

***Effect of Audit –  
Good Governance or Policy Paralysis\****

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Mrs. Pratima Doshi, chairperson of the foundation, Mr. Arun Bongirwar my senior colleague and trustee of the foundation, Mr. Sanjay Sethi, Mr. Bharat Doshi, friends and colleagues.

I am indeed very grateful to Mr. Bharat Doshi and trustees of the Lalit Doshi Memorial Foundation for granting me this privilege of not only speaking at a forum which has had speakers far more distinguished than me; but speaking in memory of an exceptional bureaucrat, who left such an indelible impression, in a career so short, of barely twenty-six years.

Mr. Bharat Doshi thank you very much for the very generous introduction. He has slipped in two factual inaccuracies and I need to correct those. First one was, when he said that when we met for coffee, “I said I will try and agree to the date of 4th of August and within a week I got back to him and rearranged my diary”. To be very frank, today I am retired, totally unemployed, a benign private citizen, I have no diary to rearrange. But then, I did not want to commit straight-hand, because he will really believe that I am on the road and no work, so thought I might as well take a week to confirm to him.

I was recently reading a science fiction novel titled ‘Heretics of Dune’, authored by Frank Herbert. The author describes a bureaucrat, as an official who works by a fixed routine, without exercising intelligent judgment. He says “bureaucracy destroys initiative”. He elaborates this by saying that there is little a bureaucrat hates more than innovation, specially innovations that produce better results. Adjectives like rigid, negative, insensitive, unresponsive are routinely attributed to us. It is only when one learns about the careers and actions of persons like Mr. Lalit Doshi that one feels emboldened and I feel very confident today to say wholeheartedly that any of these sweeping generalisations are totally unfounded. I did not have the privilege of meeting Mr. Lalit Doshi, but recall reading about his untimely death in Davos.

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I was then serving in the Ministry of Defence and his batch mates and cadre mates talked of him in glowing terms. A self-effacing personality, possessing excellent qualities of head and heart, he was never known to be pursuing personal agenda but was never found wanting in pushing his convictions and empathising with the public he had sworn to serve. The civil service stands on foundations fashioned by the likes of Lalit Doshi. I feel honoured to stand before all of you today to pay tribute to a colleague who negated all the attributes ascribed to us and makes us proud of the service that we belong to. It is very befitting that we honour him every year. He deserves it and we need to remember such outstanding personalities to enthuse others in public service.

I now come to the second factual inaccuracy at the same coffee session: Mr. Bharat Doshi said that we struck upon a topic. No! Two senior colleagues literally bullied me into accepting this topic. I have spent my last three years, as a benign private citizen, trying to run away from all the policy paralysis that I caused!! I am not being allowed to run away, so I was mandated to speak on this topic today. And I, in a docile fashion, accepted that mandate.

2. Mr Bharat Doshi has couched the topic in rather challenging terms on the commonly held belief that audit is a stumbling block and in fact leads to people being scared to exercise discretion or take decisions.

Let me at the very outset dispel that notion as a bogey, as a total bogey, it is only a bogey, total alibi for non-performance. If it were to be a stumbling block, let alone India, 191 other countries across the globe would not be committing hara-kiri by setting up organisations of Auditor General's who would only delay decisions and create roadblocks. The very fact that such institutions have been created and given high constitutional status implies, that world leaders have seen wisdom in establishing these institutions.

In trying to justify this subject which has been handed out to me, I thought I will break it up into two/three stages, where I would like to place before you a few propositions and hopefully you will agree with me; if you do not agree

with me we can thrash it out during question and answers and hopefully I will get an opportunity to establish my view point on any particular issue.

3. In any parliamentary democracy the people have given to themselves an elaborate devolution of powers among institutions. Parliament and the judiciary are accountability institutions which derive a constitutional mandate to legislate and ensure that the rule of law does prevail. However, quite often since the executive or legislature cannot discharge all the powers granted to it directly by the Constitution, it creates institutions such as independent regulators, public auditors, election, vigilance and public service commissions with an arm's length approach for transparent and effective functioning. Embedded in the creation of these institutions is the core belief that they will be allowed independence and freedom of functioning. Permitting them such freedom only enhances the trust between the government and its people of equality, ethics and objectivity. Any whiff of impairment in the functioning of these institutions only leads to an erosion in the credibility of government and hence weakening of the sinews of trust between a government and its people.

Who Are these Accountability Institutions?

4. Nations worldwide design different institutions and indicators to ascertain how various government programmes and policies are working. Ingredients of accountability and transparency are built in to ensure a reduction of waste, prevent misuse, and deploy resources where their potential is exploited to the maximum. Accountability Institutions ensure that no one is above the law and is accountable for their actions. They are designed to provide early warning signals to the executive about sub-optimality of policies, transgression in implementation and partnering for progress. They should not be viewed as adversarial institutions. Their partnership in development and the achievement of democratic values is as much as any other agency of government. One such institution is that of the public auditor generically referred to as the Supreme Audit Institution. Just as you have a Supreme Court, this is the highest audit body of the country.

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The Government machinery represents a kind of principal – agent relationship. The principals are the main shareholders viz. the public at large or the legislature which is their elected representative. The executive, acting as the agent of the principal, must periodically account to the principal for their use and stewardship of resources and provide comfort of the extent to which the public objectives have been accomplished. The principal relies upon the audit to provide an independent and objective evaluation of the accuracy of the agent’s accounting. The audit then reports on whether the agent used the resources in accordance with the wishes of the principal. It ensures parliamentary control over expenditure voted by the legislature. It also ensures the accountability of public authorities towards public monies raised and spent by them to implement policies and programmes approved by the legislatures. Accountability and transparency, the two cardinal principles of good Governance in a democratic set up, depend for their observance, to a very large extent on how well the public audit function is discharged. It is for this reason that the legislatures of many countries the world over have ensured independence of Supreme Audit Institutions. Be it, the corporate entity in the private sector, the public sector entity or government itself, countries and institutions the world over have been trying to ensure transparency in their operations.

It speaks volumes of vision of the architects of the Constitution that worldwide such institutions have been given an independent mandate and security of tenure. The avowed objective for the creation of such a high body is to enable it to hold the executive financially accountable to the legislature. I wish to place before you these concepts of governance and accountability and show how they are critically linked with each other. I also wish to discuss, specifically, what it means for an audit to “add value” and not detract from the process. I would conclude with the proposition of how audit and the executive can improve the efficiency of the administration and the effectiveness of Government spending.

5. Accountability is the obligation, of those holding power, to take responsibility for their behaviour and actions. It becomes even more important an issue when management of public funds is involved. The government

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spends a huge amount of money in creating infrastructure, providing services and running various schemes for the welfare of its people. A large chunk of the government's money comes from tax which is compulsorily collected from its citizens. The government is, therefore, obligated to work in the interest of its citizens and deliver accountable governance. It is answerable to the public for its policies, decisions and performance.

6. Accountability is not the sole responsibility of government alone. It is a requirement in the corporate sector too. It also transcends into civil societies, non-governmental organizations and citizen's groups. However, since government collects moneys from the public and spends on behalf of the public, such spending does place an element of higher accountability on government. Such accountability requires that the actions and decisions taken by public officials are transparent and capable of withstanding public scrutiny.

7. Let us spend a minute on attempting to understand how accountability has attained such an iconic status today. In a democracy ultimate power rests with the people. For conduct of their affairs they elect persons who will represent them and in turn constitute official machinery which is architected to discharge the policy decisions undertaken by the elected representatives. In a system of separation of powers and constitutional checks and balances, accountability ensures that actions and decisions taken by public officials are subject to oversight so as to guarantee that government initiatives meet their stated objectives and respond to the needs of the community they are meant to be benefitting. Accountability is important as it ensures that public bodies are performing to their full potential, providing value for money in the provision of public services and instils confidence of the community in its government. This is the basic tenet of a vibrant democracy. Democracy without accountability is a body without a soul.

8. The conventional wisdom of good governance is premised on the basic tenet that democratically elected governments will conduct public affairs with probity and accountability. However, public perception due to some actions of government, which have come in the public domain, indicate that elements of ethics and integrity seem to be lacking in some actions taken

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by them. This has triggered the feeling among the vast majority of urban citizenry that it is time when the conventional architecture, along which governments are expected to function, needs to be tempered such that there is an element of participation by the informed public.

9. Accountability in any democracy is exercising power and taking decisions on behalf of the people and taking responsibility for the same. The well-being and development of this group of people in the village, city or country, depends upon the choices made by the people granted this authority. It is easier to misuse or not use this authority. The quality of such accountability is the edifice on which a vibrant democracy can be sustained. In the present age, governance has assumed such critical proportions that it appears too important to be left only to the government alone. The stakeholders in governance have expanded beyond the executive, legislature and judiciary to civil society, social organizations, media and the public. Apart from the base expanding, each new stakeholder has become very discerning, vociferous and demanding.

10. As I mentioned earlier 191 countries have created the Offices of the Auditor General and in most of these countries such Auditor Generals are constitutionally mandated to conduct audit of the Government Departments and report the findings to the elected Legislature.

We in India also have such a mandate. It was thus that the constitution makers created the office of the comptroller and auditor general of India. The constitution, to ensure the independence and efficacy of the auditor general has provided him with a fixed tenure of six years.

Once appointed, he cannot be removed, except by a process of impeachment with a two-third majority in Parliament. Article 148 in the Constitution is the one which gives birth to the CAG. Article 148(4) also lays down that the CAG shall not be eligible for further office either under the govt. of India or the govt. of any other state after he has ceased to hold office". I think this an excellent provision in the Constitution, because this is to ensure his independence, it is also laid down that his budget shall be charged upon the consolidated fund of India and not voted, as normal budgets are. In the sense that Supreme Court and the Supreme Audit Institutions, their budgets

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are charged to the Consolidated Fund of India and the Finance Ministry or the Government of India cannot tamper with the budget proposed by them.

11. What needs to be introspected is whether the CAG's constitutionally mandated responsibility ends the moment he has placed his Report in the Parliament or is it in any way beyond this mechanical function that he performs.

The question that continues to repeatedly arise is whether the Parliament, and in fact, the public at large, expect the Auditor after he places his report to be a mere accountant and do arithmetic over government expenditure? If it was so, then why should constitutions worldwide – appoint such high dignitaries as Auditors General and give them independence from the executive and accord them a constitutional position. Evidently what was envisioned in the constitution was more than expecting them to be mere accountants. To get an answer to this query, we need to look at the constitutional position of Supreme Audit Institutions in other parliamentary democracies.

Before I get to that, this was an issue which was debated and contested by the Central Government and they went up to the Supreme Court to ask what is the mandate of the CAG? The Supreme Court gave a verdict and a part of the verdict, (I took and made it the title of my book which says “Not Just An Accountant”.) The Supreme Court had said the “CAG is not mere *Munim*”, (that's the word used), is not just an accountant, he has been given a constitutional position for holding the Executive Government financially accountable to the Legislature.

When we looked around other Parliamentary democracies, what is the position of the CAG, what are his actions and what is his mandate?

Let's take the case of the USA. The US also has auditor general, he is known as Controller General and the institution is known as; its acronym is GAO, it was called the General Accounting Office. Just as we are called as CAG, in the US it was called the General Accounting Office.

12. In July 2004, the 110th Congress in the USA introduced an amendment

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and they passed a Bill to re-designate the office of the GAO or the Controller General. The re-designated office, whilst the acronym remains the same GAO, the full-form is the Government Accountability Organisation (GAO). This clearly indicates the change in the mandate. General Accounting Office to Government Accountability Organisation. Which means you can see the switch in the mandate, the mandate becomes so much larger. This reflects the Agency's evolution and additional duties. Most of the work of GAO today is questioning the policies of the government and sub-optimality of its spending. Also questioning the federal government's actions.

13. Let's take another case of a smaller country, that of Estonia. The Tallinn City Body contested the mandate of the National Audit Agency to audit its activity in the housing sector. After protracted litigation over four years, the Supreme Court maintained that it was not unconstitutional for the National Audit Authority to supervise local governments. The Court held that local bodies function for the welfare of the people and the people need to be kept informed about the efficiency of their operations through an independent audit procedure. Such worldwide trends should reaffirm our belief that Supreme Audit Institutions are also mandated to sensitise public opinion.

14. Nearer home you will agree with me that civil society in India, around 2010 / 2012, was witnessing a rare phenomenon. A phenomenon where the citizen had come centre stage and was wanting to hold government accountable for its decisions. Citizens were seeking a dialogue with government and would like to participate in decision making. They were seeking transparency in policy formulation. Today's youth is discerning, demanding and hence should believe in respecting Institutions created by the constitution. When I said Citizen's Groups, I was referring to movements like that of Anna Hazare, who were questioning the government's actions and saying that you must justify the actions that you have taken. What were the Public seeking? A new moral and ethical framework for sustainable governance. The citizen coming centre stage and wanting to be heard, is indeed a phenomenon which debunks the myth of a 'silent majority'. This voice should be heard. This voice was never taken seriously, because those in the middle-class, people like you and me, sat in living rooms or drawing rooms, conducted debates

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amongst ourselves and never really went to the polling booth. The politician did not bother about these white-collar people. These white-collar people with whatever opinions they had, had no role to play as far as the electoral politics are concerned. But since the public started exercising this pressure, lots of things started changing.

I must give you a couple of examples. If you will remember, quite some time back, there was a Chief Minister of a Southern State, who had to demit office, because of the verdict of the Lokayukta of that State. He did demit office, he exited. But the political party concerned was not reconciled to that exit. They thought he had exited because of public pressure. The president of that political party went down to the Capital and said may be what the Chief Minister did was immoral, he certainly did not do something illegal. I would anyway have my Chief Minister do something which is illegal that can be rectified, but how can you say he did what is immoral. Similarly, a Cabinet Minister speaking at a public function said what the country is witnessing today is the deficit of ethics. That tells it all, when the Minister himself of a ruling government makes this observation that there is a deficiency of ethics in the country. That is the distinct paradigm shift that I am talking about.

Now Audit had to react positively towards this change. Audit did at that point of time and it was done in a three-fold fashion.

15. First, audit had to be premised on belief that they contribute to good governance, they contribute to upgrading of governance in the country as much as any other agency in the administration. Audit do not believe that there is a WE – THEY relationship, an adversarial relationship or a contrarian relationship between administration and audit. Both are on the same side of the table. Their goals are common. While the administration is the expending agency of governmental resources, audit is merely the validation agency to provide comfort not only to the government but to the public at large, to ensure that government's funds are efficiently expended. Once audit observations have been made the Executive has the option of either stonewalling them or positively viewing them to make mid-course corrections by incorporating the same in the agenda of ongoing programmes.

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In the event of the department choosing to ignore the observations, society at large loses. There is no gainer. The efficiency of public expenditure declines. Competitive edge is lost. In the eventuality of a department or institution actively engaging with audit in exploring the ways and means to incorporate the observations and upgrade its machinery, both the parties bring value to the table and thereby improve the efficiency of the delivery process. In this process, government's credibility and legitimacy improve. On the other hand audits have also undergone a culture change. I need to flag this. They now engage in positive reporting. Hence, from being labelled earlier a bunch of fault finders who are often wiser by hindsight, they now recognise good practices and do make observations of good practices in their audit reports.

16. Secondly, to ensure a more widespread dissemination of audit observations – both positive and negative – salient observations in audit Reports are converted into small booklets which are well indexed and facilitate easy understanding. These pamphlets referred to as “Noddy” books, are freely distributed to the media, colleges, citizen's groups, non-government organizations and the like. This is being undertaken in the firm belief that an awakened citizenry, once sensitized about the inadequacy of government departments, would exert pressure on these departments and maintain a vigilante thereby ensuring better delivery of government services.

Thirdly what we have been doing is that we have engaged with public at large, in what is known as social audits. Because quite often auditor is competent in audit practices but he does not have the last mile reach on local intelligence about various things. Social audit is a government commenced phenomenon. It was started by Minister Jairam Ramesh with the MGNREGA programme and we (CAG) took it on and we engaged with credible non-governmental organisation or citizen groups working in that area to gain more details about whatever are the government expenditures.

17. The traditional role of Public auditors is to conduct financial attest audit. However, the issue we have debated is whether the common citizen is really concerned whether the governments financial statements are procedurally okay or mis-stated. Is he not more concerned about fundamental issues

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regarding government expenditure that affect his day to day life and impinge on his welfare such as food, housing, health care, education etc? The question that we need to pose to ourselves is : does public audit address these issues by merely placing their Audit Reports in Parliament?

Do not public auditors have obligations that go beyond those achieved by conventional methods? If the outcome of good governance is improvement in the quality of life of its citizenry, should the same not be the outcome of effective public audit?

Once our answer to all these is a resounding affirmative, it becomes the social obligation of audit to push the envelope and proceed beyond hitherto practiced conventional and conservative methodology. This pushing of the envelope will obviously evoke a very sharp resistance from the executive. That is where audit is being labelled as activist or reaching out to a mandate which was not necessarily their mandate.

To give you an example of a case which is very well known. He (Mr. Bharat Doshi) talked about all the G's, I thought he was going to talk about the three Cs that we normally talk about – the CVC, the CBI and the CAG. But he talked about the G, so I will also refer to a G – the Spectrum Case, the 2G case, in which the Report was questioned. Whether we (the CAG) had the mandate to do what we did? Let me make a very simple observation. Audit has no role in policy formulation. We do not get into the policy formulation process. The policy formulation is the sole prerogative of the elected government. Audit only implements the policy which has been formulated by the government. So it was with 2G.

The government in 2008 wanted to issue licenses by a process which was called “first-come-first-served”. Fair enough. Audit does not question that. But was the first-come-first-served principle actually observed. Were the guidelines laid down really followed? Audit had not given its report on this issue as yet, when in 2010 3G was introduced. The government had itself changed the policy and went in for auctions. Audit conducted an audit of the auction process too. We did not question either of the policies. We did

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indicate that in following policy X in 2008 you derived so much of resources and in following policy Y in 2010 you derived so much of resources. Was there sub-optimality in this? What the public exchequer lost in that process, is what we pointed out. A very important thing which I need to emphasise is that audit is premised on two pillars: One its own professionalism, its capability of upgrading its systems, its architecture, its structure, its professional capability; better than the best in the world to ensure that it is able to audit well. Two - Audit has a policy of total zero tolerance of error. Zero tolerance of any Achilles heel it may have; zero tolerance of any skeletons in its cupboards. That means it must be totally, as one would say “Caesar’s wife must be above suspicion of any kind”. Which means integrity, probity had to be the underpinning qualities of Audit also.

18. What does this all lead to? That is my first proposition and I seek your endorsement on this. The belief that social obligation is one of the roles that audit also has to perform. The second is, for you and me assembled here in this room today, to remain in a state of lethargic non-performance under the garb of complicated rules, fear of investigations and time consuming practices as an alibi and hence say we will not take decisions and hence get into realm of what is known as Policy Paralysis. But I assure you that with 45 year’s of experience behind me I would say that given a little amount of imagination, innovation and initiative the challenge of enabling and empowering the poor and the marginalised is within the realms of possibility. All it requires is simple innovation of processes, a slight tweaking of the rules and the sensitisation of the people who work for the schemes and for whom the scheme works and -insist on the time lines of the delivery process.

19. The India story attracts worldwide attention as it involves one sixth of the global population. The struggle for dignity and prosperity of this population, through social and economic transformation, is being closely watched by rest of the world. All decisions that we take regarding political reforms and economic liberalization, will have consequential global ramifications. It needs to be emphasized that ensuring all-round development and promoting inclusive growth is not the responsibility of the Government alone. It is equally the responsibility of those who have elected the government

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to power. The ultimate weapon of accountability in a democracy is that of the people. Hence, officials appointed to accountability institutions would only be seeking an alibi for non-performance if they choose not to exercise their mandate and succumb to pressures. Legislative empowerment for such institutions exists. The RTI, the Central Information Commission and alertness of the media have infused an element of vigilante in all government functioning.

Institutions such as the media or the public, are institutions in what is known as vertical accountability. When the public or the media becomes aware of what has happened, decides to act – it brings about positive contribution. I would like to draw your attention to some such instances – one is the reopening of the Jessica Lal murder case. It was closed and forgotten. It was because of the force of public opinion and pressure, and people going in for PIL that it had to be re-opened. Another close case of the misdemeanours of a Haryana DGP. If you recall, it was a case of a young child who committed suicide. That case was also got reopened and he was convicted. Another one of a person called Mr Manu Sharma, son of a very powerful person who had gone to jail, but spent more time on parole than he spent time within the jail. This was also pointed out by the media. More recently, a remarkable Supreme Court Order which has come out only three days back, where the ex-Chief Ministers of Uttar Pradesh had been given sprawling bungalows for life-time with staff - to continue occupying till time immemorial. Some of these ex-Chief Ministers were occupying positions in Delhi and occupying government bungalows there too. The Supreme Court had said that these bungalows they must be vacated.

These are moments in history when the people all over the world, arise: such as “occupy wall-street”, etc. Moments come up and the emerging paradigm is the paradigm which is very positive. We are not new to this phenomenon in India, India demonstrated this to gain independence, India did this again when democracy was snuffed-out in 1975 and was brought back again in 1977. India demonstrated it yet again in 1991, with economic reforms.

India today is demonstrating its inherent strength through enforcing

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accountability on government through citizen's groups and media.

20. It is undeniable that good governance can come only when it is premised on probity and transparency. We have to reinforce a culture of morality and ethics. Accountability can come only when all decision makers and those acting on behalf of government are made aware that they sit in glass houses and all their actions are open to oversight. We have remarkable instances wherein lack of probity, both in the government and the corporate sector, though detected, could not be brought to the logical conclusion due to failure of administration and protracted litigation.

21. Economic prosperity for Indians is not an option – it is a necessity. Economic empowerment can be possible if growth is founded on good governance. Such growth is sustainable only if it is premised on an ethical code of governance. When the story of India is written, it should be written that governance was the solution and not the problem wherein the State was the facilitator and not the predator. These edicts in our governance structure have to be an essential ingredient as too much is at stake and for too many people. So let us not sit in our ivory towers, decry the system and resign ourselves to what is fated for us, but take the initiative in our hands and set about ensuring accountability, cleaning up the system and establish a sustainable model of governance which is premised on ethical standards, transparency, probity and accountability. We can do it. We have done it. Indians who are not as gifted as those assembled in this room today, deserve it. And most importantly, we need to bequeath to the GenNext, an India which is richer than what we have inherited.

Thank you very much.

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