

## ACCOUNTABILITY

▪ **By Dr. M.N. Buch**

[“The Council of Ministers shall be collectively responsible to the House of the People” --- Article 76 (3), Constitution of India.] Every religion mandates accountability. If a person commits a sin he must pay the price, either by way of prayashchit or atonement, failing which the person’s soul risks perdition. Through the concept of karma every single human being is held accountable for all his deeds. In the Sura-al-Raad or the 13<sup>th</sup> Chapter of the Holy Quran, Allah ordains that those who do not accept him will be liable to condign punishment, but the right to take account vests only in Allah. Every human being, depending on his belief, either is accountable for his actions on earth or on the Day of Judgement. Accountability, therefore, is not a concept from which any human being can claim exemption.

There are many forms of accountability. In social terms it means being able to explain one’s behaviour. In financial terms it means a record of money received and spent. In fiscal terms it means rendering full details of public funds voted, allotted, spent or surrendered. In constitutional terms it means the Prime Minister presenting himself before Parliament and convincing the House that he enjoys the confidence of the House, failing which the government falls. In purely spiritual terms accountability means first and foremost acceptance by one’s own conscience of one’s own thoughts and actions and, secondly, the ability to convince the community that one has acted strictly according to the tenets of one’s religion. In the Sikh religion, for example, every Sikh is to render account to the Sangat, the congregation, which then decides on the religious and social acceptance of such actions. In criminal law accountability means on the one hand the duty of the prosecution to prove a case in court and on the side of the defence the ability of the accused to show that he is innocent.

On the above arguments accountability is then a function of cause and effect. One’s actions are the cause and judgement on one’s actions is the effect. In all cases, however, there is on the one hand the person who acts or says something and in the other the community or institution which can take an account of such actions. That is why in public life, where exchequer funds are handled, there are clear-cut constitutional obligations laid down in the matter of accountability. No public funds can be accessed or spent unless the Appropriation Bill has been voted into law. In fact Article 114 (3) of the Constitution reads, “Subject to the provisions of Article 115 and 116, no money shall be withdrawn from the Consolidated Fund of India except under appropriation made by law passed in accordance with the provisions of this Article”. Accounts have to be rendered for the funds appropriated and spent in such form and before such authority as may be provided by general or special orders of the Comptroller and Auditor General of India. Every officer of government is required to maintain accounts accordingly. Under Article 151 of the Constitution the CAG has the authority to audit the accounts of the Union Government or a State Government and this audit report is placed before the Legislature through the President or the Governor as the case may be. In other words, public servants are accountable and Constitution has created a constitutional office, that of CAG, which has the duty to the audit account and advise whether such accountability is discharged or not. The report is discussed by Parliament, which can finally decide whether accountability has been fully discharged and the mandate of the Legislature in financial matters has been obeyed or not. If Parliament finds that accountability is not adequately discharged, then it can recommend a course of action, departmental or penal, against the errant officers.

In a democracy the people elect their government and give it a mandate, the source of which is the election manifesto and political ideology of the party in power. Elected governments are required to

function according to law. They can change the law through legislation, but till that happens the existing law applies to everyone. If officer bearers act contrary to law they are liable to action and any citizen can call them to account through a court case, a simple application or even public debate. In the ultimate analysis elected officials are called to account by the electorate at the time of election and an electoral defeat means that during their tenure they failed to discharge the responsibility which was entrusted to them by the people.

With all these constitutional safeguards we still stumble from one scandal to another in which public funds are defalcated and the public exchequer looted. If there is accountability in public life there has also to be a cost for not rendering accounts. When Allen Maddox was found to have cheated the people of the United States by fund manipulation, within one year of his offence being detected, he was tried, convicted and given a sentence of one hundred and fifty years of imprisonment. In other words, the cause and effect relationship between crime and punishment has to be well established so that 'paap' is almost immediately visited by prayashchit. Accountability without responsibility, responsibility without punishment for failure is meaningless. A bridge is built and collapses shortly after construction. Who pays the price? There is so much passing on of responsibility that ultimately no one is punished except, perhaps, people at the lowest rung of the ladder. For example, when the Harshad Mehta scandal took place how many senior people in regulating agencies were called to account? The answer is none. When the Commonwealth Games 2010 became mired in controversy and corruption did the ministers and secretaries of the departments concerned pay any price? The answer is none. When the police agencies such as CBI makes a complete mess of an investigation, perhaps deliberately, perhaps on account of corruption, is any senior officer called to account?

Let us come to the telecommunication scandal known as 2G spectrum. The matter has been in motion for several years now. It ultimately culminated in a decision which according to CAG is likely to cause a cumulative loss to the exchequer of Rupees One lakh seventy six thousand crore. Without going into the merits of the case, because this is matter in which financial and legal issues were involved, the concerned ministry could not have taken a final decision without obtaining the approval of the Council of Ministers. Under the Rules of Business framed under Article 77 of the Constitution every case which has financial implications or where there is legal advice necessary shall be submitted to the Council of Ministers in case of difference of opinion between the concerned ministry, finance ministry and law ministry. It is irrelevant what the Minister for Communications decided because the case does entail financial implication. There is evidence to believe that there was divergence of views between the administrative ministry, finance ministry and law ministry. Regardless of the orders the minister passed it was the duty of the Secretary of the Ministry of Communications to withhold issue of orders and submit the file for obtaining orders of the Council of Minister. This was not done despite the fact that the Rules of Business categorically state that it is the duty of the Secretary to ensure compliance with the rules. 2 G spectrum case is a prime example of both the Minister and the Secretary not observing the Rules of Business. This is an example of everyone ducking responsibility and accountability.

We need to rebuild the system in which there is interlocking accountability, with each government functionary being assigned a specific responsibility. Not only that functionary but his superior would be equally culpable if the function assigned is not properly discharged. In other words, the superior is required to supervise his subordinate in such a way that the subordinate actually performs the task assigned, failing which both will have to face the consequence. Once there is interlocking accountability vigilance and supervision would be built into the system and its functioning would dramatically improve. Unless we bring accountability back into the system we are in grave danger of sliding into a whole ocean of corruption from which no one can rescue us.