



# MAKING CAG MORE EFFECTIVE

## Audit Must be a Tool of Good Governance

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Public audit is an inevitable constitutional mechanism for ensuring effective public financial management and good governance in a democracy. In India, public audit must play a more predominant role in improving the three-tier governance in national, state, urban and local bodies. To achieve this objective, the following key points need to be kept in consideration.

First, the public audit institution must be enabled to discharge its constitutionally mandated responsibilities impartially, dispassionately with due diligence, without fear or favour. Second, the reports of the public audit institution must be relevant and time-bound. They should also meet quality specifications with valuable inputs for outcome-oriented corrective and preventive actions by the executive. Third, the major stakeholders, i.e., the legislature, executive, media, civil society and citizenry must find value for money in audit outputs for the expenditure incurred in the auditing process. This can be viewed as a return on investment or the tax payers' money. Fourth, the report should offer workable solutions to the executive rather than establishing known facts culled out ingeniously from



the executive files with just a negative twist in narration. Fifth, the public audit machinery should not be relegated to the status of the proverbial barking of a watchdog. This tends to go unnoticed on most occasions and may not alert the executive towards being wiser and vigilant. Seventh, only when the reports contain SMART (Specific, measurable, attainable and realistic) inputs and pragmatic result-driven recommendations, will the public audit project a better image before the executive.

Ultimately, only when the public audit products can assist the executive in fixing problems with innovative thinking, incisive data analytics, foresight and credibility

for improving governance quality, will the dream of an effective national audit institution be realised.

### Utility of Audit Reports

Effective audit reports can facilitate valuable inputs for midcourse policy correction, informed decision-making, prudential financial management and quality public service delivery. While auditing, the institution must focus on how effectively the scarce public resources can be mobilised, utilised and managed. It should pay attention to how far the planned results have been achieved. In case something went wrong midway, it should evaluate how things could be set

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right in future. Although policy formulation and programme implementation are the exclusive prerogative of the government, a responsible public audit analysis can always shine the spotlight on complications encountered in the process. Subsequently, it can suggest remedial and preventive measures to be undertaken to improve public administration.

Public audit has an overriding role of ensuring transparency and accountability in enforcing effective legislative oversight over the executive performance. Its function is to uphold financial propriety, discipline and strengthen a prudential public financial management system. The audit focuses on operational excellence and performance of the executive as well as reliable financial reporting. It scrutinises whether government departments and agencies have complied with due procedures. It works towards safeguarding of public assets along with assessing systemic and procedural flaws and deficiencies in the internal controls. Besides, it also helps

in detecting, preventing and deterring fraud.

Proactive audit is the need of the day, as opposed to fault-finding, time consuming reports. The regressive pinning down of the executive approach should also be stayed clear of. Rather, public audit products must instil confidence among citizens and stakeholders through effective oversight, insight, and foresight. While oversight helps to detect and deter corruption, insight provides inputs to decision-makers by means of an objective evaluation of policy and programme execution. Foresight brings into focus new trends with emerging risks and challenges, and helps devise plans to transform them into new opportunities.

Different types of audits such as financial audits, compliance audits, performance audits, thematic audits, IT audits and environment audits provide valuable data analysis, inputs and an independent expert third party assessment to improve governance. These audits then empower the legislature and other stakeholders like media and citizens to hold the government accountable for its actions.

Audit helps promote credibility

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and better customer service from the government functionaries and reduces corruption. To do so, the public audit machinery should have adequate autonomy and competence to perform its duties. The appointment of the CAG must be based on considerations of merit, integrity, competence, track record and suitability for the job. It needs to be ensured that the party in power does not use the office for rewarding its favourite officers by choosing them as CAG, compromising the above criteria. The constitutional post of CAG must be kept at a high pedestal and aloof from partisan selection process. Often, there is a possibility of selection of certain officers who took controversial decisions, for the CAG's post. This could lead to conflict of interest, incapacitating the individual to discharge the duties and responsibilities objectively. This needs to be avoided. Only eligible, competent officers of unblemished track record and proven professionalism must be appointed. Finally, officers and staff make up the backbone of public audit institutions. To make public audit effective, the office must have requisite autonomy, independence and competence to perform its functions.

## **Learnings from USA: Government Accountability Office**

The Supreme Audit Institution of the federal government of the United States of America purposefully changed its name to the Government Accountability Office (GAO).





GAO is not just an accounting office, but an institution that helps the legislature in enforcing accountability of the executive through effective legislative oversight. GAO is an ‘independent, nonpartisan, professional services agency in the legislative branch of the federal government’. It is the ‘Congressional watchdog’ with a mission ‘to support the Congress in meeting its constitutional responsibilities and to help improve the performance and ensure the accountability of the federal government for the benefit of the American people’.

In accordance to the mandate entrusted to it, the GAO examines how public funds are utilised, evaluates federal programmes, outcomes of projects as well as operations and activities of the executive. In addition, it provides analysis and recommendations. The purpose is to enable the US Congress to exercise effective oversight on government policy and funding decisions. GAO learns continuously from its experiences as well as from outside and improves its results, impact, values and outcomes. It strives hard to give value for money and return on investment by contributing reports that have an impact on the economy, efficiency, and effectiveness of the federal government. To do so, it uses innovative methodology in its financial audits, programme reviews and evaluations, policy analyses, legal opinions, investigations, and other services. Since its creation through the Budget

and Accounting Act of 1921, and expansion of its mandate in 1945 as well as through subsequent legislations, GAO has been investigating “all matters relating to the receipt, disbursement, and application of public funds” and to “make recommendations looking to greater economy or efficiency in public expenditures.” It audits the financial transactions of government corporations, establishes accounting standards for the federal government, evaluates internal controls and financial management. What’s more, it annually audits the consolidated financial statements of the United States government. The agency oversees the national and international trends and challenges, while evaluating their implications for public policy. Thereafter it provides recommendations to improve the outcome of government agencies and helps in instilling trust in the taxpayers.

GAO is able to achieve its results mainly through the actions taken by the Congress and federal agencies, based on its recommendations. GAO provides ‘professional, objective, fact-based, nonpartisan, non-ideological, and balanced information to the Congress and other stakeholders’. The legislation enables the GAO to perform a wide range of functions, including public auditing, engagement with stakeholders, providing legal opinions and conducting policy analysis. GAO focuses its attention on important issues where legislative solutions may

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be called for, and on federal programmes and operations that are vulnerable to fraud, waste, abuse and mismanagement.

Transcending its role as an agency that’s tasked with auditing government revenue and spending, GAO spreads itself in other directions as well. The agency keenly looks at what shapes US and its place in the world. The goal and strategic objectives of the organisation are explicit: ‘provide timely quality service to the Congress and the federal government to address current and the emerging challenges to the wellbeing and financial security of the people’ and to ‘respond to changing security threats and challenges of national security and global interdependence’. GAO evaluates government’s fiscal position as well as risk management by testing and validating internal controls for prudential financial administration, output and outcome in government operations and programme execution<sup>1</sup>.

Not surprisingly, GAO has prepared its strategic plan 2018–2023 with an explicit mission to support the US Congress in meeting its constitutional responsibilities. It has also pledged to help improve the performance and accountability







of the federal government, thereby benefitting the American people. Its contribution is an astounding: \$ 73.9 billion in financial benefits, and for every \$1 investment in GAO, the organisation returns \$128. GAO is credited with 1280 improvements in federation operations.

GAO operates with about 3000 employees having multidisciplinary academic qualifications with creditable contributions. It has handled 2600 bid protests and issued 500 legal decisions thereby contributing \$ 73.9 billion in financial benefits. Comparison of CAG of India (its mandate, about 50,000 work force and quality of audit products) with GAO will provide valuable lessons for us.

## Learnings from OECD

Organisation for Economic Co-operation and Development (OECD) in its 2016 report, "Supreme Audit Institutions and Good Governance: Oversight, Insight and Foresight", maps the activities of 10 leading Supreme Audit Institutions (SAIs), in Brazil, Canada, Chile, France, Korea, the Netherlands, Poland, Portugal, South Africa and the United States. It finds that all SAIs have untapped potential to go beyond their traditional oversight role in order to bring valuable inputs and evidence that help the executive to formulate better policies. SAIs have a role to help restore citizens' confidence in public institutions and to ensure effective utilisation of scarce resources. This goes a long way in maximising value for

money and outcome. SAIs are increasingly providing deeper insights into the trends, overlaps and gaps. They must also be able to provide foresight to tackle challenges before their respective nations so that they can face the future with confidence.

## Red Flagging Issues of CAG of India

In India, Article 148 of the Constitution deals with the appointment of CAG by the President. However, the process of appointment is not given in the Constitution. This can lead to the executive's prerogative to resort to non-transparent selection processes, resulting in the appointment of individuals rewarded for taking controversial or partisan decisions to help the government in power. The CAG is constitutionally bound to function judiciously and objectively, without fear or favour, an ethic that may be compromised if the selection is done arbitrarily and is based on executive discretion.

Post-independence history of the CAG office establishes the non-transparent selection process. Inherent obligation of the selected officer to the party who selected him/her as CAG can possibly result in bias in subject selection of the reports and contents included or left out. It could even dictate the position taken in the report, exclusion of names, omission of facts, misinterpretation, usage of questionable statistical methods so as to arrive at unreliable and doubtful results.

The tendency of diluting facts, being partisan instead of objective reporting, and colouring findings can be observed in many CAG reports such as those on Bofors, 2G spectrum and coal block allocation. In these reports, the figures changed drastically from the drafts to final versions.

## More Issues and Concerns

What can be done to enhance the effectiveness of the CAG? Is it sufficiently accountable for its action? Is the selection of topics for audit and audit processing fully transparent? Who ensures the quality of its reports? In cases of politically sensitive issues, can the CAG, appointed by the executive, take a nonpartisan stand? What is the value for money and return on expenditure by the CAG in monetary terms? Are the reports sufficiently strategic and useful for the stakeholders? Is the work environment and culture inclusive and conducive to effective team building and leadership? These, and many more questions remain unanswered in our quest to make the CAG an efficient, non-partisan and transparent body.

Improving the effectiveness of the CAG is the need of the hour. If parliamentary oversight over executive is to be effective, there must be quality CAG reports aiming at better governance outcomes and citizen welfare. Most of the 100 odd CAG reports produced annually are not able to capture public attention, being outdated and





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based on facts well-known within the executive as well as on borrowed wisdom.

The father of the Indian Constitution, Dr. B R Ambedkar envisioned the CAG of India as the most important officer under it. Therefore, the appointment of CAG must be absolutely objective and merit-based. What is left unspecified in Article 148 can be specified. What criteria should be used to appoint the CAG of India and who shall be considered? What should be the qualifications, specialisations, personality attributes or credentials that need to be considered for eligible candidates? Should there be a collegium to select the CAG, and if so, what should be its composition?

Many suggestions have come but the government has not yet made the selection process foolproof. Should the CAG be an officer of the Parliament as in UK and USA? What are the pros and cons of both the systems? In the present system, independence of the CAG’s selection of audit products, timeframe, reporting style, content, tenor and product specifications are determined by one solitary individual.

The history of CAG’s functioning in India reveals systemic flaws. Acton’s famous quote, ‘power tends to corrupt and absolute power corrupts absolutely’ may be understood as a warning

against undiluted powers of the CAG, which may be used at times to achieve motivated ends.

On the flip side, there is nobody to help the CAG of India when he is in trouble, as he is neither an officer of the executive nor an officer of the Parliament at present. When controversial reports are discussed, objectivity of the institution is questioned and partisan accusations are aired so as to pin down the national auditor.

## The Way Forward

What should be the best way to make CAG of India more effective? Can there be a Parliamentary debate on pros and cons of the present system vis a vis that of an alternative system of Supreme Audit Institution, based on economy, efficiency, effectiveness, outcome and value for money?

There also needs to be an informed debate as to whether there should be a body of SAI chaired by a first among equals, replacing the existing audit emperor scenario. In the current format, the top management gets treated as puppets or courtiers to the audit emperor. India’s Supreme Audit Institution can follow in the footsteps of the country’s Election Commission, and have a body of audit specialists headed by a chief, who is nothing but the first among equals. This would lead to more transparency and objectivity in selection of topics for audit reports and what is to be included and excluded in reporting. It would also

introduce a sense of integrity into the timing of the reports, modus operandi of the process as well as style, contents and language of reporting.

Post-retirement assignments are barred for CAG, but even then some CAGs take them up, leading to debates on misinterpretation of the true spirit of constitutional provisions. CAG products become ammunition in the hands of the Opposition parties in Parliament looking for the perfect opportunity to come to power, when reports are written in a sensational style, using questionable statistical projections. Ultimately SAI India must not be seen as a post-retirement award for serving bureaucrats who compete in seeking favours from the government.

Delay in placing CAG’s reports in the legislature has been resorted to by the executive to avert proper discussion on it by elected representatives. It is alleged, at times, that the draft reports are intentionally leaked to the media. Non-production of vital records at critical junctures weakens the institution and affects its performance. The Comptroller and Auditor General’s (Duties, Powers and Conditions of Service) Act, 1971 does not provide any legally tangible powers to summon, question, prosecute or take action against the executive for non-cooperation and failure to produce the required records to be used as audit evidence. In such eventuality, many vital audit observations may get





automatically diluted or even eliminated. CAG is, therefore, often called a tooth-less watchdog of the Constitution.

The CAG reports on the allocation of 2G Spectrum, coal block allocation for mining, revenue sharing of the Krishna Godavari (KG) D6 Gas Block, and issues pertaining to Delhi electricity distribution companies were all challenged in the court of law by the aggrieved parties. In a 2014 judgment by the Supreme Court, a Bench of Justices K S Radhakrishnan and Vikramjit Sen upheld the constitutional validity of the CAG's audit of all public-private partnership projects wherever there is a revenue sharing agreement with the government, and the legitimate share of the government is to

be determined. The reports are made by CAG on his/her own discretion, but are scrutinised by the Public Accounts Committee (PAC) formed under the Rules of Procedure and Conduct of Business in the Lok Sabha and state legislatures.

The PAC has the power to receive evidence, summon persons and papers as well as record and receive oral evidence. The Supreme Court held that "CAG has the power to examine the propriety, legality and validity of all expenses incurred by the government" and "the office of CAG exercises effective control over the government accounts." It has also held that "duties and powers conferred by the Constitution on the CAG under Article 149 cannot be taken away by

the Parliament." The Supreme Court's verdict includes the CAG as part of the basic structure of the Constitution. It limits the supremacy of Parliament in amending constitutional law. The constitutional provisions and the CAG's (DPC) Act, 1971, with subsequent amendments, define the CAG's mandate, scope, duties, powers and other conditions of service. Besides giving it adequate powers to perform the mandated duties, the inherent debilitating factors should be set right to enhance the effectiveness of the public audit system in India.

### (Endnotes)

1. Serving the Congress and the Nation. Strategic Plan 2018-2023 (GAO-18-1SP) [www.gao.gov/assets/700/690260.pdf](http://www.gao.gov/assets/700/690260.pdf) (last accessed October 12, 2018)

