INDIAN JOURNAL OF PUBLIC AUDIT & ACCOUNTABILITY

EDITORIAL BOARD

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EDITORIAL

We begin by reproducing an old article of the former CAG, C.G. Somiah which was published in the Indian Journal of Public Administration some years back because its contents are of great relevance in the contemporary context. The author has, on the basis of his personal experience in a long and distinguished public service analysed the issues in good governance and has presented his prescriptions for young administrators to follow in the promotion of good governance. The author is very optimistic about a change towards good governance in the country. His article is a kind of 'advisory' to all the young administrators and we republish it in the larger cause of promoting good governance.

Praveen Tiwari, in his article has dealt with a very burning contemporary issue of money laundering. He takes a bird's eye view of the evaluation of money laundering and terror financing regimes and their implications for the financial as well as non-financial sectors. Although, a new area, it is of vital importance in view of vulnerability of the financial systems to money of criminal origin. With more and more globalization and integration of international financial systems, the issue of money laundering and terror financing requires to be adequately dealt with through legal, criminal justice and supervisory and regulatory means. The article discusses the issues involved within a wider international framework in which countries must operate to safeguard their financial system from this situation.

In a democracy, the power of the State vests in the people and all organs of the Government, therefore, should ultimately be accountable to the public. The article by Hemedra Kumar covers some major issues related to the accountability of the civil services with focus on the public perspective. World over Governments are moving towards people friendly governance. The traditional view has been that public accountability of the civil services is secured mainly through the Minister and the legislature. Now an increasing emphasis is there on a more direct role of the public in securing accountability of the civil services. Government agencies give wide publicity to the standards of services the public should expect from it. The public has been given right to get information from public authorities about all matters concerning it except a few sensitive matters. The author mentions several reasons for this and gives suggestions given by some experts to improve matters. The author argues that in this era of globalization with easy access to news, views and information and rapid economic and social development in the country, there is no escape from public securing real accountability of the civil servants.

CAG's report on Union Government Accounts is, in a way, his principal report to the Parliament which deals with the Fiscal Management by the Government and his observations on Government Accounts and matters arising from Appropriation Accounts. Satish Sethi gives an overview of the main highlights of this Report of the CAG for the year 2006-07 that was laid in the Parliament in December 2007.

B.M. Oza's review article on Dr. B.P. Mathur's book "Government Accountability and Public Audit – Reengineering Comptroller and Auditor General of India" analyses various issues emerging from the author's agenda for reforms and

presents a very penetrating and cohesive analysis of the pros and cons of various major reforms suggested in Dr. Mathur's book.

Often the executive makes a complaint that Audit hinders their decision making and acts as an impediment in decision making. M.K. Jain, who served both in the Indian Audit and Accounts Service and, subsequently, in Indian Civil Accounts Service, gives an opinion on this subject. Having served in both Audit Department and Government for many years, his views can be taken as an objective assessment of the matter.

This issue includes an extract of one of the most important aspects of Government's flagship programme namely National Rural Employment Guarantee Act in our document section. This is on Transparency and Accountability: public Vigilance and Social Audits. The implementation of this programme has drawn widespread attention of various stakeholders including the civil society and the media as also the CAG and currently the Government is in the process of examining the various aspects of its implementation to plug the loopholes in the same. The inclusion of accountability mechanism as a part of the scheme structure is a refreshing innovation which also provides for social audit as a formal part of this mechanism.

In the news section, we have brought out an important information of launch of a diploma programme on Budget, Accounts and Finance for PRI functionaries in collaboration with IGNOU. This is an ambitious programme which IPAI has undertaken in collaboration with IGNOU and hopefully it will mark the beginning of a reform process in the functioning of the PRI budget and accounting systems.

INVITATION FOR ARTICLES

The Indian Journal of Public Audit and Accountability welcomes original articles of professional interest. The articles should broadly cover aspects relating to Public Accountability, Financial Management, Accounts, Audit, Public Administration with focus on Good Governance.

Ideally the article should be between 3000 and 3500 words and should not normally exceed 5000 words. Short articles on topical interest are also welcome which can be included in Commentary Section of the Journal. They should preferably be between 1000 and 2000 words.

Two printed copies of the articles should be submitted along with a soft copy in a word processing format. Articles can also be sent by e-mail followed by hard copy by post.

Articles in Hindi are also welcome, which will be published in original. They should preferably be in simple spoken Hindustani language format. An abstract of the article in about 100 words should also be sent.

GOOD GOVERNANCE IN THE CONTEXT OF PREVAILING WIDE-SPREAD CORRUPTION IN PUBLIC LIFE – EXPERIENCE SHARING AND LESSONS LEARNT

C.G. SOMIAH*

Over five decades ago, India attained independence breaking the shackles of the British Colonial rule and became a member of the comity of nations as a free and equal partner. Those of us who have lived through the earlier days of freedom, when the entire nation was looking forward with a feeling of national pride for the future, cannot but look upon the present time with deep anguish and distress. Expectation of good governance were high at the midnight hour over six decades ago when Nehru's voice came floating to us over the radio, highlighting our tryst with destiny. Sixty years and on now when we look back, we find that the high expectations have been largely belied and amidst the gloom of failure on many fronts, the only silver lining is that we are still a functioning democracy. Behind the silver lining, however, is the dark cloud of corruption, which seems to be enveloping our country to the extent that we are now branded as the fifth most corrupt country in the world. In the Human Index ranking of countries by the U.N. Agency, we are ranked seventh from the bottom. In other words apart from widespread poverty and illiteracy prevailing in the country which was well known, we have now earned the dubious distinction of being named as one of the most corrupt nations in the world as well. Though India possesses some of the richest natural resources and a very large technically competent manpower, it required extraordinary effort on the part of our corrupt politicians and bureaucrats to make India poor.

In the context of the above negative scenario prevailing in India, is it possible at all to achieve good governance in the country, is the question uppermost in our mind. The answer to this question by a pessimist will naturally be negative, but an optimist like me dares to hope that good governance is still possible, despite that many hurdles in its way. Let us be optimists for a change and see how it is possible to achieve this near miracle.

We are all interested in good governance and good governance is generally the outcome of public interest. Maintaining the integrity of the nation, food security, maintenance of law and order, eradication of illiteracy, removing the rough edges of poverty, improving the general health of the people, regional development, technology advancement, social changes through enlightened legislation, maximum happiness for maximum number, etc. constitute good governance. Is it possible to achieve some of these objectives in India, If not all, through a re- orientation of administrative approaches and practices? As a born optimist my answer to this query is an emphatic yes.

Year after year the Union Public Service Commission churns out hundreds of administrators to fill the higher echelons in administration in a wide variety of fields.

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* The Author is former Comptroller and Auditor General of India and former Chairman of the United Nations Board of Audit. This article is reproduced from the Indian Journal of Public Administration published by the IIPA with their consent

After selection these administrators pass a year or two in their training institutions to acquire technical knowledge relevant to their calling and to hone their skills in the particular branch of administration relevant to their service. In all their training institutions, as far as I Know, there is neither any mention of the type of hazards that the administrator has to face in the world outside, nor is there any specific advice given to the young administrators how such hazards can be tackled. As a result young administrators are left to fend for themselves with no set guidelines to follow to overcome the hazards they face in the actual performance of their respective duties after they graduate from their training institutions. From personal experience spanning 43 years in public service I would prescribe the following guidelines to the young administrators to follow in the interest of good governance:

1. Develop a spirit of public service and be responsive to the aspirations of the people. Administrators sitting in the comfort of their well appointed offices often tend to feel they are doing a favour to the public when they are approached for a licence or a permit or any administrative clearance that is required. It is high time they realize that they are paid for the job they do and in discharging their duties, they are not favouring the public. The spirit of public service should be ingrained in their psyche and this is best done while they are under training.

2. Be very prompt in attending to public grievances. Make yourself accessible to them by earmarking a part of your office time to receive the public to hear their individual grievances. Attending to public grievances promptly enhances the effectiveness of the officer and his standing with the public will tremendously improve, as also his popularity. A civil servant must touch people's lives and be responsive to the aspirations of the people, leading to good governance. In tackling public grievances, wipe the tears of the poorest of the poor, as Gandhiji enjoined us to do.

3. Be more interested in how to get things done rather the be rule bound. Administrative behaviour and attitude should be service oriented, goal specific and appropriately fine tuned. A good administrator in my view must make greater use of the accelerator rather than the brake, especially while administering laws relating to social change.

4. Be ready to take the help of dedicated workers of the non-government organizations in suitably sensitizing people in developmental activities. Family planning measures were particularly successful in Tamilnadu and Kerala through the cost-effective and tireless work of the NGOs. In a large number of states the adult literacy campaign was spear headed to success through the efforts of the N.G.Os. The message of protection and conservation of the forest was effectively carried to the people by the now famous 'Chipko' movement in Uttar Pradesh.

5. Give your personal backing to the movement of open governance in your area of work. The Centre and many states have enacted legislation relating to people's right to information about government activities. Proper implementation of these laws will not only lead to greater cooperation by the people in development activities, but will also help

in reducing corruption at the lower levels and in the cutting edge of government, due to enhanced public awareness.

6. Be more concerned about earning a good reputation for yourself as your reputation will stand the test of time. Do not be overly anxious to get a good character roll from your superior at the cost of your good reputation. A bad character roll can be remedied by appeal but there is no appeal if you earn a bad reputation from the public.

7. Earning a good reputation will stand you in good stead as it generally acts as a shield against improper suggestions being made to you by your superiors. They will hesitate to make improper suggestions to you knowing your reputation and even if they make bold to influence you in the wrong way, a 'no' from you will earn their grudging respect. There are instances, however, where persons have suffered in their career for their honesty. It must be understood that a certain amount of pain is involved when an administrator chooses the narrow and virtuous path. A promotion denied leading to supercession and a sudden transfer from the State to the Centre were the hazards I faced during the mid-point of my career when I had the temerity to say 'no' to a corrupt Chief Minister. It took me two years to regain my promotion but thereafter my career zoomed to unexpected heights.

8. A good administrator to be effective should try and build a good team of his associates to carry his good work forward. Earn the respect of your subordinates by fair governance. There should be reward for good work and disapproval and punishment for bad work without any favouritism. Be sensitive to their just demands and recognize honesty in your subordinates as you would their efficiency.

9. Delegation of powers and responsibilities is a must for a good administrator to be effective. Avoid doing other people's work and when you go higher up in administrative hierarchy get rid of unessential and concentrate on the essentials.

10. For administrators in the Indian Administrative Service and Indian Police Service I would specifically advice that they show leadership in tackling law and order problems, be innovative in approach and apply the Kennedy dictum 'Do not fear to negotiate but do not negotiate out of fear'. As an illustrative case I recall the following incident from my own experience.

    When I was the sub-divisional magistrate in Bhadrak in Orissa on learning that the students of the local college were planning to defy the ban that I had imposed against assembly of people and procession under section 144 of the criminal Procedure code, following the state-wide agitation in 1965 against the recommendation of the States Reorganisation Commission, adversely affecting Orissa, I drove up unescorted to the college premises and seeing the student leaders playing volleyball joined them in their game much to their surprise and by that one friendly act I was able to convince them against defying the ban which in any case was being withdrawn by me after a day, on calling off of the state-wide agitation.

11. Keep your sense of humour especially when things go wrong. A touch of humour can occasionally dissolve the problem as happened in the following instance. Forty three year ago I was Collector and District Magistrate of Mayurbhanj District, amore wooded and beautiful place it is hard to find in Orissa. One morning the additional collector who was in charge of revenue came to my residence and informed me in a very agitated manner that on his opening the treasury strong room in the morning, he found that the rats had gained access and had nibbled and destroyed a considerable portion of the revenue stamps stored in the treasury. On my query he hastened to inform me that the currency notes were safe as they were in the currency chest. I told him to consult the treasury code about further action to be taken and on reaching office he briefed me that following the instructions in the treasury code he had prepared a detailed inventory in triplicate of the stamps damaged by the rats and would be sending a copy each of the inventory to the Finance Department and the Accountant General, Orissa. After two months of the incident, I received an audit observation from the office of the Accountant General seeking clarification as to why the rats had damaged only the higher denomination stamps and not the lower, which were also stored alongside. I signed on the margin and sent letter down to office for drafting a suitable reply. At monthly intervals thereafter I received three reminders which were also sent down to office for action. In the fourth month following, I got a demi-official letter from the Accountant General chiding us for the delay in sending a reply to the audit observation and threatening to raise it as an audit para in his annual report, if an immediate reply was not forth-coming from us. In the earlier days, officers were genuinely afraid of an audit para against them and I sought the explanation of the Additional Collector for the delay in replying to the audit observation. The Additional Collector appeared before me and scratching his head he mentioned that he had no adequate answer to the query raised by audit as to why only the higher denomination stamps had been attacked by the rats. I smiled appreciating his difficulty and after calling for my stenographer proceeded to dictate a reply to the Accountant General. In the first para of my letter I expressed my regrets for the delay in replying to the audit observation and in the following para, tongue in check, I wrote that on receiving his irate reminder I had gone to the strong room of the treasury, called a meeting of the rats that has damaged the stamps and the king rat on my query reflecting the audit observation, had replied that they nibbled only the higher denomination stamps since they found the gum behind these stamps to be sweetor. I later came to know that on receiving this reply the AG’s office exploded in laughter and that was the end of the Audit objection.

12. My final advice to the young administrators is to have pride in their work, since such pride leads to excellence. If excellence is to be combined with enlightened administration, the administrators should always keep their minds open to new thoughts and ideas, for the mind like the parachute works best when it is open.

FINANCIAL SECTOR AND MONEY LAUNDERING: SOME PERSPECTIVES

Praveen Tiwari*

1. Introduction

Money laundering literally means washing (laundering) the dirty money, (one which has its origin in some crime), as one would wash one's dirty clothes. The primary concern of one who has obtained money of criminal origin is to legitimize it by first placing it in the formal financial system and then using it for ostensibly legitimate purposes. It is generally recognized that there are three main stages through which the money with criminal origin passes: placement (in the financial system), layering (through a complex series of operations to disguise the source of origin) and integration (to make the money look legitimate). Over the years the money launderers have perfected the techniques of laundering, using innovative ways and methods, and made significant inroads into the formal financial systems; the IMF in 1996 roughly estimated the amount of laundered money at 2 to 5 percent of the combined GDP of the world. According to the FATF, this translates to US Dollar 590 billion to 1.5 trillion at 1996 statistics. Obviously, the international community has been seriously concerned about the risks posed by the money laundering to the integrity and stability of the financial systems. In addition, there are some informal payment systems like the hawala (in India and other south Asian countries) and the Black Market Peso Exchange (in the South America and the USA), which are used to channel the proceeds of crime. The international community has taken a series of measures, notably after the 9/11 incident in the USA, aimed at measuring, assessing and enhancing countries' preparedness to combat money laundering. This paper discusses the evolution of the anti money laundering measures, the vulnerability of the financial systems to the money laundering and some current practices and trends.

2. Brief Description of the Anti Money Laundering (AML) and Combating the Financing of Terrorism (CFT) regime

The early efforts at developing anti money laundering measures were made by the OECD countries. At the G-7 meeting in Paris in 1989, the Financial Action Task Force (FATF) on money laundering was established to "develop a coordinated international response to money laundering". The FATF came out with a set of 40 recommendations as counter measures against money laundering covering criminal justice and legal systems, law enforcement, the financial system and its regulation, and international cooperation. The recommendations basically revolved around adopting the Vienna convention and criminalizing money laundering, ensuring that the banking secrecy laws did not inhibit the enforcement of anti money laundering measures, and fostering international cooperation.

The recommendations were revised in 1996, to take into account the changes in the money laundering trends and to anticipate potential future trends. The FATF has, post

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9/11, also issued 9 special recommendations to combat terrorist financing which, together with the 40 recommendations on anti money laundering, form the international framework to combat money laundering and terrorist financing. The 40 recommendations were further revised thoroughly in 2003, enlarging the scope comprehensively and elaborating the various Interpretative Notes designed to clarify the application of specific recommendations and to provide additional guidance.

The FATF recommendations have now been recognized by the IMF as international standard comprising one of the 12 areas 'important' for the IMF's work and for which the IMF prepares the Report on Standards and Codes (ROSC). The international standard setters in the three prudentially regulated sectors viz., the Basel Committee on Banking Supervision, the International Association of Insurance Supervisors (IAIS), and the International Organization of Securities Commissioners (IOSCO) have included anti money laundering modules in their supervisory and regulatory framework and guidance notes. In brief, the revised 40 recommendations (June 2003 version) apply to both money laundering and terrorist financing and are broadly structured as follows:

A. Legal Systems (Recommendation 1-4)
   - Scope of the criminal offence of money laundering
   - Provisional measures and confiscation

B. Preventive measures to be taken by the financial institutions and non financial businesses and professions-DNFBPs (Recommendation 4-25)
   - Customer Due Diligence (CDD) and record keeping
   - Reporting of suspicious transactions and compliance
   - Other measures to deter money laundering and terrorist financing
   - Measures to be taken with reference to countries that do not or insufficiently apply the FATF recommendations
   - Regulation and supervision

C. Institutional and other measures necessary in systems for combating money laundering and terrorist financing (Recommendation 26-34)
   - Competent authorities, their powers and resources
   - Transparency of legal persons and arrangements

D. International cooperation (Recommendation 35-40)
   - Mutual Legal Assistance and Extradition
   - Other forms of cooperation (e.g., supervisory cooperation and exchange of information)

Some of the most important of these recommendations relate to customer identification by the financial institutions-FIs (banks, insurance and investment companies etc) and Designated Non Financial Businesses and Professions-DNFBPs (see paragraph 10)- while establishing a business relationship, verification of the identity of the customer with reference to reliable and authentic documents, enhanced due diligence in establishing relationship with politically exposed persons (PEPs), keeping of records (at least for 5 years from the date of termination of the relationship) of the business transactions, production of records to the competent

authorities if required, monitoring of the complex and suspicious transactions and reporting them to the authorities, legal protection of the staff against reporting suspicious transactions, prohibition of tipping off (to the suspected person) the reporting of suspicious transactions, and establishment of systems and procedures to prevent money laundering. These recommendations popularized such slogans as know your customers (KYC) and know your employees (KYE). The regime also made it mandatory for the countries to establish a central unit-often called the Financial Intelligence Unit or the FIU- to which all cash transactions above a specified threshold and all perceived suspicious transactions will be reported by the FIs and DNFBPs, and where they will be analysed to detect the possibility or incidence of money laundering.

3. Blacklisting and the NCCT exercise

The FATF started its Non Cooperating Countries and Territories (NCCT) exercise in 1998. It developed a set of 25 criteria pertaining to loopholes in the financial regulations, regulatory obstacles (to customer identification etc), obstacles to international cooperation, and inadequate resources for preventing and detecting money laundering activities. The exercise was completed in two parts, in 2000 and 2001, covering 47 jurisdictions, out of which 23 jurisdictions were identified as NCCT. These included some major offshore financial centres like the Bahamas, Cayman Islands and countries like Russia, Indonesia, and Egypt etc. The exercise was rather unilateral, assessing the jurisdictions (against the 25 criteria) on the basis of information gathered about the jurisdiction. A report was then prepared and sent to/ discussed with the jurisdiction and presented to the FATF plenary.

Categorization as NCCT meant application of stringent screening procedures (in the FATF countries) to the financial transactions emanating out of the NCCT countries and application of counter-measures in case they continued not to implement the FATF recommendations. In other words, these jurisdictions were blacklisted. The exercise led to stifling of the financial systems in these countries and met with strong reaction from different quarters, which branded it as highhandedness of the rich countries in judging jurisdictions that were not even part of FATF. Some also linked it with the harmful tax initiative of the OECD, aimed at tax havens where substantial monies from the rich countries had migrated due to taxation benefits. Since most of the international financial transactions from the NCCTs, especially the offshore financial centres, were done through the correspondent banking relationship[1] with banks operating in the OECD countries, the NCCT exercise brought these jurisdictions virtually on their knees by subjecting the transactions emanating from these jurisdictions to enhanced screening and in some cases by altogether blocking these transactions. The FATF leveraged this opportunity to monitor the implementation of its recommendations in these countries and gradually take them off the list after compliance with the FATF regime. At present there is no country on this list, the last (Myanmar) having been removed in June 2006.

[1] Correspondent banking relationship is one where banking facilities are offered by a bank to the banks of foreign jurisdictions. Such relationships were misused by some unscrupulous offshore banks to launder money.

4. Role of the IMF

IMF has played a crucial role in the strengthening of the AML/CFT regime: first by adopting the FATF recommendations as one of the standards against which its member countries should be evaluated, and then by evolving the Methodology for evaluation. The resentment caused by the naming and shaming of the countries by the FATF under the NCCT exercise led to widespread resentment over the manner in which the countries and jurisdictions were blacklisted by this OECD controlled organization, affecting their financial systems and economies. The IMF stepped in. After the initial turf wars (between the FATF and the IMF), the IMF was able to take the initiative in its hands. In the process, it recognized the FATF recommendations as the international standard on anti money laundering and developed (2002) a Methodology for assessment of the countries and jurisdictions for compliance with this new standard.

The FATF recommendations were thoroughly revised in June 2003, following which the IMF developed a new Methodology in February 2004, on the similar pattern as the methodologies developed by the Basel Committee for evaluation of the banking sector and International Association of Insurance Supervisors (IAIS) for the evaluation of the insurance sector. The new methodology was a set of 'essential criteria' and 'additional elements' against which the jurisdictions are rated as compliant, largely compliant, partially compliant or non compliant.

While the IMF itself carries out country evaluations, as a part of its Financial Sector Assessment Program (FSAP), it has now agreed to accept the mutual evaluations carried out by the FATF and the FATF styled regional bodies (FSRBs) as part of the FSAP, following the adoption of the new Methodology by the FATF and the FSRBs.

5. The FATF and the FATF- styled regional bodies (FSRBs)

Within the FATF countries, the anti money laundering exercise started as annual self evaluation by the member countries and a mutual evaluation process, wherein the countries were evaluated by the other member countries under the aegis of the FATF. Over a period of time several FSRBs have come into being. Presently there are 6 FSRBs: Caribbean Financial Action Task Force (CFATF) for the Caribbean region; the Asia Pacific Group on Money Laundering (APGML); the Council of Europe Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures (MONEYVAL); the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG); and the Financial Action Task Force on Money Laundering in South America (GAFISUD). The FSRBs are engaged in strengthening the financial systems of their member countries through enforcing the AML/CFT measures and by conducting mutual evaluations. Over the years, the interface between the FATF and the FSRBs has increased significantly, though there is a strong feeling among the FSRBs that their inputs and concerns are not adequately incorporated in the policy recommendations of the FATF and that they have to willy-nilly ratify and adopt the recommendations under international pressure including that of the IMF and the World Bank.

6. Mutual Evaluations

Mutual evaluations are carried out by the FATF and FSRBs for their member countries. A great deal of standardization has taken place in the conduct of mutual evaluation, following adoption of the IMF Methodology (2002, 2004) for conduct of these evaluations. The evaluations are carried out by a team of experts from legal, law enforcement and financial fields. Usually there are two experts from the financial sector- one dealing with non financial businesses and professions (NFBPs) and the other dealing with prudentially regulated financial sector viz., banking, insurance and securities.

The findings of the mutual evaluations are presented in the plenary sessions of the FATF/ FSRBs, where they are discussed and adopted. This is a formal process and the thrust is to evolve a consensus report. However, in case of disagreements with the findings, the country concerned is given the opportunity to record its response, which then forms a part of the report. The usual invitees to these sessions include representatives from the multilateral bodies like the IMF and the World Bank.

7. Money Laundering and the banking sector

Being at the nerve centre of the payment system the banking sector is the most important from the AML/CFT perspective. The proceeds of crime must become a part of the payment system at some stage, in their journey to legitimacy. The launderers have devised ingenious and complex methods for placement, layering and integration of the money with criminal origin into the formal payment systems so that they can enjoy the benefits legitimately, and they do not mind paying a price for it. The problem is further compounded by complicity, in many cases, of the banks or their officials. The confidentiality provided by the banks and the misuse of the legal persons (corporations) or legal arrangements (trusts), incorporated or set up in different jurisdictions, and related through each other through a complex web of ownership structure, coupled with the fast movement of money across jurisdictions (made possible by technology) can make the task of tracing the source and destination of the money and its beneficiaries extremely difficult. This position has been fully exploited by the launderers.

In this context, the banking sector has had to struggle with the dilemma of safeguarding the age old tradition of protecting the confidentiality of its customers (the backbone of banking relationship having the strict protection of law in some famed jurisdictions known for their banking institutions) and the need to keep the system free from dirty money having origins in crime. In the process, jurisdictions like Switzerland and the offshore centres (for example, the Caribbean and the British Isles etc) came under heavy scrutiny. The matter acquired serious political and economic overtones as these jurisdictions had benefited substantially from their banking sectors which had contributed significantly to their economic well being. It was also argued that while confidentiality provisions could be misused for laundering money, the need for it can hardly be overemphasized for reasons of safety (of the customer who may be at risk in his own country due to political or other reasons); asset protection (necessitated by political or economic instability in the customer's country); succession planning; or simply to protect oneself from legal claims (for example from the spouse) arising out litigation.

It was in this context that the attack on the confidentiality met with the most vocal resistance as it threatened to undermine the banking systems in many countries whose banking systems were primarily dependent on the confidentiality of the identity protected under their laws. This also meant an end to the numbered or code named accounts as the FATF recommendations stipulated that no accounts could be opened in anonymous, false or fictitious names. Under sustained pressure, most of the countries have now implemented laws that enable the financial institutions to breach the confidentiality condition if it is suspected that the money has a dirty origin.

Another important issue was the sharing of information regarding the bank customers. The FATF recommendations provided for a wide scale sharing of information at the supervisory level (banking or other supervisors) and through mutual legal assistance treaties. This provision had a major economic connotation for the offshore jurisdictions whose banking systems were heavily dependent on customers from other countries, many of whom had transferred funds to the offshore jurisdictions for safety and tax reasons. The so called tax havens, which allowed the financial institutions to function without taxing them or their customers, have long been resented by the rich countries, whose nationals had been successful in shifting monies to the tax havens to enjoy the benefits of anonymity and little or no tax regime. These tax havens were the most hard- hit by the new regime of disclosure and felt threatened. To be fair, many of these havens were not rogue nations providing shelters to the criminals or the law breakers. These were small economies (many of them banana republics), which had been successful in diversifying their economies by providing simple business models to their financial institutions, free from the rigid regulatory and supervisory regimes of the developed countries, where the cost of business was high and keeping of money unattractive due to high and rigid taxation regime necessitated by high social security obligations. This resulted in flight of substantial money from the USA, Europe and even South America (where political uncertainty made it unattractive for investment) to the obscure and small jurisdictions like the Caribbean etc. The spin-off of this phenomenon resulted in many of these small jurisdictions emerging as important offshore destinations and the associated ancillary services brought prosperity to these underdeveloped jurisdictions, many of whom now were home to billions of dollars of banking assets. The advent of the anti money laundering regime propagated by the FATF threatened the unique position of these jurisdictions.

8. Vulnerability of the insurance sector

While the incidence of money laundering in the insurance sector is not as high as in the banking sector, the insurance products and practices and the innovations therein offer enough scope for washing dirty money. It is generally regarded that non life sector is less vulnerable while the life insurance policies, especially those with investment options or single large premiums, can be possible instruments of money laundering. On the non- life side also it is possible for the criminals to invest in property, destroy it through arson etc. and get back a substantial part through insurance claims which legitimizes his wealth. A policy can be canceled, with a request to return the premium through an insurer’s cheque, or there can be overpayment of premium with a request to return through cheque. All these transactions are designed to get back one’s ill gotten money through legitimate means and sources. Similarly, the reinsurance transactions also offer scope for money laundering through payment of reinsurance premia to foreign reinsurance companies,

set up especially for laundering purposes. The International Association of Insurance Supervisors (IAIS) has identified the following types of methods in which the reinsurance can be used for money laundering:

- the deliberate placement via the insurer of the proceeds of crime or terrorist funds with reinsurers in order to disguise the source of funds
- the establishment of bogus reinsurers, which may be used to launder the proceeds of crime or to facilitate terrorist funding
- the establishment of bogus insurers, which may be used to place the proceeds of crime or terrorist funds with legitimate reinsurers.

The FATF and the IAIS have developed typologies documenting the methods and ways in which the insurance sector can be used by the money launderers to legitimize the illegitimate money. The counter measures provided in the guidance notes issued by the IAIS in 2004 include customer due diligence, keeping of records, reporting obligations- both to the supervisory and law enforcement authorities in case of suspicious transactions and international cooperation.

9. Money Laundering and the securities sector

The vulnerability of the other prudentially regulated financial sector, the securities sector, to money laundering has been well established. The stock markets, both primary and secondary, may provide a perfect foil for washing money with criminal origin. The purchase and sale of shares in fictitious names, in connivance with the intermediaries like the brokers, can be used for placing, layering and integrating the dirty money. IOSCO[2], the international standard setter for the securities sector, has recognized the FATF recommendations as the international standard on money laundering and terrorist financing. Principle 8.5 of the IOSCO's Objectives and Principles of Securities Regulation (2002) deals with money laundering. IOSCO has also laid down (2004) principles on client identification and beneficial ownership for the securities industry and anti money laundering guidance (October 2005) for collective investment schemes like the mutual funds. These have been incorporated in the IMF Methodology for country evaluation.

In India, in the recent past we have seen the manipulation of the securities sector by unscrupulous elements. The IPO scam, in which fictitious applicants were used to get allotment of shares in connivance with brokers, is a case in point and was used to disguise the identity of the real investor making entry in the stock market. In the recent months, similar concerns have been expressed in the wake of the hot money coming to the secondary market through the participatory note route, which resulted in the stock markets touching unprecedented highs, and compelling the regulator to intervene. Serious doubts were expressed concerning the real identity of the investors coming through the P-note route since these investors were not directly registered with the regulator. The incident also showed that the volatility induced by such happenings can give serious jolts to the market, the investors and the economy.

[2] International Organization of Securities Commissioners

10. Vulnerability of the Non Financial Businesses and Professions

The risk of money laundering and terrorist financing is not limited to only the financial institutions. Several non-financial businesses and professions that perform financial transactions are significantly exposed to the risk of money laundering and terrorist financing. These have received focused attention after the 9/11 incident and have since been duly recognized and incorporated in the anti money laundering regime. The so called designated non-financial businesses and professions (DNFBPs) that have been brought in the ambit of the FATF recommendations include casinos (including the internet casinos), real estate agents, dealers in precious metals, lawyers, notaries and other independent legal professionals and accountants, and trust and company service providers.

While the casinos and real estate sectors have been suspected of being widely used for hiding the ill- gotten money, the advent of internet casinos added a new dimension in view of their cross country operations. The internet gambling industry also brought some incredibly large income to many countries that licensed them and made many a billionaire almost overnight. This also led to flight of substantial funds from the rich countries like the USA and the Europe to offshore destinations, prompting the former to block the internet gambling transactions from its payment system on the plea that the internet casinos brought gambling to the US homes and had the potential to destroy the moral fabric of the country; this, notwithstanding the fact that the USA has one of the biggest domestic gambling industries in the world. Antigua and Barbuda, a major jurisdiction in the internet gaming industry, took the matter to the WTO, citing it as an unfair trade practice; however, despite a ruling in favour of Antigua and Barbuda, the USA did not amend its laws to permit internet gaming transactions.

The revised FATF recommendations have made it mandatory for the dealers of precious stones to apply the customer due diligence process in case of high value purchases, in recognition of the fact that significant amounts of money can be laundered through the purchase of high value gems and jewelry.

In many countries it is common for the lawyers to act as agents on behalf of their clients' business, especially for investment purposes. This relationship can be and has been used to launder money, where the identity of the real investor can be masked using the client-attorney confidentiality privilege. The revised FATF recommendations now cover the attorneys, who are required to apply the customer due diligence and are subject to record keeping and reporting requirements, except in cases involving defence of the client in a court case, for which the client attorney confidentiality privilege is not to be breached.

Trusts and international business corporations (IBCs) have also been recognized as potential instruments of money laundering. A trust is a legal arrangement set up by a settler for beneficiaries, who may be defined or not defined. Many countries' trust laws provide for anonymity of the settlers and beneficiaries; they also provide for a great deal of flexibility in the operations of the trust by the trust service providers, including a migration clause which allows even the jurisdiction of the trust to change upon the occurrence of certain event(s). IBCs are corporations that are permitted to do business outside the jurisdiction of their incorporation. The IBC structure has been used to incorporate banks, insurance companies and investment companies etc in offshore financial centres. The combination of the IBCs and trusts can lead to complex structures that can be misused for money laundering. Thus, a bank

incorporated in the Cayman Island may be owned by a trust in the Bahamas, which may be set up by an IBC incorporated in the BVI, whose beneficial owners may again be legal persons or legal arrangements in different jurisdictions. The complexity of such arrangements makes it easy to hide the sources and destination of money and its ultimate beneficiaries; and poses enormous challenges to the regulatory and supervisory oversight.

11. Offshore financial centres (OFCs) and money laundering

The OFCs became a major target in the drive against money laundering. For one thing, most of the OFCs had developed fast by projecting themselves as attractive destinations by offering a tax free and investor friendly regime. The ease of incorporation (virtually no due diligence), the confidentiality and secrecy provisions, little or no corporate tax, and less stringent or lax regulatory and supervisory oversight helped in mushrooming of the OFCs in the eighties, bringing in its wake employment and prosperity to these jurisdictions. Many of these were attractive tourist jurisdictions and offered a perfect mix of business with pleasure. The party was however spoilt by the NCCT initiative, which put the spotlight on such jurisdictions as being vulnerable to money laundering, so much so that the IMF started a special initiative for the assessment of the financial systems of the OFCs as regards their vulnerability and preparedness to combat the money laundering.

The OFCs were home to some interesting financial innovations. Thus, an International Business Corporation (IBC) could be incorporated for an annual fee of as little as US$200 by beneficial owners whose identity was secret or could be camouflaged by issuing bearer shares (whose ownership would pass to the bearer of the share), making it well nigh impossible to track the ownership. One of the biggest jurisdictions in terms of the IBCs incorporated, the British Virgin Islands (BVI), has more than half a million IBCs on its books from all over the world implying income of over $100 million from the fee alone, leaving aside the ancillary benefits in terms of corporate and legal services and the employment. The IBC could be a shell bank[3], with no physical presence[4] in the country of incorporation, but operating internationally in different places and countries. In many countries (the Bahamas, BVI, the Cayman Islands, and the British Isles) the legislation also provides for a cellular structure of the IBCs, known as protected cell companies, with a corporation comprising several cells, and each cell insulated from the other in respect of its assets and liabilities. These cells can be hired by low- capital insurance and investment companies (that would otherwise not meet the regulatory capital norms on stand-alone basis) for doing business in a perfectly legitimate manner. These innovations provided a great deal of competitive edge to these small jurisdictions.

Post FATF, the issues of beneficial ownership, shell banks, bearer shares etc came under heavy scrutiny as they were regarded as particularly vulnerable to money laundering. While the OFCs vociferously argued that there was no empirical evidence to show that they were more vulnerable to money laundering than the developed

[3] A shell bank has been defined as one that has no physical presence in the country of its incorporation and is not part of a prudentially regulated and supervised financial group. Shell banks were identified as vulnerable to money laundering. Since most of the shell banks were in the offshore centres, they became subject to heightened scrutiny.

[4] Physical presence has been defined as meaningful mind and management located within a country. The mere presence of a local agent or low level staff does not constitute physical presence.

countries, and complained of arm twisting and discrimination (Switzerland, a developed country, for example, was never blacklisted even with its famed secrecy laws), they had to willy-nilly succumb to the growing pressure and subject themselves to evaluations, followed by relaxation of the secrecy laws and implementation of comprehensive regulatory and supervisory regimes. This has increased the cost of business and posed serious problems to the viability of many offshore jurisdictions, which have serious challenges in respect of resources and implementation capabilities. As a result of the rising cost of business, due to cost of regulation and supervision and the requirement to establish physical presence,several OFCs have dwindled in significance over time.

12. The Money Laundering and the Indian scenario

The vulnerability of the Indian economy to the money laundering arises both out of a well established financial system and (still) a large informal payment system with widespread use of cash and hawala systems of payment that are not so amenable to detection of the origin and destination of the money. The central legislation dealing with money laundering in India is the Prevention of Money Laundering Act 2002, which came into force from July 2005. The Act defines the money laundering, the proceeds of crime and the scheduled offences, the proceeds of which will constitute money laundering. The Act also prescribes the punishment for money laundering offences, extending up to 3 to 7 years of imprisonment and fine up to Rs. 5 lakh. Under the law, the obligations of the reporting entities (banking companies[5], financial institutions[6], and intermediaries[7]) include customer identification, record keeping and reporting requirements in case of suspicious transactions. Every reporting entity is required to appoint a Principal Officer to ensure compliance with the PMLA.

Subsequent to the enactment of the PMLA, a Financial Intelligence Unit, called FIU-Ind was established in 2004 under the Department of Revenue and made responsible for receiving, processing, analyzing and disseminating information regarding the suspicious transactions. FIU-Ind is an independent regulatory body reporting to the Economic Intelligence Council headed by the Finance Minister. The Director FIU-Ind is empowered to impose fine up to Rs. one lakh for each failure of the reporting entity, which is required to report all cash transactions above Rs. ten lakhs and all suspicious transactions. According to the 2006-07 report of the FIU-Ind, it received during that year over 21.40 lakh cash transaction reports (CTRs) and 817 suspicious transaction reports (STRs) relating to the identity of the customers, their backgrounds, the nature of accounts, and the level of activity in the accounts.

India is a member of the Asia Pacific Group on Money Laundering (APGML), which is a FATF- styled regional body for the Asia Pacific region. In May 2007, the FIU-Ind has become a member of the Egmont Group, which is the international platform for all the FIUs the world over.

It is evident that the anti money laundering regime in India is still in its infancy. What is important is a widespread awareness of the vulnerabilities and deleterious consequences of the money laundering and effective steps to prevent and detect it. Adoption of appropriate electronic technology for analyzing and detecting the

[5] Including public and private sector banks, cooperative banks, rural banks etc.
[6] Including insurance, NBFCs, hire purchase, housing finance companies etc,
[7] Including brokers, merchant bankers, underwriters, venture capital funds etc

complex patterns of transactions is of immense importance in this task. FATF itself looks at India with a great deal of interest. In September 1998, it identified seven target countries (Argentina, Brazil, China, India, Mexico South Africa and Russian Federation) for membership. Out of these, five have already been granted membership. According to the current mandate of the FATF (September 2004-December 2012), the FATF should continue to actively work towards the membership of the remaining two countries viz., India and China. This of course will depend on the full implementation of the FATF recommendations.

13. Conclusion

The world has come a long way since the first version of the FATF recommendations on anti money laundering was finalized in 1989. While the growing volumes of drug and crime related money, and the flight of capital from the rich countries to the so called tax havens had been causing discomfort to the rich countries, the 9/11 tragedy helped precipitate the issue leading to the tightening of the regulatory and supervisory regimes through the international standard setting bodies and the FATF assuming a front role in the enforcement of its recommendations. The countries are now subject to formal evaluations in respect of the implementation of FATF recommendations. This has impacted the financial sector in a significant manner, inasmuch as the cost of regulation and supervision has increased significantly and many smaller jurisdictions that had thrived on the financial sector boom in the eighties and the nineties have had to do serious thinking on the viability of their financial sectors. Almost all of them witnessed a dramatic contraction in their financial sectors following the tightening of the regulatory and supervisory regimes, customer due diligence measures, and record keeping and reporting requirements. While it is moot whether the smaller jurisdictions acted as the drivers of money laundering, they had to pay a heavy price for the international scrutiny the wake of exercises like the NCCT and the OFC initiative of the IMF. The trend however is clear that the future paradigm belongs to stringent regulatory and supervisory oversight, quarterbacked by the organizations dominated by the rich countries. The world has come a full circle from the days when the rich countries advocated an economic model free of rigid controls, regulation and supervision.

ACCOUNTABILITY IN GOVERNANCE – THE PUBLIC DIMENSION

Hemendra Kumar*

It is often stated that accountability is one of the important ingredients of good governance. In any system of governance, unless accountability is built in its framework, more likely than not, the outcome will be poor performance or worse and a very dissatisfied public. In a parliamentary democracy, power ultimately vests in the citizens and is exercised through elected representatives. It follows that all parts of the structure of governance should ultimately be accountable to the public. The institutional arrangement for securing this and its effectiveness varies from country to country.

Governance, in a broad sense, can be described as the process of exercising power through framing of policies, laws, rules and regulations and taking decisions thereunder in matters that concern public life and economic and social development of the country as also ensuring their implementation. In our country we have more than one centre of authority in the apparatus of governance- Union, State, district and the local bodies. There are a number of institutions supporting them for implementing the policies, laws and development schemes. The Constitution adopted by the country prescribes specific roles to legislature, judiciary and the executive organs of the governance apparatus. It may not be out of place to mention that the executive derives all its powers from the Constitution and the laws framed by the legislature. Institutions functioning under the governments generally have delegated powers in addition to powers, if any, derived from the laws. The judiciary ensures that the contours of the Constitution are not transgressed, natural justice prevails and the rule of law is implemented.

Accountability in simple terms means liability to render account. In the context of governance, it implies providing information, reasons and justifications for decisions, actions and inactions by all components of the government to persons or institutions to whom accountability is owed. It also covers rendering an account for receipt and expenditure of all the public moneys. Securing financial accountability does not imply only maintenance of accounts but also involves strict financial discipline, propriety, prudence and diligence.

It has been mentioned earlier that in a democracy all the components of the governance apparatus are ultimately accountable to the public. The judiciary has been assigned a special role under our Constitution and is the primary institution for preventing arbitrariness and misuse of power by the executive. It is seen as an important institution for securing accountability of the executive to the public. An independent and impartial judiciary has always been considered necessary for the success of democracy. Whether judiciary itself should have an element of direct accountability to the public and the manner in which it should be secured is a highly contentious issue. To deal with unlikely case of any aberration, the Constitution has laid down the procedure for removal of a judge of Supreme Court or High Court on the grounds of proved misbehaviour or incapacity. The High Court of a state has been

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given the power of superintendence over district courts and subordinate judiciary. The judiciary has its own system of accountability and one school of thought is that it should be allowed to continue. The other view is that a law should be enacted by the Parliament that specifies as to how the structure of accountability is formulated.

The issue of accountability of the members of legislature is more straightforward. They are elected or rejected by the people and in that sense directly accountable to the public. The legislature also can take action in case of aberrations on the part of its members. One issue raised frequently is the right of recall. It is argued that if the public loses confidence in its representative for whatever reason, even though his tenure in the legislature is not yet complete, it should have a right to recall him and elect a new representative. It is said that such a provision would strengthen the accountability aspect. It is again a contentious issue and debatable whether this is suitable in our conditions.

The intention here is just to highlight a few issues regarding the accountability of members of judiciary and legislature and not to discuss them. The focus in this article is on some aspects of the accountability of the executive, primarily the civil services. Sometimes the question is asked," what exactly is the executive accountable for?" Under the provisions of the Constitution, all executive action of the union government is taken in the name of the President and that of a state government in the name of the Governor. However, actually the power vests in the political executive, that is the ministers. It is often said that the ministers are only responsible for framing of policy and once a decision on policy is taken, its implementation should be left to the civil servants. This appears only to be a half-truth. The fact that only proper implementation of policy, howsoever good, can lead to desired results cannot be overlooked.

The minister is constitutionally responsible for all the executive actions of the department of which he is incharge and he has to ensure that policy framed is properly implemented. It is in this context that the minister takes decision of an administrative nature. However, it would be physically impossible for any minister to oversee everything in the department. It is widely accepted that the role of a minister is not to run the department but to see that it is run well. It should also be kept in mind that policy decisions that involve more than one department are taken at cabinet level. It is conventionally accepted that in a parliamentary democracy the minister shoulders the entire burden of accountability of the executive on the floor of the legislature so far as his department is concerned. The responsibility of the civil servants used to be fixed through the normal administrative process as it is done even now. There has been a considerable shift in thinking about accountability of ministers. Now the minister may or may not accept moral responsibility for any major irregularity or inefficiency in the functioning of the department. There seems to be an absence of consensus on what constitutes a major lapse or whether the minister should accept moral responsibility in such cases.

The terms civil services and civil servants are being used here in a broad sense encompassing all levels of technocrats, bureaucrats and the employees of local bodies paid for by the taxpayer but excluding members of armed forces. The basic character of civil services in India has not undergone any significant change after the country gained independence from the British rule. It is required to be politically neutral and implement faithfully the policies of the political party in power for the well being of the people. By and large, the members of the civil services are employed on a

permanent basis. They are recruited not by patronage but by a process of fair selection and, therefore, not obliged to any person for their position. They are expected to be independent and impartial in application of laws and rules, professional in their approach, not pursue self advancement, largely self regulated, observe a strict code of honour and discipline and perform their duty with integrity. All these qualities may depict an ideal situation that may not be achieved easily but it is important to know what kind of conduct is expected of the civil services. After independence, there has been a manifold increase in the number of civil servants and the functions performed by them have become quite complex.

The civil servants perform a wide range of functions.

At senior level they render advice to the political executive and assist in policy formulation under political direction. The civil services are directly responsible for implementation of policies of the government, laws, rules, regulations and various development schemes. These cover a very wide spectrum involving regulatory, planning and development administration. The civil servants are required to adhere to the principle of natural justice and follow the rule of law. Any departure from this can lead to the intervention of judiciary. In the management of public moneys, they are required to strictly follow the rules and laid down procedures and act with integrity, prudence and diligence. One may say the accountability of civil services is not only for working efficiently to achieve targets and objectives but also for adhering to a high standard of integrity and professional conduct.

A brief examination of the term public seems to be necessary here. In he context of accountability, the term public can convey different meaning to different people. Should it mean the voters alone who elect representatives, the taxpayers, all citizens or also include all the affected groups. The present view is that all stakeholders who are affected by the policies, decisions and actions of the government should be included in the entity to whom accountability is owed. This could mean inclusion of business, industry, trade and all other affected groups along with the people. At the time of framing of policies, the political process takes care of divergence of interests of different sections and decisions are taken based on consensus, majority view or ruling party’s perception of public good. Some policy decisions evoke strong reaction from a section of public or even public at large. The civil servant is expected to implement the policy decision faithfully and should be held accountable only for that. However, this does not happen always. Usually in such cases, accountability of the civil servant is decided by the political executive or the senior levels of the hierarchy.

How is the accountability of the executive secured? In the cabinet system of government that we have, a minister is accountable to the legislature, the prime minister/chief minister and public of the country/ state, as the case may be. If he is an elected representative, he is also accountable to the public of his constituency. All decisions and actions of a minister are open to scrutiny in the legislature and information is sought by the members even outside the forum of the House. A minister has to interact with the public and media when he may be asked to explain and justify his decisions and actions. These channels of flow of information to the public are significant from the point of view of accountability.

There are several structures that secure accountability of the civil services. The civil servants are accountable to their seniors in the hierarchy and through them to the minister incharge of the department. They are also accountable to the legislature (through the minister) and its committees, judiciary and constitutional and legal

bodies. The Comptroller and Auditor General (CAG), which is a constitutional body, plays crucial role in ensuring accountability in matters involving public moneys. All government organizations have in addition internal control mechanisms to ensure accountability. The media, voluntary organizations, interest groups and public watch groups also contribute towards securing accountability of the civil services by highlighting their shortcomings.

Audit of government organizations conducted by CAG has two major objectives. It verifies that the funds voted by the legislature are utilized for the purpose for which it was meant and remained within the limits approved by the legislature. It also verifies that laid down financial rules and procedures have been followed. Sometimes, performance audit is carried out which takes into account the money spent and the actual results and outcomes to evaluate the effectiveness of implementation of policy. The audit reports of the CAG are examined by the committees of the legislature and they submit their reports to the legislature. In this way financial accountability of the executive is secured to the legislature and through it the public.

The traditional view has been that the civil services are accountable to the public through their minister and the legislature. The minister is required to explain the actions or inactions of the civil servants working in his department to the legislature. The question hour in the legislature is considered to be an extremely powerful tool to ensure accountability of the civil servants. This is what Earl Atlee, ex British prime minister had to say about the question time," I always consider that question time in the House is one of the finest examples of real democracy. One question may ask about world shaking events, while another will ask why Mrs. Smith of 5 Slum Alley, Coketown was refused public assistance, or why the Post Office at Little Peddington was closed last Friday. The effect of questions to the Minister and still more questions asked publicly in the House, is to keep the Civil Services on their toes." There can be no doubt that question hour is a very potent tool for securing accountability of civil services but at the same one has to keep in mind that not every issue can be taken up in legislature because of time constraint. The other issue is the indirectness of this process. The ability of the affected members of public to get information directly from the concerned civil servant or government organization is considered to be a better option, especially when no major issues are involved.

It is well known that the general perception of the public about the Indian civil servants is quite negative. Bureaucracy as a whole is considered to be inefficient, lethargic, rigid and excessively rule bound, unresponsive and corrupt. The situation at the state level is considered to be especially bad and it hurts the public more because it is the state administration, rather than the central, which affects the day to day life of the common man. One comes across frequently reports about custodial deaths, non registration of cases by police, children falling and dying in open manholes, scams involving civil servants even at senior levels, pilferage of public money, difficulties in getting even routine work done in government organizations and rampant corruption, especially at cutting edge level. Any number of cases involving neglect, inefficiency and corruption can be quoted here. It is not as if such lapses are one off cases, they are encountered repeatedly.

If one were to ask villagers or residents of a small town whether they are aware that the civil servants are accountable to them, the answer is likely to be no. If the same question is put to civil servants at cutting edge level, the answer is likely to be the same. A large section of our society, especially those living in villages and small

towns, still see government functionaries as representing rulers. The unhelpful attitude of the government functionaries has allowed this legacy of the past to continue to influence the thinking of this section of society.

There are several reasons why the country has not been able to secure accountability of the civil services in the real sense even after so many years of independence. India is a large country with multiparty parliamentary democracy system of government. It has a federal structure together with overlap in powers of union and the states in some areas. There is a large element of interdependence of central, state and local level public agencies in implementation of the policies and schemes. One simple example could be the schemes which are implemented by the state agency or the local body for which money is provided by the central government but routed through the state budget. The governance apparatus is performing complex functions and in most of the cases, results are linked to performance of more than one organization. This, in addition to the fact that generally the government machinery has multiplayer hierarchical structure with vaguely defined roles and responsibilities at different levels, leads to extremely diffuse responsibilities for the purpose of accountability. There are several other factors that make the issue more complex. Some of these are our complicated laws, rules, regulations procedures, illiteracy, ignorance of the common man about his rights, tolerance of corruption and inefficiency and abounding diversities. Many experts hold the view that perhaps the most important factor is the mindset of most of the civil servants that their role continues to be that of a 'regulator and authoritarian governor of archaic rules and regulations'. Unless this mindset is changed and the civil servants accept that their role is that of a public servant, there cannot be a significant improvement in the present situation.

There have been some significant changes world over in the approach towards governance which are relevant for our country. Most of the countries, if not all, are moving towards a more people friendly system of governance. Government and its agencies, except for a few necessary regulatory functions, are seen more as a facilitator and service provider than as a ruler of the bygone era. Stress is laid on qualities like transparency, accountability, efficiency, responsiveness, quick grievance redressal, consistency etc in governance. People involved in governance are expected to adhere to high ethical standards and driven solely by public good. Public is encouraged to voice its opinion and is given a legal right to access information, which is not of a sensitive nature, available with government and its agencies. The right to information enables one to ask the concerned agency directly to furnish information about any issue that is proving to be an irritant. This puts the agency on alert and it takes corrective action. Thus it is a powerful tool for securing accountability. In many countries voluntary bodies, people's watch groups, interest groups etc play an active role in securing accountability of the administration by using this right and assisting people in use of this right.

In India also several steps have been taken in the recent past that lay stress on accountability of the civil services to the public. Some of the important steps in this direction are enactment of the Right to Information Act (RTI), adoption of Citizens' Charter by government organizations, setting up of institution like Lok Ayukta in the states to look into complaints against political executive and civil servants, introduction of e-governance, giving legal status to the central vigilance body etc. At the state level, district committees having members from the public have been set up to keep an eye on the performance of the government agencies. The RTI requires that all public authorities put basic information about themselves on the internet and

furnish specific information to the public when asked to do so. The Citizens' Charter in essence sets standards for services that an organization provides to the citizens and is accompanied by the commitment of the organization to the citizens that these standards would be met. Wide publicity is given to the standards and the details of the functionaries in the organization responsible for ensuring that the standards are being met. All these steps enable the public to have a direct role in securing accountability of the civil servants. Another development which has a bearing on the accountability of the civil servants is the proliferation of the media in the country and its active role in highlighting the shortcomings of the executive.

One issue regarding right to information which is being hotly debated at present is the disclosure of information about file notings. There are very strong views for and against release of such information. One view is that anonymity of the civil servant recording his views is sacrosanct otherwise he will hesitate to put on record his views without fear or favour. In any case, all relevant information about any matter can be conveyed without disclosing the file notings. The contrary view is that there should be complete openness in governance and barring a few sensitive issues all information including file notings should be disclosed. This would make the civil servant completely objective and fair in recording his views and in any case he should not be afraid of owning responsibility for his views. From the public point of view disclosure of file notings would help in ensuring that all the information asked for is conveyed and the reasons and justifications for any action or decision are brought out. The flip side of disclosure of file notings is that it would stop the practice of some senior civil servants and even ministers overruling their juniors without assigning any plausible reason. Disclosure of file notings is a contentious issue and there is merit in arguments of both sides. The dominant view of the civil servants themselves is that under the present conditions, it would be better to err on the side of caution and file notings should not be disclosed.

It would not be wrong to say that the measures taken in the recent past had only a marginal impact on accountability of the executive. The right to information has been given to the public only recently and there are still some teething problems to be overcome. Many of the public authorities have still not created websites having basic information about themselves. There is initial reluctance to furnish information. Sometimes, significant piece of information is left out necessitating repeated request for information. More important is the fact that if the information disclosed reveals that an irregularity has been committed, there is reluctance to take corrective action. Often, people have to go to the courts to get a wrong righted. The reluctance to take corrective action or taking only half-hearted measures is against the spirit of RTI and dilutes its usefulness. It also weakens the public perception of accountability of the civil servants.

In most cases, the adoption of Citizens' Charter has made only marginal improvement in the standards of service and accountability. It has been observed that frequently the standard of services notified in the charter are either vague or ignore the issues which are most important from the point of view of the citizens. Unless the standards are precise and cover issues important to the citizens, they are not of much use. The charter should not be a onetime document but must evolve with time to help the organization in continuously improving standards of services being provided to the citizens. It has seldom been ensured that prompt corrective action is taken if any deficiency in service is brought to notice by the citizens.

Several suggestions have been made by management experts, academics, experienced civil servants and others to improve functioning of our civil services in and achieving better public accountability. Some of them, having a bearing on the accountability aspect, will be described very briefly. These are not necessarily in order of their importance. It is stated that unless the role and responsibility of every member of civil service on his job is defined precisely, performance indicators and targets laid down and monitored regularly, it would be almost impossible to judge his performance objectively and hold him accountable for poor results. It is suggested that a system which takes care of these concerns should be put in place. That this is not going to be easy in our conditions is conceded by everyone.

The recruitment and career management of civil servants have a bearing on their accountability. If a civil servant is recruited because of political patronage or of some one else or because he paid money, it is quite unlikely that accountability to public will be his first concern. A glaring example of destruction of the system of fair selection is the recent case of selection of policemen in one of the states. Unfortunately, such instances are not rare. In not too distant past, there were widespread allegations of corruption against state public service commission. Sometimes, promotions, arbitrary transfers, plum postings, vigilance enquiry and suspension are used by the political executive to bend a civil servant to its will. This obviously has an adverse impact on accountability. It has been suggested that to remove arbitrariness in such matters, an autonomous board with powers to take decision in such matters should be created.

We are still saddled with many archaic laws, rules and regulations and still following complicated procedures designed decades ago. The common man does not understand the complicated rules, regulations and procedures and this is exploited by the civil servants who operate them. If the public does not even understand these, it cannot be sure that it is not getting a fair dealing and consequently accountability of the concerned civil servants is diluted. Sometimes, old and obscure laws, which are no longer relevant and whose existence is not well known, are used to harass innocent people. It has been suggested that such laws be repealed, rules, regulations and procedures be simplified considerably and given wide publicity. This will make it possible for the public to find out if departures from prescribed rules etc are being made and hold the concerned civil servant accountable.

From the point of view of the public, an important parameter of accountability of civil servants is the response it gets when it brings to their notice issues like poor standard of service, inefficiency, harassment and corruption etc. If it gets a prompt and satisfactory response, its belief in their accountability gets strengthened. Unfortunately, this happens rarely. At times, there are genuine reasons for an issue raised by public not being resolved early but it should always be possible to give a reasonable and plausible explanation for this. The public is forced to go to the judiciary to get issues resolved. A good executive is expected to act as the ‘court of first justice’ and take care of most of the public grievances. This does not happen now and it is no wonder that executive is involved in large number of court cases. The present system of assessing the performance of civil servant has a component for assessing his responsiveness to the public grievances, but it is the subjective assessment of his senior. It has been suggested that for civil servants who have public dealings, an independent agency should make an objective assessment of this aspect and this should form a part of overall assessment.

Audit conducted by CAG is based on the documents produced by the government organization under audit. The efficacy of audit depends upon the genuineness of the documents. It is not very uncommon that documents are manipulated or fabricated. This is a major problem in schemes in which money is given to beneficiaries, especially to those who live in rural areas. In this context, social audit becomes useful. Social audit is basically independent verification of expenditure by a non-government body. According to a recent newspaper report, the concept of social audit of National Rural Employment Guarantee scheme was carried out in Andhra Pradesh and it yielded dramatic results. The social audit was conducted by NGO in presence of potential beneficiaries. Account books and ledgers were opened publicly and verification of beneficiaries was made. This not only helped in recovering money from many persons who were not eligible to get it but also ensured that officials responsible for this were held accountable. There is a view that social audit be made mandatory for all welfare schemes.

A recent development is the growing concern about environment, ecology and depleting natural resources. The worsening situation has been highlighted at global level time and again. The deteriorating situation has major implications for the public at large. Some experts are of the view that the civil services should be made accountable for preservation and conservation of these vital things. How accountability can be secured in these areas and whether only civil services should be held accountable are debatable issues. Policies adopted at global level are certainly going to play a vital role and the role of he civil services will have to be seen in that context.

There can hardly be any difference of opinion on the issue that civil servants have to change their mindset. The civil services do not represent a ruler. The present role of the civil servant is more of a facilitator and service provider than an authoritarian representative of absolute power. There is a need to reorient his thinking through training and education. Is there any easy solution to this problem or is this problem deep rooted? A few decades ago B.K. Nehru, a distinguished and respected civil servant, had made an interesting observation. According to him the concept of rule of law was absent from the native Indian political thought. The Indian tradition has been that the ruler is all-powerful; his will is law and the exercise of his power absolute and direct. One may or may not agree with his views but the fact remains that at the state level the political executive and even the civil servants are flooded with unreasonable requests. Sometimes the rules are flouted or bent to appease an individual, a section or for personal gains. Evidently, the civil servants who take the executive action will have scant regard for public accountability. It is necessary that everyone should realise the importance of rule of law.

Finally, in what direction the civil services are expected to move from the present situation? We are living in an era of globalisation. The easy access to the immense wealth of information, news, views and ideas at global level through the internet and media has made boundaries more or less irrelevant. The people friendly system of governance, with emphasis on accountability of the executive, adopted by many countries has already found acceptance in our country. It is necessary that decisions taken already are implemented properly. Some of the concerns mentioned earlier about bringing objectivity in the system of management of career, performance appraisal and accountability of a civil servant are going to be dealt with in the proposed Public Services Bill. As the country makes economic progress, reduces illiteracy and ignorance, more and more people will become aware of their rights and

start asserting them. The recent developments in information technology make it possible to enlarge tremendously the public domain of government related information including decision making process, rules, regulations, standards of service and the fate of an application made by a citizen. One can imagine the impact on accountability of civil services if the all the legitimate information which a citizen can ask for is available to him through the internet. The civil services have to be ready to meet the future challenges to become truly accountable to the public.

OVERVIEW OF THE CAG'S REPORT ON UNION GOVERNMENT ACCOUNTS – 2006-07

Satish Sethi*

The Report of the Comptroller and Auditor General of India on the Accounts of the Union Government of India for the year 2006-07 includes matters arising from test audit of the Finance Accounts and Appropriation Accounts (Civil, Postal and Defence Services excluding Railways) of the Union Government. The CAG's reports on the accounts of the Union Government of India were earlier presented to the Parliament in the budget session. This is for the first time that this report has been presented to the Parliament in winter session so as to provide an opportunity to the Government to review its past fiscal performance and budgetary assumptions while formulating the next budget.

This article, a brief summary of the report, provides a broad perspective of the finances of the Union Government during 2006-07 and analyses critical changes in the major fiscal aggregates during the period 1992-2007 encompassing VIII, IX and X Plan periods.

Table below summarises the position of the finances of the Union Government, covering its receipts, disbursements, deficits and borrowings in the current year (2006-07).

Table 1: Summary of the current year's operation

(Rupees in crore)

Receipts		Derived Parameters	Disbursements	
Consolidated Fund of India (CFI)				
Revenue Receipt	525393	**Revenue Deficit** 132847	Revenue Expenditure	658240
Misc. Capital Receipts	534		Capital Expenditure	59293
Recovery of Loans	18691		Loans and Advances	10019
Total Non-Debt Receipts	544618	**Fiscal Deficit** 182934	Total Expenditure	727552
Public Debt	1644628		Public Debt	1480938
Total CFI	2189246	**Deficit in CFI** 19244	Total CFI	2208490
Contingency Fund				
Receipts	0		Appropriation	0
Public Accounts				
Small savings	309269		Small savings	277102
Reserves & Sinking Fund	58483		Reserves & Sinking Fund	46774
Deposits	52041		Deposits	41817
Advances	29116		Advances	29155
Suspense account	5238		Suspense account	8784
Remittances	872		Remittances	2748

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Receipts		Derived Parameters	Disbursements	
Total Public Account	455019	**Surplus in Public Account** 48639	Total Public Account	406380
Opening Cash	65488	**Increase in Cash** 29395	Closing Cash	94883

The year 2006-07 ended with a deficit of Rs. 19244 crore in the Consolidated Fund of India which was Rs. 1020 crore more as compared to the deficit of the previous year. The surplus in Public Account increased from Rs. 3514 crore in 2005-06 to Rs. 48639 crore during the year. These fiscal developments in Union Finances were mainly on account of (a) an increase of Rs. 118303 crore in total expenditure (19.42 *per cent*) as against an increase of Rs. 100296 crore in non debt receipts (22.57 *per cent*) during 2006-07 over the previous year; (b) net increase of Rs. 16537 crore in public debt receipts over the previous year, (c) increase of Rs. 17993 crore in receipts under small savings in 2006-07 over the previous year and a decline of Rs. 1841 crore in their disbursements during the year, and (d) decline of Rs. 23301 crore in disbursements as well as of Rs. 1314 crore in receipts under suspense account in 2006-07 over the previous year. A surplus of Rs. 48639 crore in public account after meeting the deficit in CFI resulted in an increase of Rs. 29395 crore in the cash balances of the Union at the end of the financial year 2006-07. Although revenue deficit has increased by Rs. 23150 crore in 2006-07 over the previous year but due to an improvement of Rs. 6890 crore in recovery of loans against a decline of Rs. 2474 crore in their disbursements and increase in capital expenditure by Rs. 3174 crore, increase in fiscal deficit over the previous year aggregated to Rs. 18007 crore. Fresh liabilities, which are accommodative flows for meeting this resource gap, however, exceeded the fiscal deficit in CFI and resulted in accretion to cash balances by Rs. 29395 crore at the end of current year.

Resources of the Union Government

Revenue and capital are the two streams of receipts that constitute resources of the Union Government. Revenue receipts consist of tax revenue, non-tax revenue, grants-in-aid and contributions. Capital receipts have two components – (a) the debt receipts, which create future repayment obligations and (b) the miscellaneous capital receipts, which constitute proceeds from disinvestment and recoveries of loans and advances, leading to reduction in the actual or potential assets base. Table below presents a summary of the total resources of the Union Government, which amounted to Rs. 28,30,083 crore for the year 2006-07. Non-debt receipts at Rs. 6,64,948 crore constituted around 24 *per cent* of the total receipts.

Table 2: Resources of the Union Government

(Rupees in crore)

I	Revenue Receipts			6,45,723
	a.	Tax revenue	4,73,512	
	b.	Non-Tax revenue	1,72,211	
II	Capital receipts			16,63,853
	a.	Miscellaneous Receipts	534	
	b.	Recovery of Loans and Advances	18,691	
	c.	Debt receipts	16,44,628	

III	Public Account Receipts		4,55,019
IV	Contingency Fund		0
Total Receipts			27,64,595
Opening Cash Balances			65,488
Total Availability of Resources			28,30,083

Note: (1) Revenue receipts include Rs.1,20,330 crore being the share of taxes and duties assigned to the States and not reflected in the Union Government's Finance Accounts.
(2) Revenue Receipts include receipts from Railways, Posts and Departmental Undertakings.

Major Taxes: Relative performance

The relative performance of different taxes changed significantly over the years (Table 3) with corporation tax recording highest trend growth of 20.41 *per cent* during 1992-2007.

Table 3: Components of Tax Revenue

(per cent)

Period	Gross Tax Revenue	Corpo-ration Tax	Income Tax	Customs Duties	Excise Duties	Service Tax	Others
1992-2007	100.00	22.31	15.31	22.91	33.82	3.44	2.21
VIII Plan (1992-1997)	**100.00**	**14.05**	**13.03**	**31.36**	**38.34**	**0.48**	**2.73**
IX Plan (1997-2002)	**100.00**	**17.77**	**15.26**	**26.14**	**36.63**	**1.40**	**2.80**
X Plan (2002-07)	**100.00**	**27.12**	**16.01**	**18.73**	**31.02**	**5.38**	**1.75**
2002-03	100.00	21.35	17.05	20.74	38.06	1.91	0.90
2003-04	100.00	24.99	16.27	19.12	35.69	3.10	0.83
2004-05	100.00	27.11	16.16	18.89	32.50	4.66	0.68
2005-06	100.00	27.66	15.29	17.77	30.38	6.30	2.61
2006-07	100.00	30.48	15.86	18.23	24.84	7.94	2.65
Average Annual Rate of Growth (*per cent*)							
1992-2007	12.95	20.41	15.94	7.73	10.49	*	4.46
VIII Plan (1992-97)	**15.89**	**21.71**	**24.72**	**18.00**	**10.45**	*****	**-2.50**
IX Plan (1997-02)	**9.00**	**17.15**	**18.58**	**1.61**	**11.41**	**19.19**	**-30.18**
X Plan (2002-07)	**21.31**	**31.59**	**18.83**	**17.36**	**9.60**	**73.21**	**68.93**
2002-03	15.61	26.12	15.19	11.38	13.44	24.83	-16.28
2003-04	17.61	37.66	12.26	8.42	10.28	91.44	8.28
2004-05	19.90	30.08	19.04	18.47	9.20	79.95	-1.47
2005-06	20.07	22.49	13.63	12.94	12.21	62.36	360.03
2006-07	29.32	42.50	34.13	32.67	5.74	63.08	31.67

** Service Tax was introduced in 1994-95*

In 2006-07, while the gross collections from income tax and custom duties grew by 34.13 *per cent* and 32.67 *per cent*, respectively, against an increase of 29.32 *per cent* for the gross collections, the collections from the corporation and service tax increased significantly by 42.5 *per cent* and 63.08 *per cent*, respectively. Increase in service tax was both due to change in the rates as also the increase in the coverage of services. A comprehensive rationalisation of direct tax structure was undertaken in 2005-06 in the form of downward adjustment of tax slabs and lowering of rates and these adjustments were complemented by appropriate base enhancing measures which included introduction of new taxes, reduction of depreciation rates and removal of certain tax concessions. Indirect tax reforms focused on moving towards ASEAN levels for custom tariffs and CENVAT rate for excise duties. Further, a number of

initiatives were also taken during the year to strengthen the effectiveness of the tax administration along with rationalisation of the tax structure. As a result of these measures, collections under income tax, customs and excise duties recorded absolute increases during 2006-07 over the previous year but deceleration in the rate of growth of excise duties was observed partly on account of rationalisation of their rate structure and partly due to their relatively higher bases in the previous year. A significant increase under the head 'others' is mainly on account of the buoyant growth displayed in collections under fringe benefit tax, securities transaction tax and banking cash transaction tax which form part of the direct taxes in the budget estimates and reflected under the head 'other taxes'. The tax-GDP ratio indicated an upturn especially since 2002-03 and exceeded 10 *per cent* after 2005-06.

Non-Tax Revenue: Relative performance

Non-tax revenues of government could be considered as being composed of two components: (a) income from its sovereign functions like judiciary, police, currency, coinage, etc., and (b) income arising from its assets/investments either as intermediation returns or dividends or user charges such as Railways, Posts and Departmental Undertakings. Relative shares of the various components of non-tax revenue witnessed significant changes during 1992-2007 (Table 4). Notwithstanding inter year variations and a moderate growth in the last two years, the share of dividend and profits increased from an average of 8 *per cent* during the VIII plan (1992-1997) to around 17 *per cent* during 2006-07. The share of interest receipts has consistently declined during X Plan (2002-07) from 32 *per cent* in 2002-03 to 15.42 *per cent* in 2006-07. Moderation in interest rates on loans advanced and debt swap have contributed to this deceleration during the last three years. Overall contribution of the economic services in non-tax revenue increased from 43 per cent in the year 2002-03 to 58 per cent during 2006-07.

Table 4: Relative share of the components of non-tax revenue

(per cent)

Period	Total Non-Tax Revenue	Interest Receipts	Dividends and Profits	Social Services	Economic Services	Sovereign and Other Functions
1992-2007	100.00	26.62	12.22	0.56	51.63	8.97
VIII Plan (1992-97)	**100.00**	**27.32**	**8.09**	**0.99**	**53.86**	**9.75**
IX Plan (1997-02)	**100.00**	**29.78**	**9.97**	**0.49**	**51.98**	**7.78**
X Plan (2002-07)	**100.00**	**23.98**	**15.55**	**0.44**	**50.48**	**9.54**
2002-03	100.00	32.00	15.20	0.30	43.43	9.06
2003-04	100.00	30.99	14.06	0.30	45.28	9.37
2004-05	100.00	24.19	15.24	0.30	50.22	10.04
2005-06	100.00	19.35	15.99	1.03	53.33	10.30
2006-07	100.00	15.42	17.02	0.27	58.34	8.95

Application of Resources

The Union Government raises resources to perform its sovereign functions, maintain its existing network of delivery of social and economic services, extend the network of these services through capital expenditure and investments and discharge its debt servicing obligations. The government applied total resources of Rs. 2,830,083 crore that it mobilised during 2006-07 to disbursements as shown in Table below:

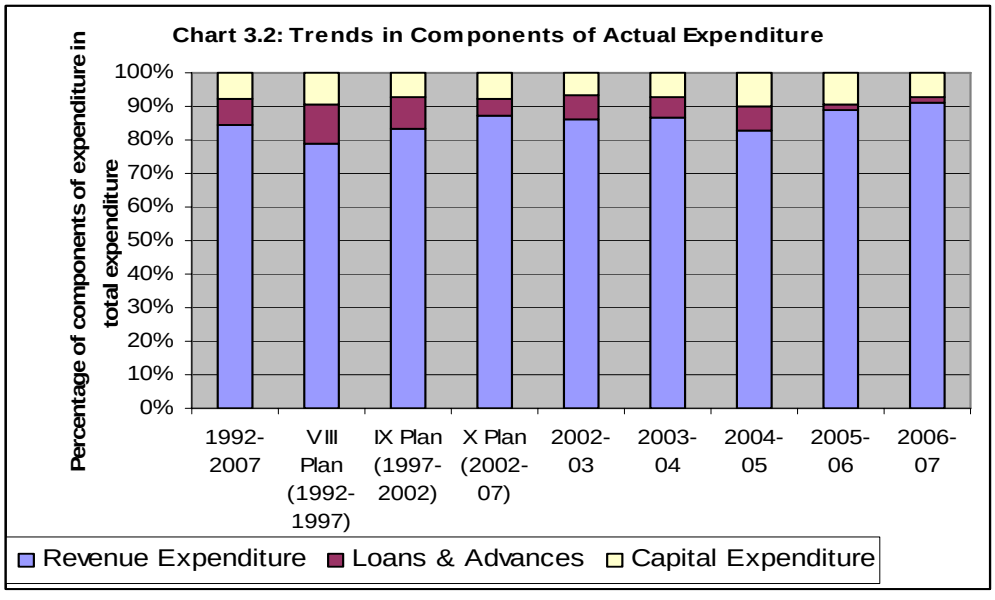
Table 5: Application of Resources

(Rupees in crore)

I	Resources available				2,830,083
II	Application of Resources				2,735,200
	a.	**Repayment of Debt**		1,480,938	
		Internal Debt	1,473,053		
		External Debt	7,885		
	b.	**Discharge of liabilities on Public Account**		406,380	
		Small Savings and Provident Fund	277,102		
		Reserve Fund	46,774		
		Deposits and Advances	70,972		
		Others	11,532		
	c.	**Actual Expenditure**		727,552	
		Revenue Expenditure	658,240		
		Capital Expenditure	59,293		
		Loans and Advances	10,019		
	d.	**Share of the States in taxes**		120,330	
	3	Appropriation to Contingency Fund		-	-
III	Closing Cash Balances				94,883

The repayments of debt and discharge of public account liabilities (Rs. 1887,318 crore), interest payments (Rs. 154,280 crore), assignment of mandated portion of its gross tax receipts to States (Rs. 120,330 crore) and grants-in-aid to states (Rs. 88,871 crore) took away nearly 80 *per cent* of its total resources. Government spent about 20 *per cent* of its gross mobilisation on its current activities.

Chart below presents the trend in components of actual expenditure of the Union government (excluding repayment of debt and disbursement from public account, which are discussed separately).



Revenue expenditure continued to be the dominant component of the total expenditure and its share increased consistently from an average of 78.88 *per cent* during the VIII Plan to 83.61 *per cent* in IX Plan (1997-2002) and further to an

average of 87.27 *per cent* during the X Plan (2002-07) after reaching the peak level of 90.47 *per cent* during the current year. A significant part of revenue expenditure is mostly committed, i.e. that part of the expenditure over which the Government has very little discretion. Interest payments, subsidies, pensions, salary & wages and most of the grants-in-aid to States/Union Territories fall in this category.

Against these trends in revenue expenditure, relative share of capital expenditure and loans and advances declined from an average of 21.12 *per cent* during the VIII Plan to an average of 13 *per cent* during the X Plan (2002-07) with lowest share at 9.53 *per cent* during the current year. The steep decline in the Loans and Advances during 2005-06 and 2006-07 was on account of acceptance of Twelfth Finance Commission recommendation regarding disintermediation of Central Government in borrowings by State Governments to finance their State Plans. The share of plan expenditure in total expenditure was 25.57 *per cent* during the year 2006-07. Buoyancy of capital expenditure with GDP and revenue receipt has been around 0.7 during 1992-2007 as against the buoyancy of close to one for revenue expenditure.

In terms of activities, overall expenditure of the Government is composed of general services, social services and economic services. The overall expenditure on social and economic services has increased at the long term rate of growth of 16.70 and 10.58 *per cent* respectively during 1992-2007. Expenditure on social and economic services was buoyant particularly during the X Plan (2002-07) period. The trends in pattern of Union Government's expenditure during the X Plan period reveal increased spending on areas such as rural employment, education, health and drinking water supply and sanitation. Besides, expenditure on infrastructure facilities like rural roads, housing and rural electrification have also gone up during the last few years.

Management of subsidies: Explicit subsidies

Table below presents a picture of the subsidies, which the government provided explicitly during the VIII, IX and X Plans on major items.

Table 6: Explicit Subsidies in the Union Government Budget

(Rupees in crore)

Period	Food	Fertilizers@	Fertilizers#	Petroleum Subsidy	Others*	Total subsidies	Subsidies (A)	Subsidies (B)
Average Annual Values								
VIII Plan (1992-97)	4976	6088	-	-	2405	13469	1.30	8.39
IX Plan (1997-02)	11199	11376	-	-	3516	26091	1.36	8.33
X Plan (2002-07)	23941	11017	5717	3983	2223	46881	1.46	9.36
2002-03	24176	7790	3225	5225	3592	44008	1.78	10.74
2003-04	25160	8521	3326	6292	1669	44968	1.63	10.22
2004-05	23280	10985	5142	2956	1976	44339	1.43	9.73
2005-06	23077	11863	6596	2683**	849	45068	1.28	8.34
2006-07	24014	15924	10298	2699**	4894	57829	1.40	8.79

@ Indicates the subsidies given on indigenous and imported fertilisers (Urea)
 # Indicates subsidies given as concession to farmers on the sale of decontrolled fertilisers.
** Others include Interest subsidy, grants given to NAFED, compensation for exchange loss, subsidy for Haj Charters etc,*
***Does not include petroleum bonds for Rs. 17263 crore and Rs. 24122 crore issued during 2005-06 and 2006-07 respectively to Oil Companies in settlement of their claims under Administered Price Mechanism and towards compensation for under recoveries on account of sale of sensitive petroleum products*
(A) As a percentage of GDP (B) As a percentage of Revenue Expenditure

It is evident that food subsidy constitutes the dominant share varying from an average of 37 *per cent* during the VIII Plan to 51 *per cent* during X Plan in total expenditure on subsidies. This component of subsidies also constituted 3.65 *per cent* of Central Government's revenue expenditure during the current year. The food subsidy during the current year increased marginally to Rs. 24014 crore and it exceeded the level of Rs. 22000 crore per year recommended by TFC. The subsidies on food and fertilizers together constituted nearly 87 *per cent* of total expenditure on subsidies during the current year. The total subsidy expenditure during the current year at Rs. 57,829 crore is much above the level of Rs. 37343 crore recommended by the TFC for the year. As the medium term outlook does not appear to favour a severe compression in expenditure on subsidies, efforts need to be made for better targeting of all the subsidies.

Deficits: Management of fiscal imbalances

Revenue and fiscal deficits measured relative to GDP indicate the extent of overall fiscal imbalances in the Finances of the Union or State Government during a specified period. In relation to GDP, revenue deficit increased from the lowest level of 2.52 per cent in 2004-05 to 3.22 per cent during the current year while fiscal deficit increased from its lowest level of 2.93 per cent in 2003-04 to 4.43 per cent in 2006-07. Revenue deficit continued to be the dominant component of fiscal deficit, accounting for 66.86 per cent of it during 1992-2007. The proportion of revenue deficit in overall fiscal deficit increased from an average of 46.26 per cent during the VIII Plan (1992-1997) to an average 79.74 per cent during the X Plan (2002-07). The proportion of revenue deficit in overall fiscal deficit was 72.62 per cent during the year 2006-07.

Actual Deficits vis-à-vis Targets/Requirements of FRBM Act/Rules

The FRBM Act 2003 came into effect from July 2004 following the issue of Government notification and formulation of FRBM Rules 2004. Section 4(1) of Fiscal Responsibility and Budget Management (FRBM) Act 2003, as amended, provides that the Union Government shall take appropriate measures to reduce fiscal deficit and revenue deficit so as to eliminate revenue deficit by 31 March 2009. The *Act* and the *Rules*, as these presently stand, have provided for the elimination of the revenue deficit by 2008-09, with 0.5 percentage point of GDP as the minimum annual reduction target, and fiscal deficit to be brought to the level of 3 percent of GDP, with 0.3 percentage point of GDP, as the minimum annual reduction target.

Along with the Budget, and as required under the FRBM Act, the Central government has been laying from 2004-05, *inter alia* the Medium-term Fiscal Policy Statement (MTFPS), specifying 3-year rolling targets for revenue and fiscal deficits as well as for tax revenue and total outstanding liabilities of the Central Government as percentages of GDP. These have been derived on the basis of assumptions on growth and the policy stance of the government. The targets for revenue and fiscal deficits set for 2006-07 in MTFP Statements for 2004-05, 2005-06 and 2006-07 along with their actual levels as brought out in Union Finance Accounts for 2006-07 are given in Table below

Table 7: Outcome vis-à-vis Targets under FRBM Rules (As *per cent* of GDP)

Fiscal Indicator	Targets set in MTFPS 2004-05 for the year 2006-07	Targets set in MTFPS 2005-06 for the year 2006-07	Targets set in MTFPS 2006-07	Actual Levels (As deduced from Finance Accounts 2006-07)	Deviation with BE 2006-07
Revenue Deficit	1.1	2.0	2.1	3.22	1.12
Fiscal deficit	3.6	3.8	3.8	4.43	0.63

The above table shows that the actual levels of revenue and fiscal deficits as per Union Finance Accounts for 2006-07 were significantly higher than their budget estimates respectively by 1.12 and 0.63 percentage points. Despite the impressive performance on revenue collection front, all the three performance benchmarks prescribed by FRBM Rules, namely non-debt receipts, revenue and fiscal deficits were short of the targets during the current year.

Buoyant economic growth although might contribute towards augmentation of revenues and also help indirectly in meeting the revenue and fiscal targets specified as a proportion of GDP but persistent high levels of fiscal deficits with predominant share of revenue deficits normally tend to cause sharp increases in debt-GDP ratio and might adversely affect the savings and investment, consequently growth. Adhering to the FRBM targets in respect to revenue and fiscal deficits is therefore considered to be critical for macroeconomic, financial, external sector and budgetary sustainability. Furthermore, as use of borrowed funds for meeting the current expenditure requirements has resulted in widening of asset-liability mismatches over the years, it is essential to eliminate the revenue deficit and generate sufficient revenue surplus which may be utilized for asset creation without creating liabilities. Any slippage in achieving the FRBM targets now could erode the gains already achieved.

Fiscal Liabilities

Government incurs fiscal liabilities (constitute internal & external debt and public account liabilities) to meet its resource requirements for repayment of debt; discharge of liabilities on the public account; capital expenditure and such other current expenditure requirements that may remain uncovered by revenue and non-debt capital receipts. The peak aggregate fiscal liabilities-GDP ratio at 65.43 per cent during 1991-92 decelerated to an average of 60.72 per cent during the VIII Plan (1992-1997) and further to an average of 57.25 per cent during the X Plan (2002-07) with inter year variations. The long-term tendency of the ratio of fiscal liabilities to GDP, therefore, exhibited stability but the share of its components varied over time with share of internal debt indicating increasing trend over the period. Internal debt was not only the most predominant component of the aggregate liabilities, accounting for around 70.71 per cent of them in 2006-07, but was also the fastest growing component with its growth averaging 16.74 per cent during 1992-2007. Public account liabilities had grown at an average rate of growth 5.44 per cent during 1992-2007. These two components, which in terms of their origin are domestic liabilities, constituted 90.79 per cent of the aggregate liabilities in 2006-07.

Fiscal liabilities are considered sustainable if the government is able to service the stock of these liabilities over the foreseeable future and the debt-GDP ratio does not grow to unmanageable proportions. Despite the relatively higher levels of debt-GDP

ratio, the ratio of incremental total liabilities (including external debt at current exchange rate) at 5.23 per cent in 2004-05, 4.08 per cent in 2005-06 and 5.24 per cent in 2006-07 was well within the ceiling limit as prescribed under FRBM Rules.

In the context of fiscal sustainability, TFC felt that the issue of debt sustainability also needs to be viewed for combinations of debt and fiscal deficit as debt would become unsustainable, if fiscal deficits follow a course that leads to a self-perpetuating rise in the debt-GDP ratio. A sustainable debt-deficit combination would be stable in terms of debt- GDP ratio and fiscal-deficit GDP ratio consistent with the permissible levels of primary expenditure. The issue, therefore, involved is one of determining that level of fiscal deficit, which will stabilize the debt-GDP ratio and, at the same time, can promote growth. The FRBM Act enacted by the Central Government, read with its rules and subsequent amendment, specifies the target for achieving a fiscal deficit to GDP ratio of 3 *per cent* by the Central Government by 2008-09. Given this fiscal deficit target, for a combination of 12 *per cent* nominal growth rate and 7 *per cent* interest rate, Twelfth Finance Commission in the suggested programme for restructuring public finances has recommended that the primary deficit should be equal to 1.25 *per cent* of GDP. TFC has further estimated that once the adjustment phase is over and the fiscal deficit of the Centre being contained at 3 *per cent*, the debt-GDP ratio of the Union would stabilize at 44 *per cent* of GDP by 2008-09.

At present the Union's debt-GDP ratio is close to 53 *per cent*, with external debt measured at current exchange rates. The trends in fiscal deficit to GDP ratio during the X Plan period (2002-07) so far revealed that after exhibiting a steep decline in 2003-04 to 2.93 *per cent*, it has indicated an increasing tendency during the subsequent three years. Similarly, revenue deficit to GDP ratio, after reaching the minimum level of 2.52 *per cent* during 2004-05, it has increased to 3.22 *per cent* in the current year. The movement in revenue and fiscal deficits relative to GDP do not seem to be on the path anticipated by the TFC to stabilise the debt-GDP ratio at the targeted level by 2008-09.

Conclusion

An overview of the finances of the Union Government for the year 2006-07 revealed that deficit in the Consolidated Fund of India (CFI) has increased marginally while the surplus in Public Account indicated a significant increase relative to the previous year. While impact of prudent fiscal policy was evident on revenue receipts, increased spending on social sectors resulted in increased revenue expenditure. Analysis of trends in government expenditure revealed that non plan expenditure far outweighs the plan expenditure and revenue expenditure completely overshadows capital expenditure. The revenue deficit and fiscal deficit relative to GDP continued to be 3.22 and 4.43 *per cent* respectively during 2006-07, indicating that fiscal imbalances not only continued to be persistent but also remained significant in volume. In the wake of higher fiscal devolution to States as recommended by Twelfth Finance Commission (TFC) and higher spending on social sectors, these trends indicated a slowdown of the envisaged fiscal corrections in terms of targets prescribed under the FRBM Rules, 2004. The negative spread in the growth of resource availability and assets formation resulted in progressive decline in assets base of the Union government relative to its liabilities.

Review Article:

RE-ENGINEERING INDIAN AUDIT

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The year of 2007 witnessed the launch of an inspired work, on a subject which is of crucial importance for the quality of governance. The subject was Public Audit and the author Dr. B.P. Mathur, a former Chairman of the Audit Board and Deputy Comptroller and Auditor General. It is an exhaustive work, indeed very different from whatever has been written so far on the Public Audit in India. After presenting his diagnosis of the ills afflicting the Indian Audit, the author has also presented the remedies, which in his view are capable of rejuvenating this ailing organization. The book, by the very nature of its contents has attracted the attention of all those interested in Public Audit and deserves serious discussion by all those who are interested in the wider issues of Public Audit and Accountability.

The Book

But first about the book, which is titled as "Government Accountability and Public Audit – Re-engineering Comptroller and Auditor General of India." It is presented in two parts. Part I contains sixteen chapters, each dealing with a different aspect of the theme of this book, i.e. Re-engineering the CAG of India. Part II contains twelve articles written by the author and published at different times in different books and publications. These have also been neatly divided in three parts: (a) CAG and Parliament Interface, (b) Some general issues of topical interest pertaining to CAG's organization and (c) CAG's Audit in Public Enterprises.

The punch is obviously concentrated in Part I which really focuses on the central theme and forcefully argues out the solutions. It presents the arguments in a lucid style, making it quite readable and absorbing. Each chapter opens with a quotation either from the ancient works or from a well-known work on Audit or from the authoritative text like the Constitution of India. The quotations have been carefully selected to express the spirit of the arguments contained in the chapter. Each chapter takes up a specific aspect and has been kept as brief as possible without sacrificing the essence of facts sought to be presented or the arguments sought to be advanced. The author also gives a solution to the problem discussed in each chapter and concludes his arguments at the end of the chapter. This makes each chapter almost self-contained on that particular aspect.

To quote the author himself, "the book deals with various critical issues relating to public audit and gives an action plan for reforming the institution of the Comptroller and Auditor General and Parliament's Public Accounts Committee." The contents seem to be flowing smoothly and after devoting initial chapters on narrating the brief and essential facts about the CAG's organization, the author points out the anachronisms in the existing structure, concluding that 'the Audit department today needs major restructuring to improve its efficiency, if it has to truly become the

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guardian of our national finances'. Then comes the issues relating to audit processes – the regularity audit, quality of audit and evasion of audit by the Executive. This is followed by chapters on organisational matters like centralised structure, nature of decision making, appointment of CAG and personnel management. Separate chapters are also devoted to independence of Audit and accountability and external audit of CAG's organization. The last two chapters are devoted to CAG's relationship with Parliament as well as the working of the Public Accounts Committee. As mentioned earlier the author is not content with merely narrating the position as is obtained on these issues, he has made a critical study and also suggested remedies. All these suggestions have been neatly and helpfully summed up by the author in the last chapter under a separate section called 'An Agenda for Reform'.

As we have seen, Part II of this book deals with various articles published by the author in the recent years. They were quite topical when published and were also discussed at that time. We shall therefore focus our discussion on the author's conclusion in Part I of the book, which is self contained.

The Agenda for Reforms

The author's Agenda for Reforms can be briefly summed up as follows, largely in his own words:

(1) Senior Officers of the Audit department should be entrusted with legal power to surcharge and recover money, if it is found that a public official has caused loss of State money or property through fraud, negligence, improper or unauthorized use.

(2) Autonomy needs to be given to the State Accountant-General through suitable legal enactment, so that he can effectively discharge his functions and be responsible to the State Public Accounts Committee.

(3) The office of CAG needs to be restructured and broad-based by creating a multi-member Audit Commission.

(4) The appointment of the CAG should be made on the basis of recommendations of a high level independent committee.

(5) A legal provision needs to be made that all bodies which are publicly funded will automatically fall within the ambit of CAG's audit jurisdiction.

(6) There is need for creating separate authority for audit of Panchayats and Municipalities in each State through a central legislation, on the UK pattern, with provision that they will work under technical guidance of State Accountant General/ CAG.

(7) The office of CAG should be converted into a lean, thin, professional outfit.

(8) The office of CAG should revamp its style of work and adopt a systems approach to audit and devote its attention to policy issues, staying clear of trifles. It should become an instrument of improving the management of government.

(9) There is need for an external audit of the office of the CAG on the UK pattern.

(10) The office of the CAG should be treated as part of the legislative wing of the government and should be actively supported by Parliament.

We find that various reform measures suggested by the author can be broadly grouped into those dealing with the following three categories:

(a) Constitutional position of the CAG

(b) CAG's organization and

(c) CAG's audit jurisdiction.

We shall discuss these proposals with a view to analyse their implications and also to assess as to how far they can be implemented in practice.

Changes in CAG's constitutional position

There are three suggestions indicting the changes in the existing position of the CAG. First that he should be replaced by an Audit Commission, the second that his appointment should be made on the recommendations of a high level independent committee and third that his office should be treated as part of the legislative wing of the Government and should be actively supported by the Parliament.

Of these, the first will require amendment of the existing provisions of the Constitution and will require wide national debate, since it will be a far reaching change. The Constitution Review Committee had an occasion in the recent past to examine this issue and therefore it will be quite some time before it can be reopened. It may also be argued that when the existing arrangement is to be given up, then all other possibilities should deserve equal consideration. Therefore this is not a reform measure that can be given effect in near future. The author seems to have reckoned this possibility, as we find from his next suggestion.

This second suggestion that the CAG should be appointed on the basis of the recommendations of a high level independent committee is unexceptionable. By the very nature of functions entrusted to him, the CAG's role is not only very crucial and professional in nature, but also critical of the Executive's actions. It is therefore highly desirable that there is a total transparency in the process leading to his appointment. In fact it is absolutely necessary that suitable provisions to this effect must be incorporated in CAG's (Duties, Powers and Conditions of Service) Act to ensure this transparency. Even in the U.K. where the conventions are strongly respected, it has been considered necessary to lay down the procedure in S.1(1) of the National Audit Act, 1983. This suggestion therefore needs urgent consideration and action.

The third suggestion, however, needs some discussion. This suggestion stems from the author's discussion in Chapter 14: Comptroller and Auditor general and Parliament Relationship. Arguing that parliamentary support is absolutely necessary for the effectiveness of Audit, the author concludes in this chapter that "The Indian Parliament should formally recognize CAG as part of its legislative wing and give the institution full backing and support so that it is able to effectively discharge its responsibility of holding the government to account on its behalf." Before we discuss the implications, let us be clear as to what it means. Taking into account the author's

conclusion in chapter 14 of the book, this suggestion would mean that CAG should be a part of the legislative wing, an officer of Parliament like his counterpart in the U.K. The CAG and his organization would work to assist Parliament to enforce the accountability of the Executive Government.

First of all in India it will require a constitutional amendment, since the Constitution envisages CAG as an independent functionary. He does not figure under Chapter III of Part V of the Constitution of India dealing with the Union Legislature, but in an independent Chapter V at the end of Part V, i.e. the Government of the Union. There is an obvious logic behind this arrangement. India is a Union of States and save in the exceptional circumstances, both the Union as well as State Governments exercise powers independently of each other as envisaged in the Constitution and are accountable only to their respective legislatures. This being the position, it will not be proper to place a crucial functionary like CAG exclusively as a part of Union Legislature, robbing him off his impartiality, if not his independence altogether. It would certainly not be in harmony with the federal spirit envisaged in the Constitution. In UK, the CAG is an officer of the Parliament, but he has no jurisdiction (not even of giving advice or guidance) over the Auditors General of Scotland and Wales, who only deal with their respective legislatures.

The present position is that the CAG is an independent authority, independent even of Parliament, and audits under the Constitution, not as an officer of Parliament. This arrangement ensures his impartiality in his dealing with the States. I still remember that when the early All-India Reviews for the Audit Reports were taken up in the year 1973-74, the then CAG Mr. Baksi was at pains to emphasise to his officers that "we are not the agents of the Central Government" and he did not want the State Governments to get such an impression. Under the Indian conditions, working as an officer of Parliament could also strain CAG's professional independence. The possibility of audit investigations being directed in the area of political interest can not altogether be ruled out. This will certainly change the present public image of the CAG being the only functionary, apart from the courts, who was truly independent of any political influence.

It is true that in the UK the CAG is an officer of Parliament. A factual inaccuracy, which has crept in the book needs to be pointed out here. It has been stated on page 184 of the book that "C&AG in UK has been made a member of the House of Commons by inserting a new provision in the Audit Act in 1983". This is not true, since S.1 (2) of the National Audit Act, 1983 states that "The Comptroller and Auditor general shall by virtue of his office be an officer of the House of Commons." This also has to be viewed in the light of the overall arrangement for audit of public accounts in UK. Part I of the Audit Act enumerates National Audit Authorities. These are CAG and the Public Accounts Commission. The latter consists of Chairman of the PAC, leader of the House of Commons and seven members of the House of Commons. According to provisions of S.4 of the Act the Commission appoints an Accounting Officer for the NAO and also an Auditor to audit the Accounts. So it has some kind of oversight jurisdiction over the NAO, although CAG is functionally independent. While S.6 (1) of the Act empowers the CAG to carry out examinations into the economy, efficiency and effectiveness, S.6 (2) immediately adds that "subsection (1) shall not be construed as entitling the CAG to question the merits of the policy objectives of any department, authority or body in respect of which an examination is carried out". And as we all know, in the course of examinations, CAG

appears as a witness before the PAC in the UK, being one of the officers of Parliament.

Lastly, this suggestion is made with a hope that being a part of Parliament will enhance the effectiveness of CAG's organization. This can hardly be achieved when the influence of the PAC itself is declining as mentioned by the author in Chapter 15 of his book. In fact he lists out a number of measures to make the PAC more effective.

What we should try to appreciate is that apart from the problem of federal structure that we face in India, the CAG being an officer of Parliament is not an unmixed blessing. Each system has its own checks and balances and is rooted in its historical evolution. It may not be always possible to plant it in a different political environment, which has evolved differently.

Changes in CAG's Organisation

The author has made the following five suggestions to improve CAG's organization:

(1) Legal powers to Senior Officers to surcharge and recover money from erring officials for losses, fraud, negligence, improper or unauthorized use of State money or property.

(2) Autonomy for State Accountants General through suitable legal enactment

(3) CAG's office should be a lean and thin organization.

(4) CAG's office should adopt a systems approach to Audit and devote its time on policy issues

(5) External audit of CAG's office on UK pattern

Let us first take up the measures listed at Sr.No. 2, 3 & 4 together. When the author advocates these measures, he is speaking for an overwhelming majority of all those who deal with CAG's organization. The arrangements instituted in the CAG's organisation in the middle of the last century have practically continued without major changes. The powers and authority vested in the State AGs is grossly inadequate when viewed in the light of the functions they are expected to perform. The AGs should have considerable autonomy in the matter of deployment of officers, organizing the audit and dealing with the State Governments and settlement of outstanding audit observations. They should prepare and sign audit reports and provide all assistance to State PAC. The CAG should lay down auditing standards, guidelines, administrative principles and give such directions as he considers necessary from time to time. He should also devise suitable mechanism to monitor the quality of audit by the State AGs. In respect of the audit of Central Government transactions, however, the CAG should continue to exercise much closer supervision. This will certainly result in a much better and efficient organization both at central and state level. Obviously this can be achieved only through a suitable legislative measure, which is now certainly overdue after the CAG's (Duties, Powers and Conditions of Service) Act was passed by Parliament in 1971.

The other two suggestions about the organization are equally valid and are closely related to the implementation of the first one. When the decentralization takes place as a result of empowerment of the State Accountants General, the CAG's office will

have enough time and resources to concentrate on larger issues, organizational changes, policy issues and audit quality. Training of audit personnel and improving their professional competence, particularly at the cutting edge level, is a vexed issue which the CAG's organization has still to grapple with to create a modern audit organization of this century.

Then next is the suggestion of entrusting legal powers to the Senior Officers of the Audit to levy surcharges and fines on officers of the Executive, in cases of fraud, negligence or improper or unauthorized use of State money or property. This suggestion is based on the discussion in Chapter 5 of the book, where the author has argued that the Audit Organisation in India has no powers to enforce the findings of regularity audit. The main inspiration for this suggestion comes from the French *Cour des Comptes*, the Court of Accounts in France. Let us first examine how the Court of Accounts exercises these powers. These powers, a part of the process called "judicial audit" (*controle jurisdictionnel*) owe their origin to the peculiar system of financial administration prevalent in France. Under this system, the financial transactions of the State and State autonomous agencies (and not State-owned companies) are initiated by the heads of Government departments or agencies, acting as *ordonnateurs* (order givers), but they are carried out by other officials, the *comptables publics* (public accountants), in charge of collection of public revenue and of checking (against financial regulations) and payment of public expenses, who are personally answerable for the proper discharge of their duties. The *Cour des Comptes* has been set up originally as a court of law, to hear cases involving their responsibility; hence the judicial status of its members. The main purpose of the judicial audit is essentially to verify the legality of the transactions that have taken place. It is on this that the comptable account is 'judged'. Aspects of financial managements are also considered and where appropriate are reported on, but the discharge relates only to the legality of the transactions. Officials other than comptables are not personally answerable to the *Cour des Comptes*. But if they have infringed financial regulations (not merely mismanaged public affairs), the Cour may refer the case, through the Attorney-General, to a special court, *Cour de discipline budgetaire et financiere*, presided over by the Premier President, consisting of councilors of State and *conseillers maitres*, which can fine them up to the amount of their annual salary.

It will thus be seen that the judicial functions discharged by the French *Cour des Comptes* are strictly limited to the legality of accounts and not the cases of negligence or improper use of public money or property. The answerability is restricted to *comptables publics*, who are not only trained but are also aware that they are personally responsible for the legality of transactions and will have to make good the shortfalls or losses if any, on this account. In fact bonds are taken from comptables and are discharged only after their accounts are 'judged'. The insurance companies also offer them insurance to cover the liabilities arising out of these obligations. Officers other than comptables can also be held accountable in a limited way, but by a different court.

We thus find that the system of judicial powers with audit authorities has evolved in France as a result of extensive use of administrative courts. It is not an instrument to ensure action on many of the important issues of propriety raised by Audit, but only a means to enforce legality of transactions in a particular system. It should also be noted that not only in France but also other European countries like Italy, Germany, Belgium and others, which follow the Court model, most of the staff is adequately trained in law. If these factors are considered, it is really doubtful whether entrusting

legal powers to audit officers in India will at all be proper and feasible. If ever done, it may create many fresh problems, perhaps without solving any.

The problem of enforcing the findings of Audit will still remain, since it is real and crucial for building public trust in our system of governance. Perhaps a forum like Audit Tribunals at the Centre as well as in the States may offer a workable solution. These statutory bodies can be given the powers to hear the Audit and Executive and then give suitable directions to either party. The nature of issues that can be taken up by the tribunals can be spelt out in the legislation and suitable time limits should also be set out for expeditious disposal of audit findings. This will certainly take the crucial audit observations to their logical conclusion. Many of these may in fact result in streamlining the public administration. It is therefore quite necessary to work on this concept to enhance the effectiveness of Audit.

The last in this group comes the suggestion for the external audit of CAG's organization. The suggestion is again unexceptionable, since hardly anyone will dispute the need for independent audit and evaluation, much less the CAG's organization, which audits the entire gamut of government operations. The author has mentioned that this should be on the pattern of the UK. We have already seen above that Public Accounts Commission consisting of the members of the House of Commons make the appointment of an Auditor for the NAO in pursuance of S.4(5) of the Act. Schedule 3 of the National Audit Act lays down that the Auditor should be a member of one of the recognized accounting bodies of the UK. If a firm is appointed then each of its members should be a member of such accounting bodies. Para 2 of the Schedule also provides that the auditor shall have power to carry out economy, efficiency and effectiveness examinations of the use of resources by the NAO. Para 3 provides for the right of access for the auditor to all the documents, information etc. The auditor shall also audit and certify the Appropriation Accounts of the NAO, which along with his report thereon will be submitted to the Commission for presentation to the House of Commons.

Similar provisions are there in the Auditor General Act, 1997 in Australia. There the Independent Auditor is appointed by the Governor-General on the advice of the Minister, who will act in consultation with the Committee on Public Accounts. Here in addition to the usual provisions S.44 (2) of the Act also provides that 'the Independent Auditor must audit the (Annual Financial) statements in accordance with section 57 of the *Financial Management and Accountability Act 1997*.'The Independent Auditor can also take up performance audit at any time. S.47 flatly provides that the powers of Independent Auditor as regards access to documents, records etc. are to be the same as that of the Auditor General as provided in the Act.

Need for an independent external audit of CAG's organization can hardly be overemphasized. Such an audit will be a valuable instrument for the CAG for effective management. Apart from bringing to his notice the optimal utilization of resources, the pattern of their deployment and the efficiency of operations, it will also provide an opportunity to the members of Parliament, academic institutions, students of public affairs and common citizens to have a peep into the working of CAG's organization, which in the long run shall certainly serve the cause of public accountability of which the public audit is an indispensable instrument. It is obvious that arrangement for the independent audit of CAG's organization will have to be provided through a suitable legislation, as has been done both in the UK and Australia.

Changes in CAG's Audit Jurisdiction

Then we come to two important suggestions, which deal with the CAG's audit jurisdiction. These are based on the author's discussion contained in chapter 6 dealing with the evasion of audit. The author suggests that a legal provision needs to be made that all bodies which are publicly funded will automatically fall within the ambit of CAG's audit jurisdiction. It also suggests that a separate authority for audit of panchayats and municipalities should be created in each state through a central legislation, on the UK pattern, with provision that they will work under technical guidance of State Accountant-General / CAG.

These suggestions in themselves are quite welcome. No one can object to extending the CAG's jurisdiction for audit to any organization, where public moneys are spent. However, the sheer number of such organizations makes it extremely difficult for CAG to cover each and every organization in this category. It is therefore necessary that he should be given powers to classify these organizations according to his convenience, some being audited by his own officers and other by the professional accountants appointed either by him or from a list approved by him and working under his directions. The CAG should develop a system of testing periodically the quality of audit conducted in these cases as has recently been done by the Audit Commission in the UK. Such a system will ensure that the audit of many such organizations does not fall into arrears and the CAG continues to monitor their performance through the professional auditors' reports.

For panchayats and municipalities, however, the situation is little different. These organizations are already being audited by the Examiner, Local Fund Accounts in each State along with the universities and many other organizations. The suggestion to create an Audit Commission in each State is quite welcome, but it should be created by merging the existing organizations in the State and not an additional one. If such an independent statutory organization is created, it is not clear why it should receive guidance from CAG or State AG. Its duties should be defined in the Act and competent persons should be appointed to manage it. The Audit Commission in the UK neither reports to CAG nor does it receive any 'technical guidance' from him. It is needless to mention that in the administrative ethos prevalent in our country, the 'technical guidance' will soon become 'command and control', just as coordinators become bosses. This will not only strain the already strained resources of CAG, but also not be conducive to development of audit capabilities in the States.

The idea that the audit of each and every organization using public funds in India should be conducted only by the CAG has only helped increasing concentration at one place, ultimately resulting into unmanageable organization. While we must abide by the provisions of the Constitution, there is nothing wrong in statutorily appointed Commission with independent and adequate powers conducting the audit of panchayats and other local bodies in the State. In fact there is case for such a Commission even at the Centre, where earmarked bodies of the Central Government and the Union Territories can be entrusted to it for audit.

It may be interesting to know that the Audit Commission in the UK also owes its existence to the District Audit Service founded in 1846 to examine the accounts of local government districts in England and Wales and evolved into a statutory body with the Audit Commission Act 1998. Para 2 of the Schedule 1 of the Act clearly

provides that “The Commission shall not be regarded as acting on behalf of the Crown and neither the Commission nor its members, officers or servants shall be regarded as Crown servants.” The Commission can conduct the audit of various institutions either by appointing one of its own officers or a member of the approved professional audit organisations. The Act gives enough powers to Commission to access the documents, and also of reporting either immediately or in the course of audit or at the conclusion of audit. There are many novel features in its functioning relating to the participation of the members of public in the process of audit. S.14 provides for public inspection of the statements of accounts. Under S.16 any elector can raise a query to the auditor. The Act also contains detailed provisions how the audited body should convene a meeting to consider the audit report, how wide publicity should be given to such meetings and what action should be taken. S.24 gives the auditor power to refer a matter for judicial review. There are also provisions in the Act under which the Court, on a complaint by the auditors, can declare items of expenditure unlawful and also punish the officers of auditee organization with fine for not complying with the request for documents by auditors.

These are all innovative measures where audit is being used as a powerful instrument in the process of strengthening the public accountability. Such experiments can be done at local levels in the organisations, where implications are limited. Audit Commissions at State and Central level should be used for such experiments to improve administration. It needs to be appreciated that while the CAG has an undisputed, unique role in the audit of State expenditure, beyond that there is a space left by the Constitution and we should freely develop new systems and innovative procedures, using audit as an effective instrument to scale newer heights of accountable government.

It is to this end that creation of the Audit Commission both at Centre and the States is inevitable. Its enactment can be a Central Act on the pattern of the Electricity Regulatory Commissions Act, where members of the Commission are appointed by an independent Selection Committee, which must have a representative of the CAG. The Commission should be given all the freedom and individual States should also have freedom to add innovative measures to strengthen the Commission’s powers including the participation of the members of public as in the case of UK. Such a Commission will considerably improve the vast area of financial administration, which at present is beyond effective scrutiny. It will also greatly help the CAG in getting a more accurate view of the quality of State expenditure in these areas.

Strengthening Audit Processes

Any exercise of restructuring Indian Audit can hardly be complete, unless it is centered around the quality and effectiveness of Audit. Although the author has not included any specific proposal in his agenda, he has devoted considerable time on this aspect in various chapters in his book.. While there is always scope for doing better, one has to agree that Indian Audit has come a long way in various technical aspects of auditing in the last fifty years. Even a casual look at the reports over these years will show a vast improvement in the technical ability, depth of investigation, presentation of facts and data and the quality of reporting. The exposure of large number of Indian Audit Officers to the International practices is also responsible for this improvement. The CAG has also recently made the efforts to streamline the performance audit, the results of which should be viewed with interest.

What has really remained untouched is the most basic work: the certification of Government Accounts. It is in this area that CAG should focus his efforts with a view to ensure that the Audit's main task in relation to accounts of Government, which is to provide assurance to the tax payers that every rupee has been properly accounted for and spent for the purpose for which it was authorized by the Parliament, is truly achieved. Without going into the merits of the system for certification audit that existed earlier, one can say that it was drastically shaken with separation of accounts at Centre and restructuring of audit and accounts offices within the CAG's organization. The result is that its effectiveness stand seriously impaired. Now when the Government accounts are planned to be shifted to accrual basis, CAG should actively participate in this change and design a proper system to ensure that our certification audit is also on a sound footing to provide the assurance to common man.

The reporting of course has to change with time. The time for transaction audit is over. Investigating and reporting on isolated transactions does not contribute to the audit objectives. Such transactions should be viewed in the context of an entire system and then commented upon. Take for example, one of the recent reports of the NAO, UK in January, 2008: "Making changes in PFI Projects". The report brings out many instances of defective contracts, abnormal rates, poor contract management etc., but as a part of a review of the system in a bunch of Public Finance Initiative Projects. The Indian Audit should think on these lines, concentrate on performance audit along with a strong certification audit and strengthen and encourage internal audit and control procedures in all organizations it deals with. In fact CAG should really play a real pro-active role to spread the message of internal audit and control. The more it is established the more resources will become available to CAG to concentrate on the essentials.

Conclusion

Our conclusion on the Agenda of Reforms is that it is worthy of endorsement. While examining the Agenda we have also discussed the measures which influence the larger framework of accountability beyond the Audit. Nevertheless it is an undisputed fact that the Audit is a very important and very strong link in the chain of accountability. All the reforms therefore must aim at drawing the full potential of the Audit to this end. It is not that there have been no developments in this direction. In fact there has been considerable progress in techniques, procedures, awareness and training and equipment of personnel within the given framework. It is therefore felt that for further progress in this direction, i.e. of making Audit a more efficient instrument of accountability, institutional development is inevitable. This as we have discussed above can be achieved by legislative measures to create the following institutions:

(1) The new empowered State Accountants General working within the CAG's organization, but as autonomous auditors for State Governments and assisting the State Public Accounts Committees;

(2) Audit Tribunals at Centre and States to make the Audit more effective; and

(3) Audit Commissions in the States and at Centre, to institute effective audit of local bodies, panchayats and such other organizations which the CAG in unable to cover.

This along with other measures suggested by the author and discussed above will go a long way to breathe a new life in the Indian Audit making it a far more efficient instrument for accountability.

But we must end where we started and that is the book of Dr. Mathur. It is indeed a thought provoking book, written in lucid style, full of facts, figures and fresh ideas and has done a signal service by this thought-provoking work.. The Indian Audit has a great past, but the past need not define its future. We must have courage to change with time to keep close to our aims. If the book provokes discussion on the change, it has achieved its purpose.

Opinion:

IS CAG'S AUDIT IMPEDIMENT IN GOVERNMENT'S DECISION – MAKING

M.K. Jain*

One feels distressed to find the various constitutional/ democratic institutions in the country coming increasingly under attack by politicians for some time past. Not long ago, the CEC, J.M. Lingdoh who won world-wide acclaim for ensuring free and fair elections in the country, notably in the trouble – State of J&K, was the target of criticism by the Gujarat Chief Minister, Narendra Modi, the Lingdoh's successor CEC, B.B. Tandon, by RJD Chief Lalu Prasad, himself a Cabinet Minister in the Congress – led UPA Government, for CEC ordering certain transfers in a few districts of Bihar, which did not suit the RJD politically, these officers were related with election duties in Bihar. Even the judiciary, recognized as one of the four pillars of democracy in the country, is now not being spared. Judicial pronouncements based on law which do not suit the politicians are considered as "confrontation", "judicial activism" etc.

The authority which has, for long, right from the commencement of the Constitution of India, been the target of criticism, is the Comptroller and Auditor General of India (CAG) set up under the Constitution to be a watch dog of tax-payer's money, and who, under his oath of office under the Constitution, is required to discharge his duties as the CAG "without fear, or favour, affection or ill-will". More recently, his criticism came from no less a person than the former Prime Minister of India. Atal Behari Bajpayee, while he was addressing a conference of Accountants General in 2003, closely followed by his then Deputy Prime Minister L.K. Advani, who characterized the CAG as an impediment in decision – making in Government. The same authority again came under criticism from Arun Shourie about the "methodology' adopted by the CAG in working out, and reporting on, the loss to the Central Exchequer in the sale of Centaur Hotel in Mumbai, calling it "peculiar".

It is the function of the legislature to make laws, and of the Executive to issue rules and orders. The Institution of the CAG functions, first, on behalf of the legislature to ensure that the financial laws made by it are complied with, and that the rules and orders issued by the Executive, are in accordance with law, and, second, on behalf of the Executive, to ensure that these rules and orders are being fully observed by the subordinate authorities. General Financial Rules issued by Government are one such rules laying down exhaustively the procedure which is required to be observed by the authorities entering into contracts.

In the case of sale of Centaur Hotel in Mumbai, it was lack of observance of the said Government laid down procedure which was brought out by the CAG in his report, because of which, according to the report, the sale did not fetch the best price for the Government. The fact that the further sale of the Hotel by the purchaser shortly thereafter yielded a much higher price to the said purchaser, would lend support to

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this view. In these circumstances, why should one find fault with the CAG's comments?

In this context, it would be worthwhile to mention below two illustrative cases, which occurred around the time of Chinese aggression in 1962, which found place in the reports of the CAG.

- Import of substandard, defective tyres from East European countries:

The tyres supplied by the importing firm – a firm with a big name – were actually 6 ply tyres, in stead of 12 ply ones contracted for by Government. These tyres had already outlived their utility due to prolonged storage. Used in army vehicles in the forward areas in the Northeast, those tyres could not stand the terrain and gave way. The consequences of use of such tyres are too obvious to be imagined.

- Purchase of road rollers

In the aftermath of the Chinese aggression, Government was faced with a huge demand of road rollers from the army for building roads in forward areas, absence of roads was one of the handicaps which the Indian army faced while fighting with Chinese forces. A firm made an offer to meet that huge demand and make supplies, by accelerating its production, but on condition that 95% advance payment would be allowed to it on proof of inspection alone, without proof of dispatch, in relaxation of the standard terms and conditions of the DGS&D contracts which require production of proof, not only of inspection, but also of despatch. This relaxation was agreed to by Government and several orders, one after the other, were placed on the firm over a period of 2 years, without, however, verifying the status of road-rollers actually supplied by the firm against the previous orders. The firm cheated the Government by producing the same chassis for inspection each time, and drawing huge advance payments against all those orders fraudulently, without supplying a single road-roller.

Would mention of such cases in the CAG's reports be considered as causing impediment in decision-making by Government?

Around the same period, the CAG took up with Government a case highlighting losses of foreign exchange in import-export licensing, including some steel barter deals. In stead of conveying their comments on the facts of the case proper, Government obtained a legal opinion that the subject matter did not constitutionally fall within the purview of CAG's audit, i.e. audit of foreign exchange was beyond the purview of the CAG, since he was concerned with only the audit of the accounts of the Government. It would be interesting to note the endorsement with which the file containing the above views of Government was returned by the CAG.

"It is not clear what we are supposed to do in this matter. A particular view of Government does not acquire added sanctity just because it has been endorsed by their own Law Ministry. In any case, the CAG is not bound by the advice of the Law Ministry. CAG is fully aware of his duties under the Constitution, and does not propose to enter into any debate with any Department of Government on the subject ……..".

This case which finally figured in the CAG's report made history when a Minister in the then Union Cabinet, Shri C. Subramaniam, appeared before the Public Accounts Committee (PAC) to tender evidence in that case – something which had no precedent.

It should be recalled here that, under the established procedure, it is only the Secretaries to Government, and not the Ministers concerned, who are required to tender evidence before the PAC on cases included in the CAG's reports – the reasons being, first, that it is basically they who are concerned with actual execution of Government policies, and, second, that the functions of the Committee are supposed to be non-party in character, what happens in actual practice, it is a different story.

Criticism of CAG's audit has continued unabated all these years, irrespective of whether there is a Congress/ Congress-led or the BJP-led Government at the Centre or in States. The late A.K. Roy, CAG of India (1960-66) was very forthright in expressing his concern over the growing trend in Government to decry audit, when, in July 1996, while addressing the members of the West Bengal PAC at a meeting to which he was specially invited by its Chairman, Dr. Pratap Chandra Chunder, he told the members "You must be aware of the insidious efforts now being made by every Government every executive, to reduce the powers of the Legislature. The apathy with which they consider your recommendations, the efforts they make to conceal matters, the arguments about non-availability of papers that I get from almost every Government – all these are indications of Government's desire to conceal things from the public".

Further "By gagging audit they gag the Legislature and as Auditor General, it has been my experience during the last six years that the effort at gagging audit. I think, is being made with progressive zeal. Everywhere questions are being asked. Is it within the purview of audit – these papers, they are not really required, so audit cannot comment on them…….. But the effect of gagging audit is finally to gag you because barring audit there is no independent authority which can tell you all the errors of omissions and commissions on the part of Government in their financial transactions. But because Government is increasingly becoming the centre of criticism, by one means or other, by arguments, by delays, in whatever is possible, every effort is being made to gag audit to the extent of making it more and more difficult. Against this tendency you must beware of…..".

There now seems to be a move to curb the scope of CAG's audit in Public Sector Undertakings (PSUs). The Companies Act provides that the Auditors of PSUs-statutory auditors as they are called – shall be appointed by CAG who shall have authority to issue directions to the Auditors in regard to the manner in which the company's accounts shall be audited, and to give such auditors instructions in regard to the performance of their functions.

A copy of the report of the Statutory Auditors has to be submitted to the CAG who has the right to comment upon, or supplement the report. For this purpose, he has to review the work of the Auditors by applying a broad check of the Balance Sheet, Profit & Loss Account, etc. Directions are issued to them by CAG from time to time in order to ensure that the Auditors perform their functions adequately, and that their audit throws up useful data and information for a better appreciation of the financial working of the concern.

The CAG has also the authority to conduct a supplementary or test audit of the accounts of these concerns. It is this supplementary or test audit for which there is now a move to do away with, to be resorted to only in very exceptional cases.

The thing which has to be borne in mind in connection with this move is that audit conducted by the Professional Auditors is aimed primarily ensuring conformity with

the provisions of the Companies Act, to see that the books of accounts are properly maintained, that for every expenditure there is a sanction of competent authority, that expenditure is supported by vouchers, that the Profit and Loss Accounts and Balance Sheet have been correctly prepared on the basis of the accounts maintained, and that they present a true and fair financial picture of the company. These may be sufficient for a commercial concern in private sector, but such audit in the case of PSUs will not be adequate, either for the purpose of judging the efficiency of the PSU, or for enabling Parliament to fulfill its obligations to the public.

The audit conducted by the CAG does not cover the field which has already been covered by the Professional Auditors. He conducts what may be called efficiency-cum-propriety audit or performance audit. He sees, (a) whether it is necessary to incur the expenditure which has actually been incurred, (b) whether the same purpose could not have been served by spending less, (c) whether the amounts have been spent in the wisest manner possible, (d) whether the Undertaking has fulfilled the expectations with which it was established, (e) whether the targets have been achieved as scheduled, (f) whether avoidable delays, either in construction or production, have occurred, leading to cost-overruns, (g) whether infructuous or nugatory expenditure has been incurred, etc.

This involves a review of the decisions taken by the Board of Directors to ascertain to what extent their powers have been exercised in the best interests of the Undertaking and in accordance with the accepted principles of financial propriety, and to see whether the powers delegated to the Chief Executives have been exercised properly. It also involves examination of the cost accounts to ensure that the PSU is being administered efficiently and economically in accordance with sound business principles and prudent commercial practices. It is in these matters that Parliament is vitally interested. The professional Auditors are neither competent, nor properly equipped, to conduct such an examination. Besides the professional auditors do not have the same overall perspective which the CAG has, while conducting audit of PSUs, by virtue of the vast sphere of his audit encompassing the various departments of the Central and State Government and autonomous bodies.

If Parliamentary control has to be adequate and effective, it is essential that the accounts of the Statutory Corporations and Government Companies are subjected to a supplementary or test audit by the CAG. One only hopes that Government will keep these factors in mind before taking a decision on the subject.

Documents:
Extract of section 11 of the National Rural Employment Guarantee Act

TRANSPARENCY AND ACCOUNTABILITY: PUBLIC VIGILANCE AND SOCIAL AUDITS

11.1 INTRODUCTION

11.1.1 An innovative feature of the National Rural Employment Guarantee Act is that it gives a central role to 'social audits' as a means of continuous public vigilance (NREGA, Section 17). The basic objective of a social audit is to ensure public accountability in the implementation of projects, laws and policies. One simple form of social audit is a public assembly where all the details of a project are scrutinized. However, 'social audit' can also be understood in a broader sense, as a continuous process of public vigilance. That is the sense in which the term is used in this chapter. To avoid confusion, the term 'Social Audit Forum' will be used here to refer to the periodic assemblies convened by the Gram Sabha as part of the process of social audit.

11.1.2 In this perspective, a social audit is an ongoing process through which the potential beneficiaries and other stakeholders of an activity or project are involved at every stage: from the planning to the implementation, monitoring and evaluation. This process helps in ensuring that the activity or project is designed and implemented in a manner that is most suited to the prevailing (local) conditions, appropriately reflects the priorities and preferences of those affected by it, and most effectively serves public interest.

11.1.3 Thus, social audits can be seen as a means of promoting some basic norms in public matters:

- **Transparency**: Complete transparency in the process of administration and decision making, with an obligation on the government to *suo moto* give people full access to all relevant information. The information about works should be displayed in the local language proforma given in Annexure B-13 at the worksite and in proforma B-14 at a prominent place in Gram Panchyat
- **Participation**: An entitlement for all the affected persons (and not just their representatives) to participate in the process of decision making and validation.
- **Consultation and Consent**: In those rare cases where options are predetermined out of necessity, the right of the affected persons to give informed consent, as a group or as individuals, as appropriate.
- **Accountability**: The responsibility of elected representatives and government functionaries to answer questions and provide explanations about relevant action and inaction to concerned and affected people.
- **Redressal**: A set of norms through which the findings of social audits and other public investigations receive official sanction, have necessary

outcomes, and are reported back to the people, along with information on action taken in response to complaints.

11.2 SOCIAL AUDIT AS A CONTINUOUS PROCESS

11.2.1 In the context of NREGA, the process of social audit should include public vigilance and verification of the following 11 stages of implementation:

- Registration of families
- Distribution of job cards
- Receipt of work applications
- Preparation of shelf of projects and selection of sites
- Development and approval of technical estimates and issuance of work order
- Allotment of work to individuals
- Implementation and supervision of works
- Payment of unemployment allowance
- Payment of wages
- Evaluation of work
- Mandatory social audit in the Gram Sabha (Social Audit Forum)

11.2.2 At each of these stages, there are various ways in which the implementation process may fail to meet the norms spelled out earlier. An indicative list of these 'vulnerabilities' is given in Chart 1, along with the possible means of preventing or addressing them. The remainder of this chapter focuses on the last stage of the process of social audit: the 'Social Audit Forum'.

CHART 1

Sl. No.	Stage	Vulnerabilities	Steps to Ensure Transparency and Social Audit
1.	Registration of families whose members are potential REGS workers **[Responsibility: Sarpanch /Gram Panchayat Secretary]**	1. Absence of the concerned functionary 2. Denial of registration to eligible applicants 3. Incomplete list of adults in each household 4. Registration of bogus families/individuals 5. Rejection of 'incomplete' registration forms 6. Asking for money for registering names/ families	The process of registration shall be transparent. It should be carried out publicly, with facilities for people to verify their own details, or those of others. 2. Initial registration shall be carried out at a special Gram Sabha convened for the purpose. 3. A prior survey shall be conducted by the Gram Panchayat to enumerate all the families and their adult members who are eligible to register. This should become a basis for ensuring that all persons who are eligible and wish to be included in the scheme are accounted for. 4. This enumeration will also

Sl. No.	Stage	Vulnerabilities	Steps to Ensure Transparency and Social Audit
			help in preventing the registration of fictitious/ ineligible names, but should not be used to exclude eligible persons who might not have been listed. 5. Subsequent to the initial registration, there shall be a public reading at the Gram Sabha of: ▪ list of all registered households ▪ list of registered adults in each registered household. 6. A form, with a tear-away receipt at the bottom, will be used for registration, and the receipt will be given to the registered person/ family. 7. If a form is incomplete in any way, it will be the responsibility of the concerned functionary to have it completed there and then. 8. The final list of registered families/ adults will be verified, and complaints of exclusion settled. No case of denial of registration can take place without giving the concerned household members an opportunity to be heard. All cases of refusal to register will be brought before the Gram Sabha. 10. The final list will be put up for public display at the Gram Panchayat office and updated every three months. 11. Subsequent to the initial registration, the process of registration will remain perpetually open at the Gram Panchayat.
2.	Distribution of job cards **[Responsibility: Sarpanch]**	1. Delay in receiving job cards 2. Issuance of false job cards 3. Issuance of job cards to ineligible persons: a. To non-residents; b. To minors; c. To those not members of the listed family. 4. Non-issuance of job cards	1. There shall be an (enforceable) one-month time limit for the supply of job cards, from the date of registration. 2. The list of job card holders must be updated every month, and be available for inspection at the Gram Panchayat office. 3. A file containing photocopies of all job cards issued shall be open for inspection at the Gram

Sl. No.	Stage	Vulnerabilities	Steps to Ensure Transparency and Social Audit
		5. Asking for money for issuing job cards	Panchayat office. 4. The job card should state the fact that there is no charge for it. The job card should also list the basic entitlements (including the minimum wage rate) under NREGA on one of its sides
3.	Receipt of work application **[Responsibility: Sarpanch/ PO]**	1. Non-acceptance of work application by the relevant authorities 2. Wrong date or no date recorded on the work application 3. Rejection of 'incomplete' forms Oral application or request for work being made an excuse for denial of work on time	1. Individuals may send their applications for work by post or deliver it by hand. 2. They will have the right to an immediate, written, signed and dated receipt. 3. A date-wise list that is updated weekly shall be displayed at the Gram Panchayat office, along with a register detailing the applications received. 4. If an application is incomplete in any way, it will be the responsibility of the concerned functionary to have it completed. An application should not be rejected just because it is incomplete. 5. There should be simple preformatted forms available, so that anyone who wants to make an oral application can have the form immediately filled for him/ her by the Gram Panchayat officials and get a receipt.
4.	Selection of the public work to be taken up in a particular Gram Panchayat **[Responsibility: Sarpanch]**	1. Selection of a low priority or inappropriate work 2. Selection of work that serves a vested interest 3. Lack of public support/ cooperation for that work 4. Poor selection of a Worksite	1. The shelf of projects/works to be taken up should be determined by the Gram Sabha. 2. The shelf of projects/works should also be assessed for relevance and priority by the Gram Sabha. 3. A list of the finally selected projects and works, in their order of priority, should be publicly displayed at the Gram Panchayat office.
5.	Development and approval of technical estimates and issuance of work order **[Responsibility: Junior Engineer/ Sarpanch]**	1. Exaggerated or inaccurate technical estimate 2. Inclusion in estimate of unnecessary expenditure 3. Excessive rates and material 4. Unclear work order that does not make the details of the work clear, or leaves	1. A technical estimate must be carried out with the involvement of the local people. 2. The technical estimate must be put to the Gram Sabha for approval. 3. The format for the technical estimate must be simple and easily understood by the people.

Sl. No.	Stage	Vulnerabilities	Steps to Ensure Transparency and Social Audit
		scope for misinterpretation	4. Similarly, a people-friendly format must be used for the sanction and work order. 5. This format must be put on public display, so that people can access this information and understand the details of the work.
6.	Allotment of work **[Responsibility: Sarpanch/PO]**	1. Giving out-of-turn allotments 2. Favouring or discriminating against people in allotting type/ location of work 3. Not respecting the gender quota 4. Not informing the applicant and then marking him/her as absent 5. Demanding money for allotting work	1. Maintain a work allocation register for public scrutiny at the Gram Panchayat office. 2. Ensure that the public is informed through notice boards and through other measures (like drum beating) every time a new batch of work is allotted. The date up to which work has been allocated should also be made public every time work is allocated. 3. Fix a specific day (typically Sunday or the weekly haat day) and a specific time and place (typically at the Gram Panchayat office) to provide information about REGS. 4. On that day, ensure that the public is informed of the work allotted or ready to be allotted, along with the names of allottees, their date of application, location and type of work, and other relevant information.
7.	Implementation and supervision of work **[Responsibility: Sarpanch/ PO/ Designated agency]**	1. Recording of nonexistent (ghost) workers 2. Recording of fictitious (ghost) works 3. Work not conforming to work specifications or prescribed standards 4. Supply of less than sanctioned/ poor quality materials and tools	1. An open ‘project meeting’ with all potential workers and open to people from the Gram Panchayat should be held to explain the work plans, and their details and work requirements before the work commences. The Vigilance and Monitoring committee members should be selected or announced at this meeting. 2. At these meetings, for each of the types of work allotted, the wage norms must be explained to the people and put up on the notice board. The questions that must be answered include: a. What is the wage? b. What is the wage norm (what constitutes a full day’s work)?

Sl. No.	Stage	Vulnerabilities	Steps to Ensure Transparency and Social Audit
			c. The public must also be told that there will be individual measurements of each person's work, unless a group collectively decides to have joint measurements. 3. A board with details of work—estimates and running costs, material, labour and funds—must be put up at every site, and updated regularly. The format must be user friendly. 4. The public must be able to access muster rolls on demand. 5. Every week, five workers must verify and certify all the bills/ vouchers of their worksite. 6. A copy of the sanction/work order must be available for public inspection at the worksite. 7. There should also be provisions for access to samples of works, to be taken as per the procedure developed for the Right to Information Act, 2005. 8. A daily materials register must be kept, and verified by five workers every day. 9. The daily/ individual measurement records for each work and worker must be available for public inspection. 10. The vigilance committee should check the work as per a checklist prepared for them, and their evaluation report should be prepared before every biannual Social Audit Forum as described in the text.
8.	Payment of wages **[Responsibility: Implementing/ Designated Agency]**	1. Non-payment of wages 2. Late payment of wages 3. Underpayment of wages 4. Payment of wages to the wrong person 5. Payment of wages in the name of non-existent (ghost) workers 6. Payment of wages for non-existent projects 7. Failure to pay minimum Wages	1. Payments should be made in a public place on fixed days to ensure that there is no ambiguity regarding payments. 2. All recipients and amounts of payment must be read aloud to ensure that the illiterate are not cheated, and also to check ghost payments. 3. A list detailing all payments to be made must be put up in a public and easily accessible place prior to the reading aloud of the list. 4. Provisions may be made to

Sl. No.	Stage	Vulnerabilities	Steps to Ensure Transparency and Social Audit
			facilitate payments through the post office and other financial institutions. 5. Disclosure of piece-rate measurement should be made individually, and not en masse, so as to provide each worker with his/her exact due. This will prevent division of the wage earned by ghost workers, etc.
9.	Payment of unemployment allowance **[Responsibility: Programme Officer]**	1. Denial of unemployment allowance by wrongly accusing a person of not reporting for work 2. Late payment of unemployment allowance 3. Payment of unemployment allowance to the wrong person 4. Payment of unemployment allowance to nonexistent (ghost) persons 5. Demand of bribe for paying allowance	1. A weekly public announcement of work allocation should be made, and work allocation orders must be displayed publicly 2. Payments should be made in a public place on fixed days to ensure that there is no ambiguity regarding payments. 3. All recipients and amounts of payment must be read aloud to ensure that the illiterate are not cheated, and also to check ghost payments. 4. A list detailing all payments to be made must be put up in a public and easily accessible place prior to the reading aloud of the list. 5. Provisions may be made to facilitate payments through the post office and other financial institutions. 6. The Gram Panchayat should automatically generate each week, in advance of the weekly meeting, a list of individuals eligible for receiving the unemployment allowance.
10.	Evaluation of completed work **[Responsibility: Sarpanch/ PO/ Designated Agency]**	1. Taking and/or recording of improper measurements 2. Not consolidating the information regarding the works in one place 3. Issuing of false Completion Certificates 4. Works not conforming to specifications/standards 5. Data recorded in a confusing or incomprehensible manner	1. Verification of works, for conformity with the work order in terms of specifications and quality, must be carried out at an open 'project meeting' with all REGS workers who worked on that site, and open to all the people of the Gram Panchayat. 2. Completion data must be made public in a people-friendly format at this meeting. No Completion Certificate should be issued unless this open 'project meeting' has taken place and its observations have been taken

Sl. No.	Stage	Vulnerabilities	Steps to Ensure Transparency and Social Audit
			into consideration. 3. An assessment of relevance of the work, along with appropriateness, must be carried out during this meeting as well as at the Social Audit Forum of the Gram Sabha. 4. Regular reports must feed into an audit and grievance- redressal mechanism, and form part of the Block/District annual report. 5. Comprehensive public hearings relating to works and individual entitlements must be held twice a year at the Gram Sabha level for all works completed in that period. The details of the requirements for this public hearing are given in the text.
11.	Evaluation of completed work **[Responsibility: Sarpanch/ PO/ Designated Agency]**	1. Information not being made available because of a failure to carry out the transparency requirements as specified in the Guidelines and in the points mentioned above 2. Failure to obtain entitlements due and failure to enforce accountability of officials; inability to get clarifications or answers to queries with regard to the Scheme 3. Various aspects of the programme carried out without the people's involvement 4. Failure of the grievance redressal mechanisms 5. Lack of opportunity for individuals and the Gram Sabha as a collective to review the functioning of all aspects of the programme	Comprehensive public hearings to be called Social Audit Forums relating to works and individual entitlements must be held twice a year at the Gram Sabha level for all works done in the preceding period. The details of the requirements for this public hearing are given in the text.

3. THE SOCIAL AUDIT FORUM

3.1 Apart from the ongoing process of social audit, there will be a mandatory review of all aspects of the social audit at the Gram Sabha meetings to be held at least once every six months for this purpose. At these 'Social Audit Forums' information will be read out publicly, and people will be given an opportunity to question officials, seek and obtain information, verify financial expenditure, examine the

provision of entitlements, discuss the priorities reflected in choices made, and critically evaluate the quality of work as well as the services of the programme staff.

3.2 Thus, the Social Audit Forum will not only give people an opportunity to review compliance with the ongoing requirements of transparency and accountability, but will also serve as an institutional forum where people can conduct a detailed public audit of all NREGA works that have been carried out in their area in the preceding six months.

3.3 An effective Social Audit Forum requires careful attention to three sets of issues: (1) publicity and preparation before the Forum; (2) organizational and procedural aspects of the Forum; and (3) the Mandatory Agenda of the REGS Social Audit Forum. These issues are taken up one by one in the next three sections.

11.4 SOCIAL AUDIT FORUM: PREPARATORY PHASE

11.4.1 The success of the Forum depends upon the open and fearless participation of all people, particularly potential beneficiaries of the programme. Effective public participation requires adequate publicity about the Forum as well as informed public opinion. This itself requires that people have prior access to information from the President of the Gram Panchayat in a demystified form.

Publicity

11.4.2 The date, time, agenda**,** importance and sanctity of the Forum must be widely publicized so as to ensure maximum participation. The following measures will help:

11.4.3 Provide advance notice of the date of the Social Audit Forum (at least a month in advance), and stick to an annual schedule in terms of the months in which these are held.

11.4.4 Use both traditional modes of publicity (such as informing people through the beating of drums) as well as modern means of communication (such as announcements on microphones).

11.4.5 Circulate announcements through notices on notice boards, through newspapers and pamphlets, etc.

11.4.6 Conduct these audits in a campaign mode so that the entire administration gears up to meet the institutional requirements of the Forum.

Preparation of Documents

11.4.7 The effective participation of people in a Social Audit Forum depends on full access to information. This is helped by easy access to all documents and information while the works are in progress. However, collating information and demystifying it is also an important part of preparing for a Social Audit Forum. For instance, summaries of the available information should be prepared in advance, so as to make it more intelligible. These summaries should be made available to the public in advance, and also read out aloud during the Social Audit Forum. Thus:

11.4.8 All the relevant documents, including complete files of the works or copies of them, should be made available for inspection at the Gram Panchayat office at least 15 days in advance of the Social Audit Forum. There should be free and easy access to these documents for all residents of the Gram Panchayat during this period, and no fees should be charged for inspection. During this period, copies of the documents

should be provided at cost price, on demand, within one week of the request being made.

11.4.9 Summaries of muster rolls and bills must be prepared in advance for presentation at the Social Audit Forum. If possible, these summaries should be displayed on charts on the day of the Forum, and at the Gram Panchayat office during the preceding 15 days.

11.4.10 The original files should be available on the day of the Forum, so that any information can be cross-checked.

11.4.11 The works to be taken up for audit should be listed in advance, and the list should be put up on the notice boards, along with the other items on the agenda.

11.5 SOCIAL AUDIT FORUM: PROCEDURAL AND ORGANIZATIONAL REQUIREMENTS

Procedural Aspects

11.5.1 Sound procedures are essential for the credibility of a Social Audit Forum. Proceedings should be conducted in a transparent and non-partisan manner, where the poorest and most marginalized can participate and speak out in confidence and without fear. Care has to be taken that the Forum is not manipulated by vested interests. Towards this end:

- The timing of the Forum must be such that it is convenient for people to attend—that it is convenient in particular for REGS workers, women and marginalized communities.
- The quorum of the Forum must be the same as for all Gram Sabhas, with the quorum being applied separately to all relevant categories (e.g. women, SC, ST and OBCs). However, lack of a quorum should not be taken as a reason for not recording queries and complaints; social audit objections must be recorded at all times.
- The Social Audit Forum must select an individual to chair its meetings who is not part of the Panchayat or any other Implementing Agency. The meeting must not be chaired by the Panchayat President or the Ward Panch.
- The Secretary of the Forum must also be an official from outside the Gram Panchayat.
- The person responsible for presenting the information should not be a person involved in implementing the work. The vigilance committee members, or a schoolteacher for instance, could be considered for the purpose of reading aloud the information as per the required format.
- All officials responsible for implementation must be required to be present at the Social Audit Forum to answer queries from members of the Gram Sabha.
- Decisions and resolutions must be made by vote, but dissenting opinions must be recorded.
- Minutes must be recorded as per the prescribed format, by a person from outside the Implementing Agencies, and the minutes register must be

signed by *all participants* at the beginning and at the conclusion of the meeting (after the minutes have been written).

- The mandatory agenda (given below) must be gone through, including the transparency checklist. All objections must be recorded as per the prescribed format.
- The 'action taken report' relating to the previous Social Audit Forum must be read out at the beginning of each Forum.
- In addition, every District could bring in technical expertise (engineers and accountants) from outside the District to help prepare information for dissemination, attend selected Social Audit Forums and take detailed notes. Immediately after the Forum, they could visit the worksites and conduct detailed enquiries in cases where people have raised objections or testified that there is corruption.
- The reports of these Social Audit Forums, and the reports of the technical team, should be submitted to the Programme Officer and the District Panchayat within a specified time frame for necessary action.
- During the Social Audit Forum, the Right to Information Act and social audit manuals should be publicized so that the Forum serves as an ongoing training ground for the public vigilance process.

The Programme Officer is responsible for ensuring that the Social Audit is convened. The District Programme Coordinator will regularly review that Social Audits are being conducted. The SEGC and CEGC will also review the Social Audit mechanisms and processes from time to time. Follow-up action on Social Audit must be ensured at each level.

11.6 SOCIAL AUDIT FORUM: MANDATORY AGENDA

11.6.1 'Mandatory Agenda' refers to the minimum agenda of every Social Audit conducted by the Gram Sabha. The checklist below will help in reviewing whether the norms and provisions in the Act, Rules and Guidelines are being observed.

11.6.2 The Mandatory Agenda should include the following questions/issues:

A. Whether the process of registration was conducted in a transparent manner:

- Was a list prepared by the Gram Panchayat of all the possible households that might seek registration?
- Was the first registration done in a special Gram Sabha conducted for the purpose?
- Was the list of registered persons read out for verification at the Gram Sabha?
- Is registration open in the Gram Panchayat on an ongoing basis?
- Is the registration list regularly updated and put up on the Gram Panchayat notice board?
- Is there anyone remaining who wants to register, but who has not yet been registered?

B. Whether job cards were prepared, issued and updated in a transparent manner:

- Were job cards issued within one month of registration?
- Is the list of job cards regularly updated and put up on the Gram Panchayat notice board?
- Is a file containing photocopies of all job cards available for inspection in the Gram Panchayat office?
- Was the job card issued free of cost, or was there a charge imposed for issuing the job card?
- Is there anyone who has not received a job card, or is there any other pending complaint?

C Whether the applications for work are being treated as per the norms:

- Are workers receiving dated receipts for their application for work?
- Are people being given work on time?
- Is the allotment of work being done in a transparent manner, with lists of work allotments being put up on the Panchayat notice board for public notice and display?
- Are those who have not been given work on time receiving unemployment allowance? How many people have outstanding payments of unemployment allowance, and are they being compensated for late payment as per the Guidelines?
- Was the of a list of workers who have received unemployment allowance (if any) in the last six months, along with the amounts disbursed, and the basis for calculation of the amounts, read aloud?
- Are there any pending complaints about the receipt of work applications, the allotment of work and the payment of unemployment allowance?
- Is the 33 per cent quota for women being satisfied in the allotment of work?
- Is the roster based on date of application received being followed for the allocation of work?
- Are those who are allocated work outside the 5-km. radius being given a transport and living allowance equal to 10 percent of the minimum wage?

D. Transparency in the sanction of works:

- Was the shelf of projects prepared in the Gram Sabha?
- Was the technical estimate prepared by the Junior Engineer in consultation with residents of the village?
- Were the works sanctioned from the shelf of projects as per the norms?
- Was the list of all the REGS works sanctioned in the preceding six-month period be read out aloud, along with the amount sanctioned and the amount spent on the works in the Gram Panchayat area?
- Has the Gram Panchayat board been updated with the list of works painted on it ?

E. Transparency in the implementation of works:

- Were ‘work orders’ issued in a fair and transparent manner, with adequate publicity?
- Was there a board at the worksite giving details of the sanctioned amount, work dimensions and other requisite details?
- Was an open ‘project meeting’ held before the commencement of the work, to explain the work requirements to the workers, including the labour and material estimates as per the technical sanction?
- Were the muster rolls available for public scrutiny at all times at the worksite?
- Was a worksite material register maintained, along with verification by at least five workers whenever material came to the site?
- Was a daily individual measurement of work conducted in a transparent manner where piece-rate norms were in force?
- Was the final measurement of the work (for weekly wage payments) done by the Junior Engineer in the presence of a group of workers?
- Did members of the vigilance committee make regular visits to the worksite and monitor the implementation of various aspects of the work?
- Were any complaints made? Were they addressed within seven days by the grievance-redressal authority as specified in the Act?
- Was an open ‘project meeting’ held within seven days of completion of the work, where all those who worked on the site, and residents of the village where the work took place, were invited to look at the entire records?

F. Wage payments:

- Were wages paid within seven days?
- Were wages paid at a designated public place at a designated time?
- Were all payment details available for public scrutiny before the payments were made (through putting up muster roll copies on notice boards, etc.)?
- Were payment details read out aloud in public while making payments?
- Were payments made by an agency other than the one implementing the work?
- Was a record maintained of payments made beyond the specified time limit?
- Was compensation given as per the provision of the Payment of Wages Act, 1936 for late payments?
- Are any wage payments still due?
- Have there been any instances of workers earning less than the minimum wage, and if so, why?

G. Post facto auditing of the records and accounts of each work undertaken:

- Does the file have all the documents required?

- Were all the documents available for scrutiny at least 15 days before the Social Audit Forum?
- Were charts of the summary sheets available for public display and scrutiny before and during the Social Audit Forum?
- The muster roll summary must be read out aloud to check for discrepancies
- The summary of the bills must be read out aloud to check for discrepancies
- The measurement book summary must be read out aloud.
- The photographs taken before, during and after the work must be available for public display and scrutiny during the Social Audit Forum.
- Was the Monitoring and Vigilance Committee formed as per the norms?
- Has the vigilance committee submitted its report?

H. Other important issues connected with REGS works:

- Sections of the vigilance committee report that deal with the following aspects of work should be read out aloud in order to form the basis of discussion in the Gram Sabha:
- quality of work
- work dimensions
- selection of location
- whether minimum wages were paid
- whether wages were paid on time
- whether all bill payments have been made
- whether any complaints were made to them during the work
- what redressal has taken place regarding complaints or grievances
- whether prescribed worksite facilities were made available;
- what maintenance the project requires.
- General maintenance issues relating to development works in the Gram Panchayat should also be noted and discussed at the Social Audit Forum.
- A list of incomplete works and works not in use should be prepared by the Gram Panchayat Secretary and presented before the Forum for consideration and corrective action.
- The last financial audit report should be made available to the Social Audit Forum, and audit objections, if any, should be read out aloud.
- Any Utilization Certificate (UC) or Completion Certificate (CC) issued since the last Social Audit Forum should be read out aloud.
- If wages or unemployment allowances are due to anyone, the dues should be listed and reported to the Programme Officer for necessary action.
- The Forum provides an opportunity to check whether all the boards in the Gram Panchayat have been updated as per the requirements.

- The services of the REGS staff like the Gram Rozgar Sevak, the Junior Engineer and any other staff can also be audited for quality of service.
- The timely flow of funds from the Programme Officer to the Gram Panchayat should also be monitored.

IPAI News:

LAUNCH OF DIPLOMA PROGRAMME ON BUDGET, ACCOUNTS AND FINANCE FOR PRIs FUNCTIONARIES IN COLLABORATION WITH IGNOU

दिल्ली DELHI D 827118

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (hereinafter referred to as MoU) is signed at New Delhi on Tuesday the 13th day of November 2007.

BY

&

BETWEEN

Indira Gandhi National Open University, referred to as "IGNOU" having its headquarters at Maidan Garhi, New Delhi-110 068, represented through Registrar(Admn.) which expression unless repugnant to the context or the meaning thereof shall include its permitted assignees and successors.

AND

The Institute of Public Auditors of India (hereinafter referred to as IPAI) a Society registered under Societies Act, 1860 presently functioning from 223, 'C' Wing, AGCR Building, I.P. Estate, New Delhi-110002, represented by its President

K. N. KHANDELWAL
PRESIDENT
INSTITUTE OF PUBLIC AUDITORS OF INDIA
NEW DELHI

के० लक्ष्मण / K. LAXMAN
कुलसचिव (प्रशासन) / Registrar (Admn.)
इन्दिरा गाँधी राष्ट्रीय मुक्त विश्वविद्यालय
Indira Gandhi National Open University
मैदान गढ़ी, नई दिल्ली-68 / Maidan Garhi, N. Delhi-68

WHEREAS IGNOU has agreed to collaborate with IPAI in the planning, designing, development and implementation of a one-year Diploma Programme in Finance, Budget and Accounts (hereinafter referred to as DBA) for the staff of Panchayati Raj Institutions (hereinafter referred to as PRIs) under the distance learning mode. Further, IGNOU has agreed to collaborate with IPAI in the development of other short term programmes in Finance, Budget and Accounts for the staff and elected representatives of PRIs.

Objectives

The main objectives of the collaboration between the contracting institutions are:

- To enhance knowledge, skills, attitude and awareness among the accounts staff of PRIs in the areas of financial management, budgeting and accounts maintenance.
- To form a joint coordination committee to oversee the planning and development of the diploma programme, which will be initially launched in five States, including one in the Northeast region, on a pilot basis.
- To undertake joint research studies in the areas of financial planning and management of PRIs.
- To undertake and execute all such activities as may be required for the fulfillment of the objectives stated above.

Now, therefore, it is hereby agreed and declared as follows:

Obligations of IGNOU

With a view to achieving the objectives set forth in the preceding para, IGNOU agrees to discharge the following responsibilities:

- Organising various advisory, expert committee meetings and all other meetings, which might be required in connection with the planning and development of the programmes.

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PRESIDENT
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NEW DELHI

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इन्दिरा गाँधी राष्ट्रीय मुक्त विश्वविद्यालय
Indira Gandhi National Open University

- Advertisement of programmes, independently and jointly with IPAI, and issue of prospectus and registration of candidates.
- Realization of course fee (including examination fee) from the candidates sponsored by the State Governments.
- Fixation of yearly state-wise intake in consultation with IPAI.
- Provide study centres for contact programmes.
- Provide assistance in the development of Self Instructional Material (SIM).
- Composing and printing of SIM and its distribution.
- Development of audio-visual tapes and teleconferencing.
- Holding of term end examinations.
- Compilation and declaration of results.
- Issue of diploma certificates.
- Monitoring of the programme as per IGNOU norms.

Obligations of IPAI

- Participate in the meetings of the coordination committee, particularly connected with the implementation and monitoring of the programmes.
- Appointment of Coordinators and Counsellors for contact programmes at various centres as per IGNOU guidelines.
- Conducting one-week practical training in each semester for the candidates at IPAI centres.
- Writing of SIM (IGNOU will acknowledge the contribution of IPAI appropriately).
- Getting the manuscripts vetted, edited and translated in local language by experts before printing by IGNOU according to IGNOU procedure.
- Preparation of module-wise assignments.
- Evaluation of assignment and feedback to candidates.
- Evaluation of answer books.
- Arranging subject specialists for Gyan Vani and Gyan Darshan programmes and teleconferencing.

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Copy Right and Intellectual Property

All copyright in the course materials (Print, audio/video) developed under this MoU shall be exclusively with IGNOU.

Finance

- The fee structure will be on a no profit no loss basis. The cost sharing arrangement between the two parties will be worked out mutually depending upon the cost involved.
- All expenditure on the conduct of practical training will be borne by IPAI.
- All expenses pertaining to running of contact programmes as per scheme shall be borne by IPAI. IGNOU will, however, provide their centres for holding these programmes.
- All expenditure pertaining to printing and distribution of prospectus, SIM, will be borne by IGNOU.
- All expenditure pertaining to examinations and issue of certificates will be borne by IGNOU.

Amendment to the MoU

The obligations of the contracting parties have been outlined in this MoU. No amendment or modification/renewal or extension of this MoU shall be valid unless it is made in writing. Jointly by both the parties or by their authorized representations. The modification/changes /renewal or extension shall be effective from the date on which they are made/executed unless otherwise agreed to.

Validity

This MoU will remain valid for a period of five years, w.e.f the signing of this MoU and may be extended further in its present form or with mutually agreed modifications.

K. N. KHANDELWAL
PRESIDENT
INSTITUTE OF PUBLIC
AUDITORS OF INDIA
NEW DELHI

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कुलसचिव (प्रशासन) / Registrar (Admn.)
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Indira Gandhi National Open University
मैदान गढ़ी, नई दिल्ली-68 / Maidan Garhi, N. Delhi-68

Termination

The MoU may be terminated at any time during the currency of its period of validity through mutual consent after three months notice from either side in this regard.

Administration

The programme will be administered by a duly constituted joint coordination committee with members from both the IGNOU and the IPAI.

Further Acts and Assurances

Each of the parties agrees to execute and deliver all such further instruments and to do and perform all such further acts and things, as shall be necessary and required to carry out the provisions of this agreement and to consummate the transactions contemplated hereby.

Matters not provided in the MoU.

If any doubt arises as to the interpretation of the provisions of this MoU or as to matters not provided therein, the parties to this MoU shall consult each other for each instance and resolve such doubts in good faith.

Dispute Resolution

In case of any dispute of any kind whatsoever shall arise between the parties in connection with or arising of this MoU, the parties shall resolve by mutual discussions in a meeting under the Chairmanship of Vice-Chancellor, IGNOU , whose decision shall be final and binding upon the parties.

K. N. KHANDELWAL
PRESIDENT
INSTITUTE OF PUBLIC
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NEW DELHI

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कुलसचिव (प्रशासन) / Registrar (Admn.)
इन्दिरा गाँधी राष्ट्रीय मुक्त विश्वविद्यालय
Indira Gandhi National Open University
मैदान गढ़ी, नई दिल्ली-68 / Maidan Garhi, N. Delhi-68

Now in witness whereof the parties to this present have here unto signed and affixed their respective seal, the date and the year herein above written:

Signed, Sealed and Delivered by

Sh. K. Laxman
Registrar
For and on behalf of the First party
के. लक्ष्मण / K. LAXMAN
कुलसचिव (प्रशासन) / Registrar (Admin.)
इन्दिरा गाँधी राष्ट्रीय मुक्त विश्वविद्यालय
Indira Gandhi National Open University
मैदान गढ़ी, नई दिल्ली-68 / Maidan Garhi, N. Delhi-68
For the IGNOU

Signed, Sealed and Delivered by

President
For and on behalf of the second
13.11.07

K. N. KHANDELWAL
PRESIDENT
INSTITUTE OF PUBLIC
AUDITORS OF INDIA
NEW DELHI
For IPAI

Witness :

1. Vikram Chandra

2.

INSTITUTE OF PUBLIC AUDITORS OF INDIA

223, 2nd Floor, 'C' Wing, AGCR Building, I.P. Estate, New Delhi-11002
Ph.: 91-011-23702330, 23702290, 23454326, 23454126; Fax: 91-011-23702295
E-mail: ipai@bol.net.in
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PATRON

SHRI VINOD RAI
Comptroller & Auditor General of India

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