**ANNUAL REPORT & AUDIT REPORT FOR THE YEAR 2007-2008**

During the year under report, the Society continued to pursue the ideas of the founder Director, Mr. H. D. Shourie, ventilate the common problems of the people and secure redress for them. A determined effort was made during the year to forge issue-based alliances with civil society organizations sharing the ethos of the Society in order to further objectives such as openness in government, transparency in appointments to high public offices, empowerment of Panchayati Raj institutions and streamlining of the National Rural Employment Guarantee Scheme. The Society also endeavoured to promote communal harmony by supporting the initiatives of Vanangana , an organization working for the welfare of disadvantaged women in the Bundelkhand area of Uttar Pradesh, to bring young women and men of diverse backgrounds to a common platform and encourage them to engage in sporting and cultural activities and acquire various skills.

Considerable success was achieved during the year in the efforts to strengthen the research capabilities of the organization. A team of part-time researchers was put in place and the researchers were encouraged to develop domain knowledge in different fields of governance and acquire ownership of the projects being pursued by the Society in their allotted spheres. The nucleus of a documentation centre-cum-library has also been established and a donation of Rs 200,000/ has been secured from the Pirojsha Sonabhai Godrej Foundation for its equipment.

Dr B. P. Mathur, former Deputy Comptroller & Auditor General of India, was inducted in the Governing Council and was also appointed as Hony. Treasurer of the Society. The Society suffered the loss of Mr J. R. Jindal, a distinguished member of the Governing Council for over 15 years. The Governing Council of the Society met on March 8, 2008 and reviewed its activities and programme of action. The Annual General Meeting of the Society was held on March 29, 2008. The members took note of the deliberations of the Governing Council and endorsed the direction being imparted to the activities and programmes of the Society.

The Society made good use of the instrument of public interest litigation to seek appropriate relief from the Supreme Court of India/High Court of Delhi in public causes warranting intervention by the courts. A number of important public issues was also pursued with the Government agencies/ministries concerned.

The present status of various writ petitions filed in the Supreme Court of India/High Court of Delhi is given below:

**SUPREME COURT OF INDIA:-**

1. **Appointment of Lokpal and Lokayuktas :**The petition relates to enactment of the Lok Pal Act and ensuring appointment of Lok Ayuktas and Up Lok Ayuktas under the Legal Services Authorities Act. Though listed many times, the petition is still pending.

We have filed an additional affidavit to affirm that despite repeated assurances, the Union of India has taken no concrete step to enact a central legislation for creating the institution of Lokpal at the national level with a view to ensuring probity in public life. We have prayed that the Court may issue interim directions pending enactment of appropriate legislation in this regard.. The directions may cover the mode of selection of the chairperson and other members of Lokpal and conditions essential for their proper functioning. We have also urged that the Lokpal should be empowered to deal effectively with systemic corruption and that no distinction should be made between political and bureaucratic corruption, as the two are interlinked. This has been borne out by the experience of the Lokayukta in Karnataka and the success achieved by this institution has been highlighted in the affidavit. It has also been suggested that a revamped Central Vigilance Commission should work directly under the Lokpal.

2. **MP Local Area Development Scheme (MPLADS):** In this Writ Petition, we have sought directions for scrapping the Scheme on the ground that it is unconstitutional and discriminatory and leads to a rampant misuse of funds, as brought out by the Comptroller & Auditor General of India. The petition is pending for listing before the Constitutional Bench.

3. **Constitutional validity of reservations beyond 50 percent and judicial scrutiny of Ninth Schedule laws:** The Government of Tamil Nadu had enacted the Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of Seats in Educational Institutions and of Appointments or Posts in the Services under the State) Act,1993 (Tamil Nadu Act 45 of 1994), which, inter alia, provided for 69 percent reservation in admissions to educational institutions in the State for persons belonging to the Scheduled Castes and Scheduled Tribes and the Backward Classes. COMMON CAUSE challenged the Act, as the Supreme Court of India had capped reservations of all kinds at 50 percent. We also challenged the constitutional validity of the Ninth Schedule laws on the touchstone of the Basic Structure doctrine. The Hon’ble Supreme Court of India has, in its judgment dated January 11,2007, held that the Ninth Schedule laws are subject to judicial scrutiny. Our petition in the specific matter of the validity of the Tamil Nadu Act will be disposed of separately.

**4. Police Reforms:**COMMON CAUSE was a co-petitioner in Writ Petition (310 of 1996) Mr. Prakash Singh & Ors vs. Union of India & Ors. The petition listed various types of violations of fundamental rights and human rights of the citizens by the police and sought the directions of the court for bringing about the required reforms in the functioning of the police. The Hon’ble Court delivered a judgment on September 22, 2006, giving detailed directions for establishment of State Security Commissions, ensuring objectivity in the selection of key police functionaries and security of tenure for them and separation of the investigation wing. The judgment also enjoined the setting up of Police Establishment Boards, Police Complaints Authorities and a National Security Commission. The directions of the Court were to be implemented by December 31, 2006. Some of the States approached the Court for modification of its directions, pleading certain constraints. The Court declined to modify its directions. The order passed by the Court on January 11, 2007 left no other option before the States than to reform the police by March 31, 2007. Some of the States, however, are still resorting to dilatory tactics and circumvention, while certain others are going ahead with their legislations to nullify the directives of the Court. The Hon’ble Supreme Court has constituted a Monitoring Committee with specific terms of reference vide its order dated May 16,2008. The committee will initially function for a period of two years, and will submit six monthly progress reports.

**5. Non–performing Assets:**COMMON CAUSE filed Writ Petition No. 291 of 1998 in the Supreme Court of India, highlighting the need for the Ministry of Finance and the Reserve Bank of India to undertake a thorough and comprehensive review of the existing regulations and procedures to curb the generation of non-performing assets (NPAs) and protect the custodians of public resources, viz., the banks and financial institutions, from the manipulations of unscrupulous borrowers and their accomplices. Detailed remedial measures were also suggested in our petition. A number of hearings was held. The Government of India enacted the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. It was claimed that NPAs had come down after effective enforcement of its provisions, and that since January 2005, a sum of Rs.6,376 crore was recovered by public sector banks. As the progress was far from satisfactory, the matter was brought to the notice of the Court during the hearing held on August 9, 2005. On the directions of Court, written suggestions were made by our advocate to the Additional Solicitor General of India on August 25, 2005. Subsequently, a meeting was held between the parties on August 10, 2006, when our advocate gave some additional suggestions to the Solicitor General of India.

The Supreme Court has also taken note of the suggestions made by Mr. Harish Salve, Senior Advocate for establishment of a specialised machinery for the investigation of serious frauds. Mr. Salve has suggested the setting up of an independent Serious Frauds Office (S.F.O.) and of specialized commercial courts for trial of defined civil disputes between corporates, as well as criminal cases instituted by the S.F.O. He has also suggested the creation of an independent monitoring agency to observe the progress of fraud cases and suggest appropriate corrective measures. We have broadly agreed with the suggestions of Mr. Harish Salve, except in respect of the jurisdiction of commercial courts as, in our opinion, investigation and prosecution of serious frauds should not be mixed up with the issue of commercial disputes between corporates.

The Government of India has also filed a comprehensive affidavit spelling out the steps taken to improve the performance of the banking sector and the progress achieved in redressing the NPAs and minimizing the incidence of frauds.

The case is now pending for final orders of the Supreme Court.

**6. Slaughter Houses – Pollution:**The petition raises the issue of environmental pollution due to unhygienic and filthy practices adopted in the slaughter houses at various places in the country.

**7. Maintenance of Accounts & Submission of Annual Reports by Political Parties:**The legal provisions governing the requirements of maintenance of accounts by political parties and submission of audited accounts to the governmental authorities concerned and of ensuring transparency in the record of donations and contributions by companies are essential for the health of democracy and curbing the menace of political patronage and corruption. As a follow up of the order of the Supreme Court in our earlier Writ Petition No. 24 / 1995, COMMON CAUSE filed a petition in the Supreme Court for directing the respondents to place before it the status of compliance by political parties and enforcement by governmental authorities of the provisions of Sections 13 (A), 139 (4) and 142 (1) of the Income Tax Act and Section 293 (A) of the Companies Act. The petition, though listed, could not be taken up for hearing.

**8. Fake Universities and Bogus Teaching Institutions:**The proliferation of fake universities and bogus teaching institutions has become a menace, affecting the careers of a large number of aspiring young students. It is gratifying to note that the University Grants Commission (UGC) and the All India Council for Technical Education have taken some remedial measures by issuing press notices warning the public about fake institutions, and goading the institutions / universities to upgrade their infrastructural facilities. The UGC is reportedly drafting a new Act with more teeth. The petition is pending for final disposal.

**9. Road Accidents:** In our WP No. 580 of 2003 filed in the Supreme Court, we had highlighted the fact that fatalities in accidents on Indian roads were averaging 80,000 annually. Many of the fatalities can be avoided by education of road users, screening of drivers, proper design and upkeep of roads, maintenance of motorized vehicles and provision of prompt medical aid to victims of accidents. The respondents submitted their counter affidavits in response to the notice issued to them. COMMON CAUSE filed a rejoinder to the counter-affidavit by the Union of India, pointing out that the Respondent had tried to abdicate its responsibility by claiming that the laws on motor vehicles are quite adequate and that their enforcement is the responsibility of the State governments.

The Supreme Court has upheld the contention of the Union of India that the existing laws were adequate to deal with the problem of road accidents and dismissed the petition. The judgment has generated an animated debate in legal circles because of certain observations made by Justice Markandey Katju on the state of public interest litigation.. In their separate orders, Justices M. Katju & H. K. Sema have expressed divergent views on the scope of public interest litigation and the capacity of the court to give directions to the executive to subserve the public interest where the field meant for the legislature and the executive is left unoccupied.

**10. Crime and Violence on T.V:**Our petition draws attention to the heavy dose of crime, violence and sex in many of the programmes being broadcast on the T.V. The Ministry of Information and Broadcasting has claimed that steps are being taken to control excessive depiction of crime, violence and sex in TV programmes. While favouring self-regulation by TV channels in regard to the content of their programmes, the Ministry has, in the recent past, taken punitive action against some channels. The petition is pending.

**11. Large scale Advertisements:**Self-congratulatory advertisements are routinely inserted in newspapers and magazines to bolster the image of political parties/ politicians at a huge cost to the exchequer. We sought the intervention of the Supreme Court to stop this practice. The Court issued notices to the respondents. We have prayed for an early hearing in view of the fact that huge amounts were being spent by the Government on political advertisements as the general elections were approaching. The case is yet to be listed. Meanwhile, the Election Commission has deprecated this practice and issued a caution to the parties concerned.

**12. Hospital waste disposal:**A writ petition (160 / 2005) was filed in the Supreme Court, assailing the usage of incinerators for the disposal of bio-medical waste to the detriment of the environment. Notices have been issued to the respondents. Though listed, the petition has not been taken up for hearing.

**13. Living Will:**The issue of withdrawal of life support systems in the face of imminent death has been agitated in several High Courts. This matter was also taken to the Supreme Court, which gave a comprehensive judgment covering all aspects of Section 306, Section 309 and the relevant Articles of the Constitution. We have filed a writ petition praying for enactment of a law on the lines of the Patient Autonomy and Self-determination Act of the USA, which sanctions the practice of executing a ‘living will’. The petition has been admitted and notices issued to the respondents. The petition is yet to be listed.

**14. Commercialization of Residential Properties:**COMMON CAUSE filed an Intervention Application (No.1 of 2006) in W.P (Civil) No. 266 of 2006 challenging the validity of the Delhi Laws (Special Provisions) Act, 2006, which allowed the commercial use of residential properties. The Hon’ble Court directed the amicus curiae to discuss the matter with the members of the Monitoring Committee constituted by the Court to implement its judgment dated February 16, 2006 and the Writ Petitioners, as well as the Chief Executive of the interventionist. COMMON CAUSE eventually filed an additional affidavit giving specific suggestions regarding the removal of encroachments on government / public land, as well as unauthorized and illegal constructions. It was also urged that the steps initiated on the order of the superior courts to bring the law-breakers, including builders and politicians, to book should not be allowed to slow down.

The promulgation of Master Plan, 2021, followed by a succession of notifications legalizing commercial operations on a large number of roads and in urbanized villages, has given a new dimension to the dispute. The matter is being monitored by the Hon’ble Court with the help of the Monitoring Committee and the amicus curiae. 15. Speedy justice : COMMON CAUSE, Janhit Manch and a couple of other like minded entities jointly filed a comprehensive writ petition (civil) No.122/2008 in the Supreme Court in March 2008, offering a multi-pronged strategy to expedite the dispensation of justice and reverse the trend of a mounting backlog of court cases. The writ petition has relied heavily on the Law Commission of India reports identifying reasons for delays in the dispensation of justice. The reasons enumerated in the writ petition include: Inadequate number of judges and lack of requisite infrastructure, and electronic connectivity; lack of budgetary support and financial autonomy; disregard of basic procedures and principles of casemanagement and disposal; blatant misuse of court processes by litigants and lawyers; irresponsible litigation by Government; unduly lengthy/prolix examination and cross-examination of witnesses; non-implementation of specific provisions of the Cr.P.C. for eliminating delays in criminal cases; non-implementation of laws on perjury; absenteeism of parties; lack of proper training of judicial officers; failure to prioritize cases and lack of accountability and transparency in the system and endless appeals, revisions and reviews.

The need to use alternate modes of disputes redressal, pre-litigation measures and plea bargaining has also been stressed in the petition. The petitioners have, inter alia, prayed that the specific directions issued in the judgment in All India Judges Association (2002) 4 SCC 247 be implemented. An application for interim relief under provisions analogous to Sec 151, CPC has also been filed..

**HIGH COURT OF DELHI:**

**1. Menace of stray cattle:**On our petition, the High Court has issued a set of directions to the respondents. The progress of their compliance is being monitored by the High Court of Delhi on a regular basis.

**2. Installation of Closed Circuit TVs in Intensive Care Units of Hospitals:**COMMON CAUSE filed a Writ Petition (No. 10412 of 2006) for issue of directions for installation of CCTVs in ICUs in Government hospitals to assuage the anxiety of the relatives of patients and enable the doctors to know whether any patient required urgent attention. The Union of India informed the Court that while the monitoring of patients admitted in the ICU was best done through the ICU staff based on clinical and other parameters, it had been decided to install CCTVs in certain strategic locations in three Central Government hospitals viz., Safdarjung Hospital, Dr. Ram Manohar Lohia Hospital and Lady Hardinge Medical College. The High Court vide order dated December20, 2006 directed that the same facilities be also extended to other hospitals being run by the Government of Delhi. A status report was submitted by the Government of Delhi on September 3, 2007 stating that CCTVs had been installed in eight hospitals and the facility was to be extended to six other hospitals by the end of October 2007. In its final order dated May 16, 2008, the Court held that the needful had already been done by the Government and that no further directions were required from the Court in the matter. The petition was disposed of accordingly.

**3. Demolition of Illegal Constructions/Encroachments:**The High Court of Delhi had issued directions to the Municipal Corporation of Delhi for removing illegal constructions, encroachments on public lands and commercial establishments from residential areas. In the context of the reports in the media that MCD was sparing the illegal constructions of the well-connected while dealing harshly with ordinary property owners, we filed an intervention application (IA 507/2006) to ensure that the demolitions carried out by the MCD were neither selective nor cosmetic. The Court issued strict orders for implementing its directions issued in the matter. The Court is monitoring the developments through the Court commissioners appointed by it. The MCD has challenged the capacity of the Court Commissioners to issue orders for demolition of illegal constructions.

**4. Supply of Underweight LPG Cylinders:**The media had intermittently been reporting cases of underweight LPG cylinders being supplied to the consumers by government companies through the distributors appointed by them. It was reported in November, 2005 that the Indian Oil Corporation was let off lightly by the enforcement agency after a raid on the supplier’s godowns in which a large

number of gas cylinders were found to have shortages beyond the permissible limit. Since it was a chronic problem, COMMON CAUSE took up the matter with the Government of NCT of Delhi in December, 2005. The reply received from the Controller (Legal Metrology), Government of NCT of Delhi was found to be unsatisfactory. COMMON CAUSE , therefore, filed a Writ Petition (No. 4048 of 2006) in the High Court of Delhi.

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The petition came up for hearing on November 29, 2007. Relying on the judgment of the National Consumer Disputes Redressal Commission in Petition No. 224/2001 filed by the Consumer Protection Council, Rourkela against the Indian Oil Corporation over an identical grievance, the High Court held that since the Commission had looked into the matter and issued suitable directions, it was not necessary to issue any further directions in the present petition. The petition was disposed of accordingly. The petition came up for hearing on November 29, 2007. Relying on the judgment of the National Consumer Disputes Redressal Commission in Petition No. 224/2001 filed by the Consumer Protection Council, Rourkela against the Indian Oil Corporation over an identical grievance, the High Court held that since the Commission had looked into the matter and issued suitable directions, it was not necessary to issue any further directions in the present petition. The petition was disposed of accordingly.

**5. Working conditions of Teachers in Private Schools:**COMMON CAUSE had been receiving oral complaints from various sources that teachers engaged by private schools on contract basis were being maltreated. The victims were unable to raise their voices for fear of being thrown out. A study conducted by our organization confirmed the rampant malpractices in private schools. We took up the matter with the Department of Education, Government of NCT of Delhi and requested them to introduce a monitoring system for watching over the teachers engaged by private schools and make their working conditions more conducive for imparting quality education to children. As we did not receive any reply, we filed a Writ Petition (No. 6779 of 2006) in the High Court of Delhi. The Hon’ble Court ordered that the Director of Education, Government of NCT of Delhi should investigate within six weeks the cases referred to it by COMMON CAUSE and take appropriate action under the Delhi School Education Act, 1973, taking due care to conceal the identity of the complainants. On the failure of the Director of Education to take action within the stipulated period, we have filed a contempt petition which came up for hearing in February 2008, when notices were issued for hearing in July, 2008. Meanwhile, the Directorate has acted upon some of the complaints referred to by COMMON CAUSE and taken effective action against the errant schools, including derecognition. The matter has now been adjourned to November, 2008.

**FINANCE & ACCOUNTS:** Audit Report on COMMON CAUSE SOCIETY and COMMON CAUSE TRUST for the year ending March 31, 2008 has been received. The balance sheet and income and expenditure statements are attached along with the consolidated balance sheet and income and expenditure statements of the Society and the Trust.

The overall expenditure during the year was Rs. 24.56lakh against Rs. 20.94 lakh last year; the income was Rs. 40.25 lakh against Rs. 35.19 lakh during the previous year. Thus, there was an overall surplus of Rs. 15.70 lakh during the year, against Rs. 14.26 lakh last year. Overall, the financial results are quite satisfactory.

[A copy of the balance sheet and income and expenditure statement will be provided in the AGM.]