

AccountAble™

Corpus

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Overview

What is a corpus? What are its features? How does it help an organization? There is very little systematic literature on this. We try to deal with some of these questions in this issue. In another issue, we will take up the question of investing corpus and endowment funds.

What is a Corpus

Corpus is a Latin word, which means *body*. In financial usage, it means a collection of bonds, stocks, or other holdings, which form the principal¹ of a trust fund.

The concept of corpus is closely linked to the concept of trust. When you set up a trust, you are effectively saying that you are placing your trust in some one. That some one is called the Trustee.

What does the trustee do? He or she manages the assets donated by you. These donated assets are the *subject* of the trust. These are also called the corpus of the trust. The corpus actually forms the financial heart of the Trust.

¹ Principal means the main body, as opposed to interest or income from the corpus.

Corpus Features

Building it up

Is the corpus a one-time thing? Not really. The settlor² starts the corpus. Others can also help in increasing the corpus. You can do this by donating more assets³ to the trust. The donor should tell you that the assets should be added to the corpus.

Can you add to the corpus on your own? You can. However, the money should not be taken from earmarked⁴ funds. It should come from unrestricted⁵ funds.

Corpus or endowment?

Can a donor give you funds for the corpus and say that its income should be used for a specific project? Not really. Income from the corpus can be used for any of the activities of the Trust. This discretion remains with the Trust. Therefore, it's better for the donor to call it an endowment. Endowments can be earmarked for specific activities.

Breaking the Corpus

When can you break the corpus? If corpus is the financial heart of a Trust, then the answer is obvious: You can break it when you are winding up the Trust.

Alternatively you can also dip into it, if there is a very serious financial emergency facing the Trust. In such a case, you should also have a workable plan to replenish the corpus.

Origins

Trusts have existed for a long time in Western countries, particularly UK and USA. We do not see a similar history⁶ in India. This

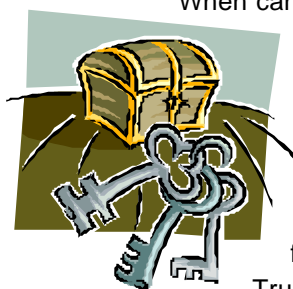
² Person who formed the trust

³ Money, property, investments, etc.

⁴ Funds given by donors for other specific activities

⁵ Where you have the right to decide usage / allocation. An example is own income from interest.

⁶ This does not mean that charity did not exist in ancient India, merely that Indian charity did not use Trusts as a mechanism. In fact, the English word 'donation' is derived from the Latin word 'donare'.



may be due to a different socio-economic structure⁷ in India.

For a long time, trusts were created only by the wealthy. The purpose was to tie up their wealth so that it was not misused after their death. The money would be used only according to their wishes.

Trusts could be private – where their heirs could benefit, without being able to ‘blow up’ all the money. Or these could be public, where the money would be used for some socially useful cause.

Real or Nominal?

A trust like the ones above is a *real* Trust. How? Well, there is a real and substantial fund, which is the subject of the trust.

On the other hand, there is another type of trust, where the original fund is very small. It could be as low as a hundred rupees. In this case, the corpus is created only to meet the legal requirement of a Trust. We call these *nominal* Trusts. Why? Because, the corpus here is not significant in financial terms. (see box: ‘How did Nominal Trusts emerge?’)

Corpus in a Society

Speaking from this point of view, corpus should exist only in Trusts and not in societies. However, there are many societies, which have created ‘corpus funds’. This has probably occurred because of the Income Tax Act, 1961. It uses the term corpus for both Trusts and Societies.

What is the actual status of these funds? In our view, a society’s corpus is a special fund, just like any other fund in a society. It looks like a Trust corpus but is not really a corpus. Therefore, some of conditions that

rived from Latin ‘donum’, which itself is based on the Sanskrit ‘*danam*’. So while we have the practice of *dharmada* and of endowments, we do not have an exact parallel for trusts.

Ignoring these facts and the existence of Chanakya’s *Arthashastra* (300 B.C.), Powell has ascribed this to the ‘primitive’ state of Hindu society! [Introduction to Powell on Trusts, 2nd ed.]

⁷ For instance, existence of Hindu Undivided Family meant that property was jointly owned by the family. The Karta acted as head of the family, but not as owner of family property. Further, in a joint family, there would be no shortage of able heirs.

On the other hand, Western legal structure emphasized individual ownership. This, combined with lack of a joint family, evolved into a society where lawyers were needed to guard an individual’s property after his / her death.

How did nominal Trusts emerge?

Around 19th century, a different type of organization emerged: the society. This was similar to a company based on shares. You did not need a lot of start-up funds to set up a society. Instead you could raise money from public as you went along.

The Societies Registration Act was also passed in 1860, recognizing the new form of organization. The Act merely provided for registration and recording of basic information about a society. However, over a period of time, the Registrars became more powerful. There were endless delays: disputes over names, over clauses in the memorandum, residence proof, etc. It could take you upto a month to register a society – you might also have to spend 5-6,000 rupees in the process.

Registering a Trust, on the other hand continued to be simple. You could type a trust deed and register the trust in about two hours. Lawyers also pointed out a unique feature of the corpus. It did not have to be big – it could be just 1 rupee also. The whole process of forming a Trust would just cost 5-600 rupees.

These trusts emerged as an alternative to the lengthy process of forming a society. They are societies in reality, but structured as Trusts. We have called these Nominal Trusts.

An example of such a Trust is Pratham in Mumbai: on 31st March 1999, it had a corpus of Rs.500, while donations in 98-99 came to Rs.3.5 crores (source: Annual Report 98-99 on Pratham’s web-site).

In this process, the corpus appears to have de-evolved. From being the heart of a trust, it became merely a legal formality. As a result, the practical significance of a corpus has been lost to most people.

normally apply to a Trust corpus would not apply to a society ‘corpus’.

For example, a society can dip into its corpus at will⁸. A society can also dissolve its corpus, without affecting its existence. On the other hand, for a trust, dissolving its corpus is like winding up.

What does the above mean? Can societies continue to hold on to their ‘corpus’? Yes. Most certainly. Only they should be aware of the true nature of such ‘corpus’.

⁸ Unless the donor has put a restriction.

Utility of a Corpus

For nominal Trusts, a corpus has no real utility. These trusts raise funds each year from public or from other grant-makers. Such trusts, therefore, tend to neglect the corpus.

On the other hand, nurturing and building up a corpus is very important for real Trusts. If such a trust has a large Corpus, they can run their entire program with income from the Corpus.

There are many such organizations (called Foundations) in the USA⁹. Such trusts can focus their entire energies to building up the program. They do not have to worry so much about raising funds.

Corpus and the law

What does the Indian law say about Corpus?

Income Tax Act, 1961

- ❑ Donations towards corpus¹⁰ need not be spent. These are not treated as income for calculating the 75% figure of expenditure-requirement¹¹. This applies to both societies and trusts.
- ❑ In addition to corpus donations, NGO can transfer¹² up to 25% income to its corpus in a year.
- ❑ Funds have to be invested in approved modes¹³.



Foreign Contribution (Regulation) Act, 1976

- ❑ Corpus created with FC funds should be shown on FCRA Balance Sheet. Related investments should also be shown on FCRA Balance Sheet.
- ❑ If you create (or increase) a corpus with FC funds, then its income becomes

foreign contribution. Such income should be deposited in FCRA account. This interpretation¹⁴ is used by FCRA authorities and is supported by accounting logic.

Bombay Public Trusts Act, 1950

(Applicable only in Maharashtra and Gujarat)

- ❑ Donations made towards corpus are excluded from definition of income¹⁵. This means you don't have to pay cess¹⁶ on this amount to the Charity Commissioner.
- ❑ Investments have to be made in approved modes¹⁷.

Accounting

Is corpus an asset or a liability? Most people talk of corpus as an asset: 'Oh, they don't have to worry about money – they have a big corpus.' Or 'I wish we had a big corpus.' When a person sets up a trust, he / she gives it some assets, which form the corpus. So you can say that a corpus is an asset.

However, this interpretation¹⁸ does not fit double entry accounting. To complete the double entry for corpus assets, we create a nominal account. This is called 'corpus fund'. The corpus fund is kept on the liabilities side. Why so? Well, this symbolizes the legal liability that is attached to the corpus assets. From another perspective, this is the money owed by the Trust to the beneficiaries.

Disclosure

In a trust balance sheet, corpus would show up as below:

Liabilities	Rs.	Assets	Rs.
Corpus fund	1,000	Corpus Investments	1,000
Other liabilities	100	Other assets	100
Total	1,100	Total	1,100

Does corpus always mean investments such as bonds and deposits? No. Land, building

⁹ In India, tax-exempt organizations have to spend 75% of their *income* each year. In the USA, they have to spend 5% of their *assets* each year. Why? The US tax structure is designed for corpus-based organizations. Some people argue that liberal deductions for tax-payers in the USA also encourage people to form Foundations.

¹⁰ Donor must give a letter saying that the donation is towards corpus.

¹¹ NGOs exempt under section 12A have to spend 75% of their income each year. There are some exceptions to this.

¹² These funds should be under the NGO's discretion.

¹³ Secs. 10(23D) and 11(5), Rule 17C

¹⁴ FCRA is silent on this issue.

¹⁵ Explanation 2, Section 58(1)

¹⁶ In Maharashtra and Gujarat, fund-raising attracts a cess of around 2%. Some types of activities (education, medical relief, calamity relief, etc.) are exempt from this.

¹⁷ Section 35

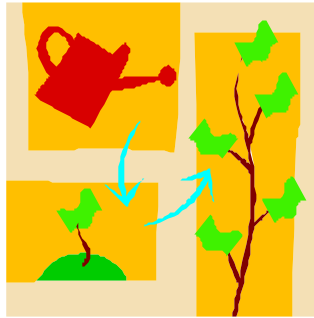
¹⁸ See AccountAble 59: Commonly Confused Terms

and any other similar asset can also be part of the corpus.

When you look at a Trust balance sheet, see whether their investments match their corpus or not. If the investments are less than the corpus, it's time to ask questions.

What happens to income from the corpus investments? It normally shows up in the Income & Expenditure Account. Where? On the Income side: mostly as interest¹⁹. Some Trusts in India have also started investing in mutual funds. So you could also see some income from sale of such investments.

What about the expenditure against this? Expenditure from corpus income is not tracked separately. So it will be spread over several expenditure heads.



Some Indian figures

There is little data available on the corpus of Indian trusts. Some available figures are:

Trust	Date	Rs. crores
CRY – Child Relief and You, Mumbai	30-6-00	6.88
India Foundation for Arts, Bangalore	31-3-00	8.41
National Foundation for India, Delhi	31-3-00	12.52
National Innovation Foundation, Ahmedabad	Start-up: Feb 2000	20.00
National Trust ... Disabilities	Start-up: Jan 2000	100.00
Rajiv Gandhi Foundation, Delhi	31-3-97	42.00

How much would corpora²⁰ of all the Indian trusts add up to? Following is based on estimates at Indiainfoline.com:

Religious trusts and Charitable trusts range from the very small ones to large ones like Tirupati Devasthanam, Mata Amritanandmayi, Ramkrishna Mission, etc.

Other trusts include:

1. hospital trusts like Jaslok, Bombay Hospital, etc.,

2. armed forces trusts like Army Wives Welfare Association, Air Force Officers Association, and,
3. general trusts like Rajiv Gandhi Foundation, Birla Science Foundation, etc.

...The total aggregate corpus of all trusts is estimated at Rs.25,000 crores while the total incremental investment would be approximately Rs. 4,000 crores per annum.

At first glance, these figures may appear to be exaggerated. However, consider that Tirupathi temple Trust raises 10 crores²¹ annually from auction of pilgrims' hair alone! Then there is a growing trend among corporate houses: set up a Trust as part of corporate social responsibility. Both Infosys and WIPRO have set up such trusts²² in Bangalore. Dr. Reddy'satory has also set up a trust in Hyderabad.

Readings

- Asset Management for Endowments and Foundations: William Schneider and others; McGraw Hill. ISBN 0-7863-1070-7
- The Seven Laws of Money: Michael Phillips; Shambhala Books. ISBN 0-87773-949-8

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¹⁹ Some people mark it as 'Interest on Corpus Investments'. This is a good practice.

²⁰ plural of corpus

²¹ Guinness Book of World Records: 2001

²² WIPRO Foundation