbish attitude and bow-wow style. Hence, right to information should be guaranteed and needs to be given real substance. So, in this regard government must assume a major responsibility and mobilize skills to ensure flow of information to citizens. The traditional instance on secrecy should be discarded.
In fact, we should have an oath of transparency in place of an oath of secrecy. Administration should become transparent and participatory.

It is obvious that there is also in every democracy a certain amount of public suspicion and distrust of government, of course, varying from time to time according to its performance, which prompts people to insist upon maximum exposure to its functioning. Sometimes governmental action is influenced by political and other motivations and pressures, and at times, there are also instances of misuse or abuse of authority on the part of the executive. Now, if secrecy were to be observed in the functioning of government and these processes of government were to be kept hidden from public scrutiny, it would tend to promote and encourage oppression, corruption and misuse or abuse of authority, for it would all be shrouded in the veil of secrecy without any public accountability. But if there is an open government with means of information available to the public there would be greater exposure of the functioning of government and it would help to ensure better and more efficient administration. Thus, it has been truly said that an open government
is a clean government, a dream government and is a powerful safeguard against political and administrative aberration and inefficiency.

It is therefore, in a democracy, we the people are more than mere passenger, we should feel that we are tomorrows navigator and everyone is crew in a democracy.