



Open letter to CAG

Lack of capacity and double standards are worrisome

Venerable Mr CAG,

The Corruption Perception Index released by Transparency International ranks India at a lowly 79 out of 176 countries. Much of this corruption is linked to public funds. According to Organisation for Economic Co-operation and Development (OECD), India spends about 30 per cent of its gross domestic product (GDP) on public procurement hence the quantum of associated corruption is colossal. Estimates are widespread that 20-30 per cent of the investments in public construction projects are lost to corruption. Add to this the leakages in government revenues, and the story is truly distressing.

While drafting the provisions relating to public funds, the Constitution makers gave to the Comptroller and Auditor General (CAG) an independent status and authority, primarily to act as a sentinel against malfeasance, without fear or favour. Evidently, the institution of the CAG has failed in curbing the plunder of public money. Unlike the Election Commission that proactively expanded its role to meet the emerging challenges, the CAG has been content to function as a routine auditor.

Though CAG reports are cursorily discussed by the public accounts committees of the respective legislatures, no one ever evaluates or questions what the CAG does. As a result, it functions within its fortified walls where access is restricted; it is not known to meet with experts, professionals or institutions; it does not disseminate its policies or practices for the benefit of public servants and the general public; and it relies primarily on monologue. There is no Constitutional authority, including the judiciary, which is so secluded and unapproachable as the CAG is. As a result, the CAG seems to have degenerated into a cosy niche of privileges and perquisites.

Sir, the CAG could well be called the "Post-Mortem Authority of India", as it only looks at what is demised, even though concurrent audit is legally permissible. Granted that its primary role is audit, but nothing

stops it from engaging in preventive and curative measures that would restrict, if not eliminate, financial bungling. From a plethora of its audit reports, the CAG has never tried to distil any wisdom with a view to issuing guidelines, best practices or advisories that would restrict malpractices. Its reports typically come much after an event is over and are usually written in a manner that very little actually sticks to the defaulters. In the end, most of its work goes in vain.

We know that crime tends to increase in an area where the local police is ineffective. A similar laxity can be attributed to the CAG. How else can one explain the large-scale pillage? Scams have been occurring with increasing frequency, but the CAG is able to expose only a few and that too with minimal consequences. As a result, the CAG is not the deterrent that it was meant to be.

Sir, the CAG tends to be unpredictable as it often berates honest and diligent decision-making. As a result, bureaucrats prefer to avoid decision-making. It is widely believed that the growing interventions of the CAG, the Central Bureau of Investigation (CBI), and the Central Vigilance Commission (CVC) have slowed down government functioning, thus causing extensive damage to governance and welfare. While reform of the CBI and the CVC rests with the government, the CAG has complete freedom to shape its own policies and must, therefore, own up its failures.

Sir, jurisprudence requires that before punishing a person for any criminal act, his guilt must be proved beyond doubt. In case of a civil matter, there should be preponderance of evidence for establishing liability. However, the CAG seems to have created a new paradigm in as much as whenever it has any doubt, it simply castigates the concerned public servants. The CAG staff, usually trained for scrutiny of routine government transactions, now examines complex matters which are beyond their capacity, and often end up with superficial and flawed reports. They do not investigate with the rigour necessary for nailing the offenders while



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sparing the conscientious.

To attract public attention, the CAG reports have, of late, gone into sensationalism. Take the astronomical numbers put out by the CAG in the telecom spectrum and coal mine scams. Indeed the CAG did yeomen service in exposing these scandals; it nevertheless compromised its credibility by citing astronomical numbers that could not withstand scrutiny. This new-found pursuit of sensationalisation seems to be distracting the CAG from an objective and judicious examination of matters with the requisite expertise and diligence.

Sir, allow me to substantiate from personal knowledge. A greenfield port project, which was awarded by the Kerala government on a build-operate-transfer (BOT) basis in 2015, is being constructed at an impressive pace. But a CAG report of 2017 has thrown up a huge controversy by alleging that if the period granted to the concessionaire was fixed at 30 years instead of 40, the government would have earned an extra ₹29,000 crore!

Sir, this port project is entirely based on the model documents published by the central government, which also undertook an inter-ministerial appraisal and approval of all the project documents before sanctioning a central grant of ₹818 crore. Not a comma was changed after the bids were received and the above contention of the CAG is totally unfounded. As a test case, the CAG should place itself in the shoes of the Kerala government and explain what he would have done differently for a better outcome. That would enlighten one and all. In the meanwhile, the CAG report has unwittingly put the public servants concerned in the docks and they will have to slog it out for years before getting absolved. Despite representations, your sense of justice and fair play could not persuade you to review a patently erroneous report.

Sir, in juxtaposition to the Kerala case is a detailed paper, which I had sent to you in 2015, citing numerous cases of infrastructure projects where thousands of crores of rupees have been siphoned off. These are also the cases that have ruined the entire banking system. There is foolproof evidence of malfeasance if only the CAG would choose to act. I also wrote to you recently about grave malfeasance in the Delhi Airport Express Metro project. All these scandals remain unchallenged so far.

Other than the spectrum and coal scandals, rare are the cases where the CAG's interventions have helped in nabbing the offenders. Take the enormous cost overruns in public projects that are caused by poor contract design coupled with corrupt practices. Discretionary land allotments and change in land use are other areas where scams abound. There are other examples galore. The CAG has made little contribution in capturing these transgressions or in reforming the system.

Sir, a nation is built by its institutions. Yours was viewed as critical by our founding fathers, but their expectations have been belied. A time has come not only for introspection within the CAG, but also for a larger public debate on the role and responsibilities of the CAG, who could possibly be a torchbearer in the movement against corruption. India does need to improve its rank on the Corruption Index!

The writer was principal advisor, infrastructure, in the erstwhile Planning Commission