

To Watch the Watch-dog of Public Finance

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Abstract

The Comptroller and Auditor General of India (CAG) is one of the most important constitutional authorities. The CAG is to audit all receipts and expenditures of the governments and to report their findings to the Parliament/Assembly for their accountability. The Constitution and CAG's Act, 1971 provides total functional freedom to CAG to better serve the objective of public audit; what, when, how, and how much to audit are their prerogatives. All the stakeholders, from the Parliament and Assembly to the common people, can know only what is disclosed in these audit reports. Entrusting the entire audit process to one person without any monitoring mechanism may lead to below average performance or deliberate omission to do their mandated duties. The decreasing number of audit reports in recent years, more focus on administrative audit and evaluation of performance under the pretext of value addition/ aiding for better governance, opaqueness in non-publishing of some audit reports, less coverage of audit, and availability of less resources for audit indicate that the performance of the institution of CAG is not at the expected level. Evolving a system for annual reporting of the audit activities of CAG to the Parliament, without curtailing CAG's independent functioning, is an immediate need for the accrual of the benefit of public audit; ensuring clean governance without leakage and misuse of public money.

Keywords: Performance of CAG, Accountability of CAG, Watchdog, Compliance Audit, Performance Audit, Audit Assurance, Appointment of CAG

Publication Date: 06 December 2024

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1. Introduction

In parliamentary democratic form of governance, people govern themselves through their elected representatives to the Parliament. The majority in the Parliament forms the government and govern the country with their accountability to the people through the Parliament. As far as the financial governance is concerned, the Parliament authorises the government to mobilise the resources and to spend the public money for approved purposes. As it is not feasible for the Parliament to watch every collection and spending, a public audit system is created for watching and reporting the financial irregularities (if any) of the government, for accountability and transparency in financial governance.

The Constitution of India institutes an independent public audit authority with the Comptroller and Auditor General of India (CAG) to scrutinise the government's financial governance and to report the financial wrongs to the Parliament. The institution of CAG is not an organ of the government, but an independent authority to question the government and all executives handling public finance.

1.1 Expectations of founding fathers of the Constitution

Aptly appreciating the vital role of CAG in democratic governance, Dr. B. R. Ambedkar opined that CAG is the most important officer of the Constitution, whose duties are far more important than the duties even of the judiciary¹. The other members of the Constituent Assembly also expected the CAG to be uninfluenced by anyone, howsoever great they may be, and to be vigilant to protect the public money from looting².

1.2 Constitutional protection for independent functioning of CAG

Considering the risks of questioning the powers for their accountability and for discharging audit duties independently without fear, CAG's tenure (except by removal, as is for judge of Supreme Court) and personal rights like salary and pension (not to be changed to their disadvantage) are constitutionally protected (Article 148 of the Constitution).

1.3 CAG's duties

CAG, heading an exclusive department, the Indian Audit and Accounts Department (IAAD) and having specialised and experienced officers at their command, shall audit all public monies receivable and spending the collected money by the governments (Union/State and Union Territory with Assembly/Local), and that of autonomous bodies, companies, etc., (significant exceptions being banks and insurance companies) under their control, and report financial improprieties in the form of Audit Reports to the President or Governor/ Lieutenant Governor or Government for their placement in the Parliament/Assembly, besides preparation and submission of accounts of 28 State governments³.

1.4 Functional freedom of CAG

Time required for audit widely varies; it all depends on the nature of transactions – many transactions can be audited in a day, while one transaction may require many days, even weeks. Further, in view of complexity and volume of public finance, CAG is authorised to decide the scope and extent of audit; to dispense with, when circumstances so warrant, any part of detailed audit; and to apply such limited checks, as CAG may determine⁴. Thus, there is no power in the country to direct the CAG to work in a certain manner; what/how/how much/when to audit are all prerogatives of CAG, except only that accounts must be annually audited for certification. The CAG, empowered to question all, is not accountable to anyone.

This sort of freedom of work is not available even to the highly independent judiciary. Hierarchical system of courts, open proceedings, provisions for appeal and bench system in higher courts, bar associations and litigants provide formal as well as informal checks on the working of the judges. But CAG is a sole authority and fully independent; the only expectation of the Constitution is that they will discharge their duties to their best abilities, and without fear or favour, keeping the oath taken while assuming his office.

1.5 Opacity in appointment of CAG

In the absence of constitutional or statutory requirements as to the skill and personal capability required for the post of CAG, appointment to this unique and important position is made by the President of India, by warrant under his seal and authority (precisely by Union government), without any special procedure for selection or transparency. Except few Comptroller and Auditors General initially appointed from officers with Indian Audit and Accounts Service background (Chandrasekharan, 1990, pp. 74, 80), all CAG appointed later were retired Indian Administrative Service officers, who were auditees immediately before their appointment as CAG.

According to T. N. Chaturvedi, former CAG, ‘... The Auditor General should have a strong psychological or subjective feeling of accountability, which must manifest itself in the organisation and working of his office. ... As guardian of public accountability the Auditor General should hold himself out as a model institution fully conscious of his own responsibility to the people at large.’ (1987, pp 22-23).

2. Need for watching performance of CAG

Everything of public audit is ultimately left to one person’s discretion, who is appointed without any test for their suitability. The total freedom without any sort of accountability may give scope for an incumbent to sit silent enjoying high status, financial benefits, and foreign tours, without discharging their duties, or to actively subserve political or other interests of any person, as *quid pro quo* for their appointment or eyeing future rewards after retirement (while further office under government is prohibited, no bar to be an MP, Governor, Padma awardee, head of independent

committee, etc.). Adverse impact of below-standard or non-performance as per mandate by even one incumbent on public financial management would be immeasurable. So, performance of every CAG matters.

The presence of the CAG is not regularly felt, despite high corruption perception in the country. All stakeholders, from Parliament/Assembly to the common man, can know only what CAG has put in their audit reports. The audit reports of CAG occasionally evoke public attention, e.g. allotment of 2G spectrum in 2010, and construction of Dwarka Expressway in 2023. If the non-perceptibility of audit reports earlier and in between periods were due to incompetence, negligence, fear or favour of the incumbent, it is matter of grave concern and would defeat the creation of public audit system. The intermittent invisibility may be justified only by an optimal audit assurance for systemic and complete audit process as per the audit mandate.

There is no formal procedure/compulsion for CAG to report the level of annual audit coverage, either in terms of auditable units or Ministries/Departments or financial volume. Similarly, there is no arrangement for monitoring and evaluation of their performance. Hence, there is a need to ascertain whether the functional freedom and the opaqueness in appointment of CAG resulted in 'below average performance' or 'active omission/deviation in discharging the mandated audit function' by the incumbent, and to evolve a formal mechanism for evaluating the performance of CAG without affecting their independent functioning in the larger interest of public audit.

3. Performance of CAG

3.1 Self-inflicted erosion of Audit – CAG is Auditor, not Evaluator

The Constitution, while leaving the prescription of duties and powers of CAG to the Parliament, empowered the CAG to continue with same duties and powers conferred on the Auditor General of India immediately before the commencement of the Constitution till a law for that is made by the Parliament.

The word audit without any prefix/adjective (like social, energy) means audit of financial transactions and their accounting, looking at their compliances to provisions of the Constitution, applicable laws, rules, accounting standards, etc. As per the above concept of audit, and as they had been doing regularly before adoption of the Constitution, CAG continued to examine the financial transactions' compliances (compliance/regularity/propriety audit), treating each office with Drawing and Disbursing authority (to collect and spend public money) as an audit unit, and the annual accounts of governments and other bodies for their correctness and compliances to accounting standards/disclosures (certification audit/financial attest audit).

When, the system of evaluation of projects/schemes/plans was introduced, by the Union government, with Project Evaluation Officer as a part of administration, then CAG, in 1961, also introduced a concept of evaluation audit of important government schemes/projects as a whole, with the objective to see how far they had been efficiently implemented and fulfilled expectations. The

then-CAG himself described it as a facet of discretionary audit (Chandrasekharan, 1990, pp 80). The evaluation is a method to determine how far an activity has progressed, and how much further and in what way it should be carried out to accomplish the objectives (ibid, pp 207).

The Act prescribing CAG's duties, powers and conditions of service, as envisaged in the Constitution, enacted by the Parliament in 1971 - CAG's (DPC) Act, 1971, commands CAG to audit all public expenditures and receipts (Sections 13 and 16 of the Act). Though there is no specific provision for evaluation of schemes in the Act of 1971, it has been continued as Efficiency-cum-performance audit, Value for money audit, and now Performance audit. This type of audit is reviewing implementation of government schemes/projects with regard to economy, efficiency, and effectiveness.

Chandrasekharan (1990, pp 208) noted that 'although the material on which both Audit and Administration worked (the former in conducting Efficiency-cum-performance Audit and latter for carrying out evaluation) were one and the same, the results produced were diverse and different in content and conclusions, as both conformed to objectives, scope and methods employed by either'. Thus, it stands that both performance audit by CAG and evaluation by the Administration are nearly same, and may vary only according to the objectives, scope, and method set/used by them. Further it is clear that evaluation is the responsibility of the Administration.

Doubts about the legitimacy of performance audit by CAG had also been raised. Consequently, CAG obtained a clarification from the Government of India on June 13, 2006 to the effect that performance audit is deemed to be within the scope of audit to be decided by CAG under Section 23 of CAG's Act⁵. In 2007, CAG has also included the performance audit as a type of audit in the Regulations on Audit and Accounts made by him under Section 23 of the Act.

The Supreme Court, in 2012, held that CAG's functions to carry out examination into economy, efficiency, and effectiveness with which the government has used its resources is in-built in CAG's Act 1971⁶. In 2013, the Supreme Court further held that the duty of CAG would arise only after incurring of expenditure⁷.

From the above, it is evident that unlike compliance audit and financial attest audit (regularity audits), performance audit is not a directly-mandated type of audit, but a derived one with objective of ascertaining economy, efficiency, and effectiveness (impact/outcome) in/of implementation of schemes. CAG's audit arises only after financial commitment for expenditure, or in case of receipts, when they are leviable/due.

Under the circumstances, CAG may conduct performance audits only after fulfilling their mandated audit for compliance of financial transactions and certification of accounts. At the same time, public audit's economic, efficient, and effective functioning is in its role of ensuring probity in public life/clean administration and Audit's assurance to the people of the country shall primarily be about the legality and propriety of financial transactions, rather than efficiency and effectiveness of scheme implementation.

However, significant portion of audit resources are now being used for performance audit, with lesser attention for compliance audit, as may be noted from the number of audit reports on these types of audits (of 12 reports presented in the Parliament in August 2023, while 5 were performance audit reports, 4 were compliance audit reports) and fewer and fewer auditable units covered for compliance audit (refer to para 3.5.4.1 below)

It may be noted that, at times, CAG conducted performance audit on matters not involving any financial commitment by government. Performance Audit of Disaster preparedness in India, Union (civil) (No.5 of 2013) and audit report of CAG on ‘Preparedness for implementation of Sustainable Development Goals’ (No. 8 of 2019) are the instances of such audit (SDGs are to be fully achieved only by 2030). In terms of the Supreme Court’s judgement, audit on areas without provision of funds is beyond the authority of CAG, and audit expenditure on such exercise may be construed as irregular.

Further, accountability for overall deficiencies in economy, efficiency, and effectiveness in implementation of scheme cannot be fixed on individuals (unless any violation of rules, etc., is proved; which can be detected only in compliance audit), as they are generally the collective responsibility of persons or groups across policy formulation, planning, implementation etc.

3.2 Administrative audit is not the job of CAG – Diversion of duty

Separation of powers and duties among constitutional authorities for checks and balances is the essential principle of democratic governance. Government is for governance and CAG is for auditing the governance (financial) for accountability and transparency. Conceptually also, Audit can never be a part of management. Being part of governance would take away Audit’s *locus standi* to question the government/executives later, and would also defeat the purpose of creating institution of CAG as a separate entity outside the other organs of governance.

Shri R. K Chandrasekharan (1990) has rightly noted that “The distinction between auditorial and administrative functions was clearly recognised and ... Audit of CAG was a financial audit and not an administrative audit and criticism was limited to financial criticism based on the accounts. It was not the function of audit to range over the field of administration and offer suggestions how the government may better be conducted. It was the responsibility of the Executive to enforce economy in the expenditure of public money but it was the duty of Audit to bring to notice wastefulness in public administration and infructuous expenditure”. In the name of performance audit, however, CAG conducts administrative audit, as may be observed from a sample report discussed below:

3.2.1 A sample Performance Audit Report:

Of the three objectives of Performance Audit Report on Derailment in Railways (CAG, 2022) viz., (i) measures to prevent derailments were clearly laid down and implemented by concerned officials, (ii) derailments were investigated efficiently and recommendations of the inquiring authorities implemented towards bringing out systemic changes and (iii) Rashtriya Rail Sanraksha Kosh (RRSK) funds were utilised as per guidelines, the first two were an assessment of administrative function of

the Railways, and only the remaining one is on the financial aspects. Thus, two-third of audit coverage was clearly on administrative matters.

Besides the above, Audit also examined the positions of “Track Renewal works” and ‘Collisions due to failure of Railway Staff’ with reference to the recommendations of the Parliamentary Standing Committee on Railways in its Report on ‘Safety and Security in Railways’. CAG found that ‘the Railways Administration failed to take corrective steps in respect of track renewal and there was shortfall in track renewal work’ and “The Ministry has failed to assess the root cause of continuous and possible repeated lapses by railway staff. ... The Ministry was therefore advised to deliberate on the issue to check the faults of the railway staff and take required corrective measures”.

When the Standing Committee on Railways had already examined above as part of its oversight for executive accountability on administrative matters, and there is a system in place for further follow up of its recommendations to its finality by that Committee itself (through Action Taken Notes of Ministry and submission of the Committee’s Reports to the Parliament), Audit’s act of ascertaining the position further is a superfluous, if not wasteful exercise. This may also result in conflict of views between the two committees viz., the Public Accounts Committee following up the Audit Reports and the Standing Committee on Railways following up its own reports.

Various observations in this report were on administrative matters. These include: (i) shortfall in Rail Track inspections, carrying out of preferred type of welding, various types of inspections, periodical medical examinations of officials and training of track maintenance officials; (ii) delay in various stages of accident inquiry and keeping track maintenance machines idle; and (iii) other audit observations on other safety issues like fire accidents with causes and resultant losses, offences under Railways Act (hawking, begging, bringing dangerous goods and smoking), non-provision of fire extinguishers in non-AC coaches, shortfall in targeted elimination of Manned Level Crossings, delay in completion of road over/under bridges, Zonal Railways-wise number of animal deaths, run-over of four lions in two incidents and non-installation of sufficient signages, fencing and watch towers safety of Asiatic lions, etc.

If audit wants to make further points on these administrative deficiencies, it should have attempted to bring out the adverse financial impacts of such omissions like cost over-run and consequent avoidable expenditure on account of delay/omission on the part of railways in completion of over/under bridges. But there were no such audit observations.

As per the limited scope of the third objective set by Audit (utilisation of RRSK funds as per guidelines), the audit points were only on the shortfall in contribution from internal resources of Railways to the fund, decreasing trend of expenditure on track renewals, non-taking up of safety related works due to funds constraints with details of expenditure on three prioritised and non-priority items and incorrect booking of expenditure to the tune of Rs 48.21 crore on items not related to safety like salary, bonus, passenger amenities, purchase of furniture, etc., from RRSK intended for critical safety related capital works. From the above, it is evident that except incorrect booking of expenditure, no attempt was made to take a sample out of total expenditure of Rs. 51,523 crore

incurred from the fund during the period covered by audit (2017-20) for audit scrutiny, such as looking for larger financial irregularities in tendering, awarding of contracts for works/supplies, etc.

Thus, the Audit Report on derailment in railways is nearly entirely an administrative audit report. If CAG conducts administrative audit which may be done by the government itself, who will conduct the compliance audit which only the CAG is empowered to do?

Using the already limited audit resources (para 3.4 below) for works not related to CAG, with resultant non-audit of financial transactions to that extent, is highly irregular.

3.3 New ill-found objective of audit – extra aid for good governance

CAG is expected to remain uninfluenced by anyone, howsoever great they may be, and to discharge the mandated duties without fear or favour.

The financial irregularities brought out in the audit reports are to be followed up by the Public Accounts Committee/Committee on Public undertakings of the Parliament/Assembly for fixing individuals' accountability and remedial actions by government. Thus, Audit's contribution for good governance is indirect; it is in its higher rate of detection of financial misdeeds by its effective audit, instilling fear of audit detection/exposure in the minds of executives, thus creating a deterrent force preventing financial wrongs in governance. Now, in the pretext of good practice and aiding for good governance, attempts were made to restrict the role of audit only to help the government directly in its overall governance, and the incumbent CAG also readily submitted to them with open declaration to that effect as follows:

In first Audit Diwas celebrations on 16 November 2021, CAG was eager to hear from the Prime Minister (from the CAG's standpoint, an auditee as the head of the Union government) on his vision so that the institution of CAG can better aid governance for improving the lives of citizens of this great nation (CAG, 2021). The Prime Minister reportedly stated that 'There used to be a time when audit elicited fear or suspicion. Back then, CAG versus Government was a usual affair. But today audit is considered an important part of value addition' (Press release dated November 16, 2021) (CAG 2021)

Interactive sessions were conducted by CAG's office in 2019, February 2020 and April 2022 with various Union ministries for their suggestions on areas which could be selected for audit, and to identify schemes, projects and activities that the ministries would like CAG to evaluate and provide audit opinion and assurance on their implementation, outputs and outcome⁸. The CAG also declared in his press releases that these sessions/ value-addition exercises were organised at the behest of the Prime Minister of India, to make the institution of CAG friendlier and a more active contributor in good governance, and for developing greater synergies between the government and CAG. CAG also reported in his Performance/Activity Reports for 2019-22 that areas of audit which were outcome-focused were identified and selected for performance audit.

The Performance Audit Report of CAG (No. 2 of 2022) on 'Management of Spectrum assigned on the administrative basis to Govt Departments/Agencies' which had also been cited in the

Compendium of New Initiatives and Good Practices in the CAG's Institution, released by CAG in 2022, keeping in view the vision of the Prime Minister and CAG of India, may be an example for the results of above approach.

The above performance audit was taken up at the request (October 2020) of Department of Telecommunication (DoT). The important findings were (As per the above Compendium and CAG's Press Release were that spectrum in majority of bands was either sub-optimally utilized or not utilized, DoT had not acted for auction/allotment of those idle spectrum to Government/private users and DoT did not review pricing of spectrum, since 2012, despite a committee's recommendation in 2013⁹.

Thus, the above 'audit' was at the request and that also on the area desired by DoT, and CAG assessed the position and reported the status. It is true that these findings are value additions, and friendlier without any CAG vs Department mindset, and would also aid for good governance. But, all these can be easily done either by department's internal audit or engaging an appraisal/evaluation agencies and for doing this type of 'audit' – constitutionally protected Supreme Audit Institution (SAI) is not required. Such an independent institution is required only for accountability for financial misdeeds/favouritism at the cost of public interest in allotment/auction of spectrum to the private parties, their pricing, etc., which sort of areas no government ministry/department would normally suggest on its own for audit.

Assessment of outcome is responsibility of the government/management concerned. If any government want 'extra' aid for governance and value additions by outcome or impact assessment of its scheme, let it create specialised agencies like Niti Ayog or establish exclusive department for such assessments as in Tamil Nadu (Department of Evaluation and Applied Research) or involve specialised bodies like National Productivity Council as had correctly been engaged for evaluation of Swadesh Darshan scheme of Ministry of Tourism (CAG's Audit Report No.17 of 2023). Let CAG to do their auditing duties - watching proper collection and spending of public money without fraud, misappropriation, misuse, etc.

The deviation of CAG from strict financial audit to evaluation/appraisal type of performance audit in the guise of value addition and aiding good governance is only an euphemistic way of subverting/weakening the public audit system in the country, by making the supreme auditor a part of executive, an evaluator or 'soft auditor or administrative auditor'.

The above is clear indication of travesty of audit. Further, when the very nature of audit is questioning the executives for their accountability, how can 'versus' be absent between them. If Audit is effective, there are bound to be conflicts; positive and purposeful. CAG versus Auditee is a good sign of existence of effective public audit in the interest of the nation.

CAG's looking to the executive for guidance and working in accordance with wish of that executive is not only against constitutional ethos, but also a clear case of an act of the incumbents in violation of their oath. Clean governance is to be proved only by free and complete audit test, but not by caging or diverting Audit.

3.4 Less resources for audit – fragile audit assurance

CAG is authorised to decide the extent of audit, and to dispense with any part of detailed audit and to apply limited checks, only when circumstances so warrant. At any stretch of leniency, shortage of human resources for audit shall not be a ground for ‘dispensing with audit’.

Auditees would generally be happy with less audit. It is duty of the nation’s auditor to employ adequate human resources for satisfactory level of checks for optimal audit assurance to the Parliament/Assembly and the people.

The strength of human resources of IAAD in 1966 was 44,720 (Chandrasekharan, 1990 pp. 92). But even after multifaceted growth of government activities, introduction of many welfare schemes, multi-fold increase of public finance over the years (revenue receipts alone of Union and State governments for 2019-20 was Rs 45,65,556 crore¹⁰ with more spendings including other capital receipts and borrowings, IAAD’s strength had been only in the range of 43,118 to 48,139 during 2011-2021 (Performance Reports of CAG, 2021-22). IAAD functioned during 2021-22 only with 41,675 officers and staff (including multi-tasking staff of 3,057) against the sanctioned strength of 61,121 (split up for audit and accounting functions is not available).

The strength was for auditing and for accounting function for 28 States, maintenance of GPF accounts for employees of 20 States, and authorisation of pension to employees of 19 States, gazetted entitlement functions for 9 States, for administering IAAD’s 3 national and 10 regional level training institutes, and for UN audit assignment as and when entrusted. The vacancy position (32%) and the combined workload would clearly indicate dismal level of available human resources for audit. CAG, evidently, conducted audits, on plea of risk assessment, without any concern for providing even minimum audit assurance to the people of the country.

The expenditure on IAAD for 2021-22 (Performance Reports of CAG for 2021-22) was Rs 5,352 crore (including Rs 1,597 crore on offices for State Accounts and Entitlement function), which works out to only 0.2% of total non-debt receipts (Rs.24,76,007 crore) of Union government alone and if receipts and expenditures of all auditable entities under CAG’s audit jurisdiction are reckoned, expenditure on audit would be negligible.

Of the recoveries pointed out by Audit in 2021-22, Rs 25,570 crore was accepted by the auditees. The accepted quantum of recovery pointing to the vulnerability of public funds and favourable cost-benefit ratio corroborate necessity for more audit and more human resource for that.

3.5 Oddities in recent years

The audit’s self-inflicted erosion over the years, succumbing of the incumbents to serve the interest of the elected government, and less human resources for audit resulted in sub-optimal CAG’s audit function, in recent years, as may be noted from following abnormalities:

3.5.1 Silence of CAG

The job of CAG is to question all, howsoever great they may be. The Prime Minister was not free to choose the manner of his journeys in view of security considerations. To conform to financial proprieties, at the instance of then Prime Minister in 1951, the institution of CAG arrived at a formula for travel expenses of the Prime Minister for use of IAF planes for his journey performed for party or political purposes. As per the arrangement, the Prime Minister and any other person travelling with him in the plane for party and political purposes shall reimburse the government with amount not less than the expenditure they would have incurred by air travel as private individuals. This initiative set a beginning of series of instructions from CAG for regulating the Travelling Allowance, Dearness Allowances, reimbursement of other expenses incurred by the Ministers of the Centre, the Chief Minister and other ministers in the States, the Speaker of the Parliament/Legislatures, etc. Based on the audit objections on regularity and propriety aspects, in several cases, monies were recovered either during tenure in office of the CMs or Ministers or after they demitted office. The cases which were not properly regularised were commented upon in the audit reports concerned (Chandrasekharan, 1990, pages 62 and 63).

Now, PM CARES Fund created by the Prime Minister is being operated from his office using services of two officers, though on honorary basis, and other official infrastructure maintained out of the Consolidated Fund of India for providing administrative and secretarial support to Trustees of the fund without any evidence of having been questioned by Audit¹¹.

The Constitutional dictum is that no paise be collected without authority even by the government. Then, is not collecting money by any executive and spending them without accountability a financial dishonesty, howsoever good the intent or purpose? Is using services of government officers, even on honorary basis, and government office and other infrastructures, all maintained out of public money, for a fund administration not related to government, not a financial impropriety? Wouldn't silence of Audit set a precedent and encourage other elected executives also like Chief Ministers to indulge in similar irregularity? This stillness, even on the issue in the public domain, of the incumbents appointed to protect the public money and assets from misuse would erode the credibility of the institution perpetually.

3.5.2 Downward trend of audit reports and non-hosting of reports

The abnormalities of CAG's activities during 2017-2020 included a reduced number of audit reports on Union and States/UT and others (an average of 96 per year against 166 during immediately preceding 2014-17); dispensing with the practice of bringing out separate audit reports on Local governments for State Assembly; the first-ever acceptance, in 150 years history of the institution, for redaction of commercial details including price information relating to procurement of Rafale aircraft on the request of the Ministry of Defence (in Audit Report No.3 of 2019); and non-hosting of even that redacted audit report in CAG's website without disclosing any reason therefor.

The Performance Activity report of CAG for 2020-21 under heading 'Impact of Audit' citing Audit Report No. 20 of 2019 on Management of Defence Offsets read that "In view of the observations and to ensure transparency and efficiency in the verification process, an offset portal has been created and operationalized in May 2019". But this audit report, intended for transparency in verification process, is also not available in CAG's website.

While five Audit Reports on the activities of Defence Ministry/Sector were prepared in 2017 (Audit Report Nos 5, 15, 19, 20 and 24 of 2017) by CAG, no indications about preparation of any other audit report on Defence Sector, except the two audit reports mentioned above (Audit Report Nos.3 and 20 of 2019 which are also not hosted in the website of CAG) could be traced in the website of CAG for the last few years, despite CAG having a separate Wing for audit of Defence Sector.

The number of reports on Union government placed in the Parliament has also decreased from 54 in 2015 to 30 in 2022 and 16 in 2023 (4 in March 2023 and 12 in August 2023).

3.5.3 No significant 'CAG vs Union government' instances

No significant 'CAG vs Union government' instances could generally be felt, except ones after placement of some audit reports in the Parliament in August, 2023. The transfer of top officers dealt with those reports, reported in the media following special interest created by these audit reports, gives scope for doubt about independent functioning of Audit. Though the above were denied by CAG (The Hindu Bureau, 2023), the officers' transfer to unimportant/non-audit-related posts like Legal wing, Rashtra Bhasha wing and to State Accounts office and the timing of transfer strongly supports the above suspicion and suggests that these audit reports somehow escaped from 'new found vision of Audit' (para 3.3 above).

3.5.4. Performance of CAG in 2021-22

As per Activity report of CAG for 2021-22, Audit examined 7,912 accounts (of governments, PSUs and others like gram panchayats) according priority to the mandated financial attest audit and Compliance and Performance audits were taken up, guided by risk assessment and optimal utilisation of remaining resources, with emphasis on quality and timeliness of audit report.

Under compliance audit, of 32,884 units planned for audit, 28,964 (10,802 Union; 18,162 States/UTs) were covered. 165 Audit Reports (34 Union and 131 States/UTs) were prepared in the year.

3.5.4.1. Non-availability of total auditable units - Decreasing compliance audits

Considering the size and activities of all governments and visible presence of their offices (auditable units) and other government autonomous bodies, etc., units audited for compliance is, prima facie, less. The units audited had already decreased from around 65,000 in 2005-06 to 54,513 in 2013-14

and 42,192 in 2019-20 (20,460 and 32,884 units during 2020-22; may be attributable to covid lockdowns).

The total number of units auditable was not reported in the Activity Reports of CAG. To a request under RTI Act, CAG's office replied (August 2023) that the information was not available with them. Their further reply that "Where the information sought is not part of a public authority and where such information is not required to be maintained under any law or the rules or regulations of the public authority, there is no obligation to collect or collate such non-available information and then furnish it to the applicant" not only indicates absence of system to ascertain of number of auditable units, but also its scant regard for necessity to keep basic information for proper audit planning irrespective of any legal requirement therefor or not.

But, as per CAG's Act, he shall audit all expenditures, and the point of expenditure is DDO. So, details of all DDOs are the prerequisite for Audit.

3.5.4.2. No assurance for Compliance audit

The Audit's statement that 'Audit Plan 2021-22 accorded priority to the mandatory Financial Attest audit related assignments' is misguided in the sense that both financial attest audit and compliance audit are mandatory, while financial attest audit is also time bound.

Another assertion of taking up of compliance and performance audit guided by risk assessment is also not sustainable in respect of compliance audit, as such exercise without knowing details of all auditable units can only be imperfect. Thus, nobody including CAG knows the level of coverage of mandated compliance audit.

Non-audit of units in specified periodicity would defeat audit purpose; while delayed audit would prove 'infructuous', as getting all records required for audit trails is not possible, leaving units unaudited for ever would embolden unscrupulous elements/fence sitters as the fear of likely to be detected in audit wanes.

3.6 Inadequacy voluntary disclosure of CAG's performance

The activity details voluntarily given in annual Performance/Activity Report of CAG is not complete¹². For instance, though the Activity Report for 2021-22 (183 pages) detailed various activities like CAG's engagement with UNO, International and Asian Organisation of SAIs (32 pages), the relevant information like total auditable units, reasons for not covering even all planned units for compliance audit (12% were not covered), type-wise audit reports prepared during the year, were not given.

Further there is no pattern and prescribed format for the activity report of CAG, and it has been prepared according to the wish of the incumbent. Thus, the activities of CAG are not transparent enough, and audit assurance level for mandated audits (Financial and Compliance) is neither stated nor ascertainable from the information disclosed.

4. Way forward – System for public watch of watchdog

Any institutional arrangement to watch performance of CAG would defeat the objective of public audit, as would leaving the CAG with no watchdog. This unique situation needs a unique technique.

First, an independent committee of experts, including representatives from IAAD, may be constituted to ascertain total auditable units, their categorisation for fixing periodicity of audit, level of audit coverage in a year for an optimal audit assurance for mandated audits, and human resources required for that level of audit coverage. The scope of performance audit may also be redefined keeping the objective of public audit in mind, leaving outcome appraisal/evaluation of schemes/projects to the government/management concerned. Disclosure on the total number of Ministries/Departments and the number and details of performance audits conducted thereon may also be considered.

Then, a simple proforma requiring activities of CAG against above measurable indicators, with columns for giving reasons for any shortfall, and number of audit reports annually prepared government-wise (Union, each State and each UT having Legislature) and presented to the President/Governor of each State/ Lieutenant Governor of UT for their placement in the Parliament and Legislature may be devised and notified with approval of the Parliament.

CAG shall be required to furnish the details in the proforma every year to the Parliament through the President of India. There shall be no voting and discussion on that report in the Parliament, except on shortage of human resources and non-production of records to audit, as independent functioning is the fulcrum of public audit. However, the availability of the above information annually in the Parliament and public domain and possible adverse public opinion in case of audit abnormalities would compel the incumbents to be independent and to perform the mandated audit duties at optimal level.

To be vigilant is the price not only for liberty, but also for accrual of audit benefit of clean governance without leakages and misuses of susceptible public monies at the hands of power/executives.

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Notes

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² Shri R.K. Sidhva, Constituent Assembly Debates, Volume VIII, May 30, 1949 & Dr. B. Pattabhi Sitaramayya, Constituent Assembly Debates, Volume XI, November 25, 1949

³ CAG's - Duties, Powers and Conditions of service – Act, 1971

⁴ Section 24 of CAG's Act, 1971

⁵ Letter No.F. 6(5)-B(R)/99 of Ministry of Finance, Government of India

⁶ WP (C) 393 of 2012, Arvind Gupta Vs Union of India

⁷ CA 5130 of 2013, S. Subramaniam Balaji Vs Govt of Tamil Nadu and others

⁸ <https://cag.gov.in/uploads/PressRelease/PR-Press-Release-on-interactive-session-with-Central-Ministries-and-Departments-06266ae7ae1e450-29149779.pdf>

⁹ CAG's Press Release dated 18.7.2022 <https://cag.gov.in/uploads/PressRelease/PR-Press-Brief-Spectrum-Management-English-1-062d551d5565803-51431093.pdf>

¹⁰ Union and State Finances for 2019-20 - At A Glance of CAG

¹¹ (https://pmcares.gov.in/en/web/page/about_us & <https://pmcares.gov.in/en/web/page/faq>)

¹² <https://cag.gov.in/en/performance-activity-report>