According to Poet T.S. Eliot,

"Where is the Life we have lost in living?
Where is the Wisdom we have lost in knowledge?
Where is the knowledge we have lost in information?

Mere information cannot get transformed into wisdom unless certain intermediate process are passed through. In that sense, information is a means, not the end. And the right to information is a condition but needs further steps before the citizen, becoming wiser, can play his dynamic role in a democracy.

Now almost all the countries in the world have proved their euphoria for democratic form of government against the autocracy or any other draconian form of government. The so called civil societies are no more fools who can be dominated or daunted by the spectacles if nature or man-made laws against the rule of law, so now they preferred to be governed by the rule of law. The action participation of the people in a democracy, whether directly or
indirectly is the life breath or 'Sanjeevani' of it to upkeep the democratic values and also the core significance of it. So, in India also, apart from the fundamental rights and all other legal rights, adult franchise is the vital one through which people choose their representatives in the Legislature, even the head of the country i.e. the President is not a hereditary head. As such, a democracy by its very nature seeks for people's active participation in it, where in the people's representatives are accountable to the public at large, sometimes collectively responsible and sometimes individually as the case may be. Thus, people's active participation and accountability of the three organs of the Government to the people can work together for upholding the democratic values and principles in deed, if the real spirit of the right to information of every citizen is exercised liberally and justly in true sense of the term. So 'Right to Know' or 'Right to Information' works like a boost in active participation of the people which entails accountability of the governmental organs to the public at large.

The Right to Know is a part of the fundamental right of freedom of speech and expression guaranteed under Art 19(1)(a) of the Constitution of India which will, of course, be subject to the reasonable restrictions as may be imposed by law under Article 19(2)
of the Constitution. It is a well-founded principle 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. 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.

The term Open Government in its most basic sense it's the notion that the people have the right to access the documents and proceedings of government. This term can also be used as an alternative formulation to 'freedom of information' or 'access to information'. Whenever we may proceed to its wider concept it can be regarded as a synonymous with transparency. Moreover, the concept of Open Government is a comprehensive concept rather than both. For an open government transparency is the core component, whereas freedom of information being a means to secure transparency and greater openness in the affairs of government. It is therefore, it can be ascertained that open government is the transparency of government actions, the accessibility of government services and information and the responsiveness of government to new ideas, demands and needs. Therefore, the concept of 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 required openness of information and data process, policy decisions, actions and outcome. Process transparency covers both internal business and supporting human resources, financial and administrative processes; and external service delivery and regulation.

In India, as in other countries, the relationship between citizens and government is increasingly mediated by information system. At present, India is preparing to introduce a national Unique Identity (UID) project (now rechristened Aadhaar, meaning 'foundation') which will provide every Indian with a unique identification number and a corresponding entry in national biometric database. Therefore, it is not only necessary to examine India’s ecology of government informatics, but also a very opportune time to do so.

The central government of India has made clear that from the recent times it intends to make publicly available much of its data. In its tenth Five year plan (2002-2007), the Indian government announced its intention for India to become a ‘S.M.A.R.T’ (simple, Moral, Accountable, Responsible and Transparent) state One of the most important changes in the citizen-government relationship in

*1 ‘Unique Identification Authority of India’ available at http://uidai.gov.in/ (Last visited 29 September, 2010)
India since its independence has been the passage of the Right to Information (RTI) Act in 2005. This Pan-Indian legislation is a landmark in setting out a clear political agenda of transparency, signaling a shift from the opacity promoted by the Official Secrets Act, 1923.

There is remarkable political consensus on the need for greater transparency and openness of government, and providing access to information to the public. Some of the states of our country India have already enacted legislation for Right to Information. Apart from improved efforts for strengthening the grievance redressal machinery at all levels, computerized monitoring of replies and designation of nodal officers, there is a growing effort of taking administration to the people. A concrete manifestation of the commitment of the government to provide services to the people is the formulation and enforcement of Citizen’s Charter by a number of Central Departments and agencies with public interface, such as the Central Board of Direct Taxes, Central Board of Excise and Customs, Life Insurance Corporations etc. Similar efforts for Citizens’ Charter have been made in a number of states.

The Supreme Court while dealing with the Vohra Committee Report in Dinesh Trivedi-vs-Union of India,*3 has rightly

*3. (1997) 4 SCC 306
observed that though it was not advisable to make public the basis on which certain conclusions were arrived at in that report, the conclusion reached in the report should be examined by a new body of institution. 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.

The Commonwealth Law Ministers at their meeting in Barbados in 1980 emphasized that, 'public participation in the democratic and governmental process was at its most meaningful when citizens had adequate access to official information.' Since that time a number of Commonwealth countries have enacted freedom of information legislation establishing a public right of access to government information. During the 1990s the Commonwealth, guided by its Fundamental Political values enshrined in the 1991 Harare Commonwealth Declaration', -has sought to promote democracy, the rule of law, just and honest government and fundamental human rights. In consolidating the achievements of the past decade the Commonwealth seeks to focus its efforts on
strengthening the process of open and accountable government together with the promotion of sustainable development. The 1990s has been a decade of democratization with a number of countries, many within the commonwealth, making the transition from one party and authoritarian regimes to elected representative government.

The present century promises to be an era for transparency and accountability on the part of government and all sectors of society with the common people. The same will be further stimulated by the growth of information technology and increased globalization and inter-dependency of national economies. Right to information has benefited the people in many ways. It facilitates peoples participation in public matters by providing access to relevant information to the people who are then empowered to make informed choices to exercise their democratic rights better. It increases the accountability of government, improves decision-making, provides better information to elected representatives, enhances government credibility with its citizens, and provides powerful aid in the fight against corruption and accordingly it promotes the concept of openness of government.
The Commonwealth Expert Group meeting on ‘Right to Know and Promotion of Democracy and Development’, Marlborough House, London, dated 1st March, 1999 submitted the following principles and guidelines to the Commonwealth Heads of Government at their summit in South Africa held from 12 to 15 November, 1999 for their consideration and adoption.

The Principle suggested that –

1) freedom of information should be guaranteed as a legal and enforceable right permitting every individual to obtain records and information held by the executive, the legislative and the judicial arms of the state, as well as any government owned corporation and any other body carrying out public functions.

2) The legislation should contain a presumption in favour of maximum disclosure;

3) the right of access may be subject to only such exemptions, which are narrowly drawn, permitting government to withhold information only when disclosure would harm essential interests such as national defence and security, law
4) enforcement, individual privacy or commercial confidentiality: provided that withholding the information is not against public interest; and

5) decisions under the legislation should be subject to independent review capable of ensuring compliance.

The guidelines suggested that –

a) governments should enact freedom of information legislation containing appropriate administrative measures for its implementation.

b) Governments should permit any individual to obtain information promptly and at low or no cost;

c) Legislation should provided for an independent review of decisions capable of providing an effective remedy in any case of delay or denial;
d) Government should maintain and preserve records; and

e) Government should promote a culture of openness, publicly disseminating information relating to the exercise of their functions and the information held by them.

Since India is a Party to International Conventions and Declarations in the field of Right to Information, hence it is obligatory for its implementation. Accordingly, Universal Declaration of Human Rights, 1948 \(^4\) is the first such declaration where Article 19 of the said Declaration has provided for the right to information in the following words:

*Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.*

\(^4\) Vide United Nations General Assembly Resolution, 217A (III), dated 10\(^{th}\) December, 1948
Similarly, the other International Conventions like, International Covenants of Civil and Political Rights, 1966\(^*5\) recognized the right to information in Article 19. Article 7 of the International Convention on the Elimination of All Forms of Racial Discrimination, 1966\(^*6\) directed the States Parties to undertake to adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information. Article I and IV of American Declaration of the Rights of Man, 1948\(^*7\) provides for Right to life, liberty and personal security and Right to freedom of investigation, opinion, expression and dissemination respectively in both the two Articles. Similarly, Article XIII of American convention on Human Rights, 1969\(^*8\) recognized the freedom of thought and expression which includes freedom to seek, receive and impart information and ideas of all kinds. Article 9 of African charter on Human and People’s Rights, 1981\(^*9\) enshrines right to receive

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* 6. Opened for Signature at New York, dated 7\(^{th}\) March, 1966
* 9. Came into force for each member state which has accepted it in accordance with its constitutional procedure, three months after the Secretary General has received the notice of acceptance.
information as one of the rights that, every individual shall have the right to receive information. Every individual shall have the right to express and disseminate his opinions within the law. Article 10 of the Rome Convention for the Protection of Human Rights and Fundamental Freedom, 1950*10 also lays down about the right to freedom of expression to everyone which includes freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.

There are many challenges that must be addressed while moving towards opening up of governmental informations. At present the entire infrastructure of information gathering, processing, sharing is to be found wanting. There is an ambitions project on the Public Information Infrastructure seeking to tackle this situation, though. Even if system interoperability is brought about by use of common formats and software standards, there is still the issue of semantic interoperability- e.g. different departments gathering different information under the same heading, or the same information under different headings- that can’t be tackled as easily.

*10. Held at Rome, 4th November, 1950; came into force on 3rd September, 1953
The issue of privacy are importantly implicated, especially since there is no written law on privacy in India, and data anonymization is seldom practiced. Even with anonymization, privacy is still an issue because of community level concerns (e.g. showing in which villages HIV-positive people are concentrated, even if individuals are not mentioned) which might not matter as much in a more individualistic society.

The capacity of civil society organizations to make use of information if it is put up in machine-readable (and non-human-readable) formats will be limited. The linkages between technologists and civil society organizations need to dramatically increase.

Therefore, from above it can be ascertained that to fulfill the above noted challenges, the right to information has been recognized both at national and international levels and a number of Conventions and Declarations have been signed to guarantee the right to information. The right to information is such a basic right today that this right to information was considered by National Commission Constituted to Review the working of the Constitution and as per report of NCRWC under the chairmanship of Justice M.N. Venkatachalialah, dated March 31, 2002
and it was held that right to information should be guaranteed and needs to be given real substance and accordingly, NCRWC suggested that Article 19(1)(a) of the Constitution of India may be amended as:

"All citizens shall have the right (a) to freedom of speech and expression which shall include the freedom of the press and other media, the freedom to hold opinions and to seek, receive and impart information and ideas"

Above all it can further ascertained that the concept of open government is the direct emanation from the right to know, implicit in the right to freedom of speech and expression as guaranteed under Article 19(1)(a) of the Constitution as discussed earlier. Hence, the concept of open government is already available and accordingly the works of the government are always opened up to a limited extent only. Also, they are accountable to the people for their day to day works because of the Right to Information Act, 2005 which is more effective and an efficient one in the present moment. But now, if NCRWC’s suggestion will be fulfilled then the concept of ‘open government’ will be more stronger than that of the earlier one.
Everyone can believe that open government concept in India cannot be as much an issue of providing information for mashing and allowing for innovative private-sector information products. Instead, it must be more about addressing the shortcomings of the Right to Information Act, and extending and fulfilling its promises of the transparency as partly envisioned by the knowledge Commission, and perhaps moving towards accountability. Some reasons for this:

a) The Right to Information movement has proved itself to be credible, well-organised and in a position to effect change.

b) The Right to Information Act itself requires a large amount of proactive disclosure.

c) The Knowledge Commission's report on e-Governance itself talks about making available more governmental information and data to the public.

d) Technologists in the social and political sector ("civil hackers") are few, and the existing civil society groups are in a better position to take advantage of any governmental data that is opened up. Just as such organizations should not
be beholden to the government to provide information and data as a privilege, they must not be beholden to technologists to provide them access to the data put out by the government.

e) Civil hackers need to be located, engaged with, and encouraged to work with governmental data. Existing Communities around free and open sources software and around open content (such as Wikipedians in India) are groups that could be engaged with this aim.

Thus, while data mashing and private sector information products must be allowed, they must more importantly be facilitated, encouraged, and in some instances, be performed by the government itself. The duty of the government cannot end merely at providing information, but must extend to making that available in such as form that facilitates analysis and enhances offline usability.

The government is already looking at many of issues of information infrastructure, including an open information and data policy. Hence, there is a need to help the government in this regard,
including by gathering examples of data usage in India, and studying the best practices and the problems in implementations of open government information and data in other countries. To ensure the relevance of such data, mechanisms have to be put in place to take its benefits to the common person and to marginalized communities, both by the government as well as civil society organizations; putting up raw data will not suffice.

Regarding the power of an individual or administrative authorities, jurisprudence *11 has directly emphasized that powers are of various kinds. Some powers be equally distributed among equals and some are not. It is because, it depends on the nature of their works e.g. power to contract, subject to obvious denials, e.g. to the insane, can be distributed equally. On the other hand some powers like, the power to decide what are basic needs, when they are satisfied and what is a just distribution that can not be distributed equally. If two persons have the same needs, should one be given a higher wage because he does a more dangerous or more skilful job than the other? The point is that decisions on such questions as these can not depend

on a formula and the allocation of power to decide them can hardly be
determined on a principle of equality. To give it to one person, is to
court tyranny; to give it to all is not possible. With powers, therefore,
the question of justice is not one of equal distribution, but of
preventing their abuse. Because abuse of power is nothing but the
arbitrary function of the concerning authority and the same is always
a threat to the free flow of information and accordingly a hurdle to the
concept of open government. Therefore, power must be utilized for
the benefit of the people and in the same way it will promote
democracy as a whole.

The current political environment relative to open
government information and data is probably most driven by the still-
influential right to information movement and the good press which
the Right to Information Act has garnered both in India and abroad.
High level government officials believe that the public is hungry for
more transparency and accountability, and that the Right to
Information Act was a harbinger of an even more open government to
come. Midlevel government officials interviewed at the national and
state levels, however, seem to think that the Right to Information Act
has done the job of making government transparent and thus that
government is (mostly) already as open as it needs to be. A common
refrain heard is that “It’s all already available.” These officials admit that there is always room for improvement but offer no vision as to what sort of improvement might be necessary or when they should be implemented. Essentially it seems that those at the highest levels of government feel empowered to push for a more robust information regime, including open government data, but are wary of pushback from the bureaucracy, which they and civil society say is threatened by the power/knowledge with which open government data endows citizens. But most everyone interviewed said that the movement in India is towards greater and more accessible disclosure of government data.

Moreover, the present trend is towards the concept of open government with highly influential statute like, the ‘Right to Information Act, 2005’ which are acting as a basis to impart, receive and seek information from the governmental functions. In a democracy, the government is always accountable to the public for their works and the same is elaborately discussed in the following chapters of this research study. The main motto of the government is to inform the public from time to time regarding their developments at present and the same will prevent the flow of corruption, maladministration etc. Otherwise the said germ will be spreading all over the country more basically amongst the government officials.
and the administrative authorities and automatically it will hamper the
development of the nation as a whole. Therefore, the only remedy
from such ruinous situation is to inform the citizen through
publication at every moment, which will hinder the way of
corruption, maladministration, abuse of power etc and the same will
help anyhow to promote the concept of openness of government.

As one of the key transformative factors in a globalizing
India, the advances in Information and Communications Technology
(ICT)s have transformed everyday life and how people interact and
interconnect with each other, communities, states and markets.

The so-called “ICT revolution” as noted and debated by
scholars, publications and policy makers, has had an inordinate effect
on economics and societies, leading to what has been termed a
“global shift” (Cerny 1995). Erwin Alampay, in his introduction to
Living The Information Society in Asia (2009) looks at Cerny’s
ideas of the ‘global shift’ as marking two fundamental alterations to the global political economy. He says,

*Firstly,* there is the movement from an industrially-based international economy to one that is information and knowledge-based. For some, these changes signal the emergence of the ‘Third Industrial Revolution’ which is both transnational in character and based on post-Fordist regimes of accumulation. *Secondly,* the ICT revolution is said to have profound positive and negative social, political and economic consequences that can become factors in determining development and underdevelopment. As such ICT and its management have become a new rhetoric of development.

The state-citizen relationship has often been defined significantly by protocols of access to information. The state has been seen as the arbitrator of Information dysfunction, and the citizen has been looked at both as the producer as well as the repository of rights and sovereignty over information (with the preamble to the Constitution beginning with the words “we the people”). With the era of satellite telecommunications, another dimension, that of the citizen
as a consumer of information entered the discourse. State technocrats like Vikram Sarabhai imagined the contours of participatory democracy as being shaped by people’s access to information of the state. The state was hitherto accepted as the collector of citizens’ information (via processes like the census), it was deemed important that the citizens have access to the information (which is often about the citizen) and owned by the state. In this paradigm of information exchange, the state-citizen relationships have undergone many calibrations as different structures of information production, distribution and arbitration have emerged in the country.

India may actually be at a particular stage in its political cycle that would make opening government data advantageous in a political sense. Especially in light of the success of the RTI movement and the continued recognition/popularity of the ensuing act, it is hard to imagine that any politician would choose to advocate for less openness. The winners would likely be the politicians and, if a majority of proponents of Right to Information in India are to be believed, the villages and districts which open government data would eventually empower to make their own decisions as opposed merely to following policies set out by national and state
governments. Those supporting open data in India trend to see it in almost a Gandhian sense, as enabling villages to regain the power of self determination that they have lost in the emergence of an industrial, urbanized India. The losers, certainly, however, one looks at it, are the bureaucracy, who must cede some power both to the top that mandates data be made available and the bottom that uses that data both to hold them accountable and to make decisions without relying so much on the bureaucracy to guide them. The idea is that open data in India, if properly implemented - that is, if it is accessible and can be made understandable to “the common man” - will be a hugely democratizing force. The problems, of course, are numerous - access barriers, technology and reading literacy barriers, language barriers, etc. - and no one believes that open data can be seen as an end unto itself, but rather as one vital part of an emerging knowledge ecology the other pieces of which must also come together for any real progress to be made.

Openness does not seem to be a high stakes issue within the government; in general, almost everyone is at least verbally in favour of providing more information to the public. Those
interviewed, however, almost unanimously asserted that the bureaucracy will provide a roadblock to open government data, both because they will feel as they are losing authority and because it will make more work for them in the sense that they will have to dedicate greater time and effort to collecting data and ensuring its accuracy. They also noted, importantly, that India's bureaucracy has become quite adept at inhibiting policies that it doesn't like— that is, Indian bureaucrats know well the art of delay, even when a policy is mandated from the top. But people feel that as younger civil servants move into government— often with a more pronounced nationalism than the previous generation's that translates into a progressive vision for India— such opposition will decline.

India enjoys a free press, though the Constitution does not explicitly provide for a free press and the government may restrict speech in certain delimited circumstances. All major newspapers maintain an online presence in various forms and seem well attuned to the uses of technology both for research, news dissemination and reader interaction— at least with those readers who are themselves wired. There are many media groups that have gotten themselves involved in a big way in Right to Information, which is a potent tool
for the media. In this context Doordarshan, the national broadcaster has taken a vital role to the people especially to the people of rural areas by a weekly half-hour show on Right to Information. The show to present examples of how common people have used the RTI.*12 The Doordarshan show travels through the country and present one success story each week from each state. The audience are afforded a chance to call in, and there is also studio-based audience participation.*13 NDTV, a news channel, has a portal dedicated to RTI—information about it, as well as information granted through the RTI. *14 It even runs an annual award for inspirational RTI activism. Apart from this, it has also covered the physical violence visited upon RTI activists, thus highlighting the need for an effective whistleblowers Act in India

Although the propose Public Information Infrastructure has been covered in the Indian press, most notably in the Economic Times, national news organizations, which seemingly stand to gain greatly from a policy improving access to government information, have not to this point been overly concerned with promoting the idea

*13. Despite this, a 2009 Study by Price waterhouse Coopers found that only 13% of the rural population and 33% of the urban population were aware of the RTI
of open data in India. But B.V. Rao, editor of Governance Now— a fortnightly magazine and website published by the SAB group, covering Indian government and focusing especially on issues related to transparency and accountability— believes that journalists are well positioned to take advantage of such policy once it is implemented successfully. The media is strong event at local levels, he says— both in print and on television— and literacy is improving; access to news is not a problem for most Indians, regardless of where they live. N. Srinivasan, director of technology transfer and innovation management at the Asia and pacific Centre for Transfer of Technology of the United Nations’ Economic and Social Commissions for the Asia and the Pacific, has been following e-governance initiatives in India for more than 20 years. Mr. Srinivasan, who is based in New Delhi, identifies three particular historical conditions which together have ushered in an environment in which an open government data policy has become feasible or India, and indeed amenable to its commercial sector.
Firstly, in 1975 the central government started widely using computer systems in its ministries and departments for use in planning and programmes, an in 1976, with assistance from the United Nations Development Program, it created the National Informatics Centre (NIC) to develop and employ e-governance solutions through-out all levels of government. *15

Secondly, the Right to Information Act of 2005 ushered in “a sea change in India (evidenced by the fact that) the government is willing to is information” to which no one had ever been given access. The RTI Act, he says, was not just a law promoting disclosure of information, but a strategy to enhance delivery of services through a system of citizen-enforced accountability.

Thirdly, as a result of the recent global financial crisis, information technology companies like Infosys and Tata consultancy have been looking inwards to develop their portfolios, rather than outwards to foreign clients, and these companies and their managers have began considering in a serious way collaborating with the Indian government as a source of revenue.

Furthermore, to promote the concept of openness of government in detail through various legal provisions and statutes like—Constitution of India Articles 19(1)(a), 21, 105, 194; Section 123, 162 of the Indian Evidence Act, 1872; the legislative enactments like— the Official Secrets Act, 1923, The public Records Act, 1993, The Commission of Inquiry Act, 1952, The role of Ombudsman, The Assam Right to Information Act, 2001, the overall study through the Right to Information Act, 2005; the researcher makes an effort by discussing in the following chapters of this study in the field of the concept of openness of government.

Power corrupts and absolute power corrupts absolutely. Corruption, maladministration, abuse of power and excess of power have become the day to day phenomenon from the very grass root level to the last height of administration in India. Since independence so many devices in the form of Acts were there to prevent and check the corruption at the administrative level, but alas! in the course of red-tappism those Acts remain as dead letter paving the way for some scrutiny committees or Commission and ultimately the 'Ball' is in the hands of those who wash off their hands through the loop-holes of our legal system and acquitted of their charge. Very often the administrators can easily hide their corrupt intention and work in deed
under the veil of 'in the national interest', or 'in the interest of public' or the like. Sometimes such veil may be indispensable for the swift running of administration, but in order to ascertain the true nature of such aspects 'right to information' or 'right to know' is a sine-qua-non to uphold the people’s belief in a democracy and to upkeep the democratic values too. Thus, the researcher has tried of find out the nexus between 'right to know' and 'openness of government' in one hand and people’s participation and administrative accountability on the other, in a democracy like India, in the context of its socio-legal aspect as a whole, which runs like a brooding omnipresence through out the country in contemporary India. Lets strive for a participatory democracy upholding the concept of openness of government with some reasonable restrictions.

To complete this research study, the researcher has consisted of a combination of both primary data collection as well as secondary literature analysis. Primary material has been collected through in-person interviews, phone calls and e-mail conversations with the important actors in the concerned field.