**ANNUAL REPORT FOR THE YEAR 2011-2012**

During the year under report, the Society continued to carry forward the legacy of its Founder-Director, Mr. H.D. Shourie and ventilate the common problems of the people with a view to securing their resolution. In its various initiatives, the Society received the cooperation and support of like-minded civil society organizations and activists in full measure.

**Anti-corrruption Movement**: The Society continued to extend moral, intellectual and material support to India Against Corruption and deployed its best efforts to attenuate the cross currents buffeting the movement. The Director was one of the signatories to the appeal which led to the end of the indefinite fast by Anna Hazare and key members of his team. The IAC finally realized that if undertaken too often indefinite fasts lose their traction.

There had been a gradual building-up of tension within the movement between the votaries of an apolitical mass movement and those who were convinced of the futility of an agitation-based approach and felt that joining politics was the only way to bring about the changes that are needed. Once it became clear that the two streams had become immiscible, the Director tried his level best at Anna Hazare’s momentous meeting with the IAC leadership on September 19, 2012 to help evolve a structure for the movement which would allow the coexistence of three distinct but complementary streams, each following its own course to bring about the desired systemic change. While the first would have focused on constructive work at the ground level, the second would have concentrated on popular mobilization, and the third endeavoured to emerge as an influential bloc in the legislatures. This articulation had a parallel in the structure of the Congress-led freedom movement, when the Party, shedding its long-standing opposition to Council Entry, had successfully contested the 1936-37 Provincial Elections. Sadly, there were few takers for this idea and a parting of ways became inevitable.

The constitution of a political party, later named the Aam Aadmi Party (AAP), was announced by Arvind Kejriwal on October 2, 2012. As the statutes of the Society restrict it to non political activities, Common Cause, while continuing to pursue its anti-corruption agenda, has distanced itself from the nascent party, which has remained in the limelight with a succession of well-documented exposures of corruption and unethical conduct by top leaders of the main political parties and members of their immediate families. Though the AAP has taken care to avoid any situation of potential conflict with Anna Hazare and his followers and ceded to them the banner of ‘India Against Corruption’, the relations between the two have tended to wax and wane. The Society will spare no effort to promote the solidarity of the anti-corruption movement.

**Logo for Anti-corruption Campaign**: At the instance of the Society, the National Institute of Design designed a logo for a broad-based anti-corruption campaign.. The logo is remarkable for its simplicity, pithiness, recall value and ease of reproduction. It was launched at Jantar Mantar on July 25, 2012, from the platform of India Against Corruption. Efforts to promote it as the symbol of the ongoing War on Corruption are underway.

**Police Reforms Agenda**: Common Cause has persevered to push its police reforms agendaduring the period under review. The civil society coalition of Commonwealth Human Rights Initiative, Foundation for Restoration of National Values and Common Cause madea joint submissionto the Standing Committee of Parliament for reforming and modernizing the Delhi Police. These suggestions, if adopted in earnest at the national level, would ensure that the reformed police service is responsive and accountable to the people and has functional responsibility over all its legitimate affairs, even as its supervision remains with the political executive.

The Society also volunteered its comments and suggestions on the **Draft Citizens Right to Grievance Redress Bill, 2011, and** the Consumer Protection (Amendment) Bill, 2011.

The advocacy efforts of the Society encompassed a number of other important public issues, which were diligently pursued with the public authorities concerned.

**Campaign against Money Circulation Schemes:** In its campaign against money circulation schemes masquerading as Direct Selling/Multi Level Marketing schemes, the Society made comprehensive representations to the Prime Minister, the Ministries of Finance and Consumer Affairs, and the Reserve Bank of India on the inaction of the enforcement agencies in the face of flagrant violations of the provisions of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978. The authorities seemed to have woken up to the issue; interdepartmental working groups were constituted by the Ministry of Consumer Affairs and the Department of Financial Services to study the problem in all its aspects. The issue also figured on the agenda of the Foreign Investment Promotion Board.

**Exploitation of Children in Organised Beggary**: The Society also took up the issue of the rampant abuse of young children and infants in organized beggary. Photographic evidence of the use of apparently drugged infants by beggars operating at busy traffic points in New Delhi was presented to the authorities concerned. We may file a PIL in the matter if there is no positive response from them.

**Appointment Procedure of C&AG:** A fresh memorandum urging the adoption of a transparent and objective procedure for appointment to the Constitutional office of the Comptroller and auditor General of India in line with international best practices was submitted to the Chairman of the Public Accounts Committee of Parliament.

**Promotion of Communal Harmony:** Common Cause continued to support the efforts of Vanangana to promote communal harmony through its sporting and cultural activities and programmes for imparting vocational skills. These initiatives bring young women and men of diverse backgrounds to a common platform and promote understanding and co-operation among them.

**Systemic improvements in the implementation of MNREGA**: The Society extended calibrated financial support to the Centre for Environment and Food Security (CEFS) to pursue its PIL in the Supreme Court seeking systemic improvements in the implementation of the Mahatma Gandhi National Rural Employment Guarantee Act **(MNREGA)**. The PIL has already made an impact at the level of the Programme.

The Governing Council of the Society met four times during the year 2011-2012 and provided unstinting support and guidance to the Director and his team. The Annual General Meeting of the Society was held on March 17, 2012. The members reviewed the developments since the last general body meeting and endorsed the thrust of the Society’s interventions.

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 worthy of judicial intervention.

The status of the writ petitions filed in the Supreme Court of India and the Delhi High Court is as follows.

**Supreme Court Cases**

1. **WP(C) 26/1995: Appointment of Lokpal and Lokayuktas-** This petition relates to enactment of the *Lok Pal* Act and appointment of *Lok Ayukta*s and *Up Lok Ayukta*s under the Legal Services Authorities Act. The case was listed for final disposal in August 2009, but was adjourned due to paucity of time. The matter was last listed on July 10, 2012. In the mean time, a mass movement led by Anna Hazare forced the government to introduce a highly contested Lokpal & Lokayuktas Bill, 2011 in Parliament. The Bill has been passed by Lok Sabha and is pending in Rajya Sabha. The Select Committee, to which it had been referred, has tabled its report. As matters stand, the Bill contains a number of fatal flaws. The Government seems determined to push this highly inadequate formulation, disregarding the few ameliorations that have been proposed by the Select Committee.
2. **WP(C) 387/2000: Crime and Violence on TV-** The petition highlights the preponderance of crime, violence and sex in many of the TV programmes The Union of India has yet to comply with the Court’s direction given on April 18, 2006 to file a status report on the Broadcasting Regulatory Authority Bill. There is no further order of listing since the last hearing on July 21, 2009.
3. **WP(C) 330/2001: Slaughter House Pollution-** The absence of a modern system for waste disposal in slaughter houses poses a serious threat to the environment, while the slaughter of diseased animals endangers public health. The employment of children in slaughter houses and roadside vends violates the Child Labour (Prohibition and Regulation) Act, 1986. In this context, Common Cause filed a writ petition praying that the authorities concerned be directed to take appropriate remedial measures. The petition has been clubbed with WP (C) 309/2003 filed by L.N. Modi. The Court directed the Central and State Pollution Control Boards and the Animal Welfare Board to confirm compliance with the laws for prevention of cruelty to animals and environment protection. Most states have complied with the directions. The matter is listed for hearing on January 16, 2013.
4. **WP(C) 13/2003:** **Large Scale Advertisements-** Self-congratulatory advertisements in the print media are issued time and again by various governments to bolster the image of political parties/politicians at a huge cost to the exchequer. Common Cause urged the Supreme Court to put a stop to this practice. An early hearing was sought since huge amounts were being spent by governments on political advertisements in view of the general elections. Meanwhile, the Election Commission took cognisance of the matter and issued a caution to the parties concerned. As the impugned practice continues unabated, an IA has been filed in November 2012 to place on record a sample of recent advertisements by various governments with a view to expediting the disposal of the petition. This matter has been tagged with a writ filed by Centre for Public Interest Litigation (CPIL)**.**
5. **WP(C) 61/2003:** **HIV-AIDS-** This petitionseeksto ensure that the Central and State governments take effective steps to monitor the performance of NGOs participating in the HIV-AIDS Control Programme, weed out suspect NGOs, set up counseling and specialized treatment centres and enact an appropriate legislation for ensuring that no HIV positive patient is denied due care. In view of the directions of the Court, the UOI has formulated a scheme for Universal Access to Second Line Treatment of HIV, which has been taken on record. The matter has been listed for disposal on January 21, 2013.
6. **WP(C) 215/2005: Living Will-** Common Cause filed a PIL 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’ in the nature of an advance directive for refusal of life-prolonging medical procedures in the event of the testator’s incapacitation. While our petition awaits disposal, the Court has in *Aruna Shanbaug* (criminal writ no. 115 of 2009) legalized passive euthanasia and laid down the guidelines for withdrawal of life support from a patient in a permanent vegetative state. This order of the Apex Court goes well beyond the limited relief sought in our petition.
7. **WP(C) 122/2008: Speedy Justice-** Filedby Janhit Manch, Common Cause and two others, the PIL offers a multi-pronged strategy to expedite the dispensation of justice and liquidate the backlog of court cases. It came to be tagged with an SLP on a matter relating to judicial service. The attention of the Court was focused on the adequacy of the efforts being made to fill the existing vacancies in the subordinate judiciary under different High Courts.The wider issues, which were raised in our PIL, finally engaged the Court’s attention after a gap of one year. At the last hearing in November 2012, a forceful plea was made on behalf of the petition*e*rs for video-recording of court proceedings to expedite the disposal of cases and improve the quality of justice. The matter is listed for hearing on February 19, 2013.
8. **WP(C) 464/2011: Safety Concerns in Nuclear Energy Programme:** Through this writ,Common Cause, CPIL and some eminent citizens have challenged the constitutional v**a**lidity of the Civil Liability for Nuclear Damage Act (CLNDA), 2010 and sought a safety reassessment as well as a comprehensive analysis of the long-term cost-benefits of the nuclear plants in I**n**dia. The petition also seeks the establishment of an independent and effective atomic energy regulatory authority in the interest of people’s rights to life and clean environment. Before the admission of the petition, the petitioners had to establish that th*e*y had exhausted the remedies available to them. They were also asked to file details of the fun**c**tioning of independent nuclear regulators in oth**e**r countries. Eventually, the Court partly admitted our petition in terms of the prayer for declaration of the CLNDA as unconstitutional and void *ab initio*. In the hearing on September 6, 2012, the Court directed the respondents to file their counter affidavits. The petition has since been tagged with the petition listed at serial no. 13.

1. **WP(C) 536/2011: Combating the Criminalization of Politics:** Public Interest Foundation, Common Cause and two other like-minded organizations filed the present writ for debarring persons charged with serious criminal offences are from contesting elections and ensuring time-bound disposal of pending criminal cases, appeals and revisions concerning members of Parliament and state legislatures. The petition also challenges the constitutional validity of Sec. 8(4) of the Representation of the People Act, 1951, which provides that in the event of conviction of a sitting member, the ensuing disqualification shall be stayed on filing an appeal or revision. Notice was issued to the UOI and the Election Commission to file their reply on the next date of hearing on March 26, 2012. Further time of six weeks was allowed to the respondents on July 23, 2012. The direction was reiterated on September 24, 2012. The matter has been listed for January 14, 2013.
2. **WP(C) 35/2012: Removal of Justice K. G. Balakrishnan from the Chairmanship of NHRC:** Based on a meticulous compilation by Campaign for Judicial Accountability & Reform (CJAR) and CPIL of the transgressions of Justice K. G. Balakrishnan and his relatives, Common Cause filed a petition in February 2012 to seek a direction to the UOI for making a reference to the Supreme Court under Section 5 (2) of the Human Rights Act, 1993 for holding an inquiry for his removal from the post of Chairman, National Human Rights Commission. The Court asked the UOI to respond to the averments made in the petition and indicate the action taken in the matter of the allegations against Justice Balakrishnan and his relatives. Having regard to the submissions made by the parties, the Court disposed of the petition on May 10, 2012, requesting the competent authority to take a decision on CJAR’s communication dated 4.4.2011 to the President of India. It was stipulated that if the allegations were found to be unworthy of any further action, the petitioner should be informed accordingly. Alternatively, the President of India, based on the advice of the Council of Ministers, was to proceed with the matter in accordance with the mandate of Section 5(2) of the 1993 Act.

Although a period of 7 months has elapsed since this order, the petitioner has not been informed of the outcome of the determination of the allegations made in the said communication of CJAR. Under the circumstance, an IA has been filed in December 2012, praying that the Court may fixa time-frame for the competent authority to decide on CJAR’s communication.

1. **WP(C) 194/2011: Obstructive RTI Rules of the Allahabad High Court-** Common Cause has been questioning the obstructive RTI rules framed by various High Courts under the rule-making powers conferred by the Right to Information Act, 2005. Our analysis showed that the Allahabad High Court (RTI) Rules, 2006, were particularly obstructive. In November 2011, Common Cause approached the High Court with the request that the provisions contrary to the RTI Act should be reformulated in the larger interest of operationalising the fundamental right to the freedom of speech and expression and in line with various recommendations of the Central Information Commission. On receiving no response from the High Court, a writ petition was filed for quashing the impugned Allahabad High Court Rules. In a hearing held in November 2012, the High Court sought and was allowed two months’ time to amend the deviant rules so as to bring them in consonance with the provisions of the parent Act. The matter has been listed for February 1, 2013.
2. **WP(C) 463/2012: Irregularities in Allocation of Coal Blocks for Captive Mining-** The petition seeks a court-monitored investigation into the entire allocation process, and prays for imposition of punitive damages on the allottees for false declarations and breaches of the conditions of allotment, cancellation of the permission granted to captive coal block users to divert surplus coal for other purposes, and recovery of the windfall profits obtained by the allottees through direct or indirect sale of coal blocks.

The petition highlights the arbitrary and opaque manner in which the Central Government had alienated a scarce natural resource to a few select private companies to the detriment of the public exchequer, deferring the introduction of competitive bidding. Captive coal blocks were hastily allotted to the favoured companies, many of which were ineligible, or had no real need of coal, and had close links with influential politicians. The petitioners urged that as per the law propounded in the 2G Case and the opinion tendered by the Supreme Court in the subsequent Presidential reference, the coal blocks so allotted be resumed and auctioned as per Section 11A of the Mines and Minerals (Regulation & Development Act), subject to the relevant environment and forest laws and the Fifth Schedule of the Constitution. Notice has been issued to the respondents on November 19, 2012 and the matter posted for hearing on January 24, 2013.

1. **WP (C) 407/2012: Safety issues in Kudankulam Nuclear Power Plant-** As a corollary to our PIL challenging the *vires* of the CLNDA, CPIL, Common Cause and two others have filed a writ petition to ensure that suppliers of the Kudankulam nuclear plant in Tamil Nadu are bound by the ‘Polluter Pays’ and the ‘Absolute Liability’ principles, and that in case of an accident the victims can sue the reactor suppliers for damages, even if the Government and the plant operator choose not to sue. The petition seeks a further declaration that the suppliers are bound by the said Act, irrespective of any bilateral agreement to the contrary, and prays that the rule framed by the Government to scale down the liability of nuclear suppliers be set aside as unconstitutional and *ultra vires* the parent Act.

The Court has taken up the petition on priority and tagged our petition against CLNDA with it. In a hearing held on November 20, 2012, the Court slammed the Tamil Nadu administration for taking nuclear safety lightly and failing to take effective steps to implement the relevant disaster management guidelines. Questioning the Atomic Energy Regulatory Board and the plant operator on the steps taken to implement the prescribed safety measures, the Court indicated that the Government could be directed to comply with the Convention on Nuclear Safety which mandates an independent safety regulator. The Court has reserved its judgment.

**High Court Cases**

1. **WP(C) 524/2010: Plight of Construction Workers in CWG 2010 Projects-** The PIL for securing the rights of the construction workers engaged in projects related to the Commonwealth Games, 2010, in which Common Cause was a co-petitioner, was disposed of by the Delhi High Court on September 20, 2012. The final order, which is couched in advisory terms, takes stock of the compliance by the respondents of the directions issued by the Court in a succession of interim orders and makes elaborate recommendations on measures to streamline the administration of labour laws and the implementation of labour welfare schemes. An action taken report is to be filed in six months. The matter has been listed for directions on April 29, 2013.
2. **WP(C) 866/2010:** [**Post-Retirement Activities of Members**](http://commoncause.in/Recent_PILs/hc4.php) **of Higher Judiciary-** During the pendency of this petition, which seeks to extend the accountability of the members of higher judiciary beyond their retirement, the Society has been able to secure significant outcomes.At its instance, the High Court has followed the lead of the Supreme Court, which, in an unrelated PIL, had taken exception to the annexing of the legal opinion of a retired Chief Justice of India to the petition and directed its registry to ensure that such opinions were not taken on record. The High Court instructed its registry to refuse to accept writ petitions in which opinions of retired judges are annexed. This is in line with our prayer for the prohibition of this practice as violative of the spirit of Article 124 (7) of the Constitution.

The High Court also directed the UOI to take a final decision on its proposal to formulate a uniform policy regulating the conditions of service of the Chairpersons/Members of tribunals and statutory authorities. The UOI indicated on August 29, 2012 that it proposed to debar chairpersons and members of various tribunals from taking up arbitration work during their term of office. This would entail amendments to 42 different Acts and might take a period of three months. This outcome would amount to the acceptance by the respondent of the other prayer made in our PIL.

1. **WP(C) 8363/2010:** [**Misuse of BSP Reserved Symbol**](http://commoncause.in/Recent_PILs/hc4a.php)-The petition challenges the order of the Central Election Commission rejecting our request for freezing the reserved symbol of BSP on account of its misuse by its government in Uttar Pradesh. Punitive costs were imposed on the Party on July 16, 2012 for the inordinate delay in filing a reply. A rejoinder rebutting the submissions made in the Party’s belated counter affidavit has been filed and the matter adjourned for May 2013.

**Finance and Accounts**

The Audit Report on the Annual Accounts of Common Cause Society and Common Cause Trust for the year ending March 31, 2012 has been received. The Governing Council has accorded its approval to the Annual Accounts and the Audit Report on September 20, 2012. Briefly, total expenditure during the year was Rs.50.62 lakh against Rs.47.17 lakh last year. The increase in expenditure was primarily on account of a donation of Rs. 5 lakh to CEFS for pursuing its PIL on the implementation of the MNREGA. The income during the year was Rs. 50.25 lakh compared to Rs.42.61 lakh during the previous year. Thus, the deficit during the year came down to Rs. 0.37 lakh from a deficit of Rs. 4.56 lakh recorded last year. Overall, the financial results have been quite satisfactory.