

COMMON CAUSE

VOICE OF "COMMON CAUSE"

OUR MINUS SCORE OUTWEIGHS THE PLUS POINTS

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Over the past many centuries our history has chapters of glorious reigns and monarchs. We set a unique example of winning freedom from foreign dominance without battles and animosity. We have made laudable progress in all fields - agriculture, industry, arts, literature, sciences, technology, family life and moral behaviour. These are our plus points, matters of pride for us. Our past indeed has been glorious.

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Unfortunately, against such plus points' backdrop, the minus score has continued to expand. This is concerning and disappointing. Deficiencies, infirmities and inadequacies are increasingly becoming more prominent and visible. Hearing some wrongful act daily and letting our democratic functioning being sullied is normal.

To start with: from home, to buildings, to transport, business, industry, offices, and very importantly the apparatus of democratic functioning- the legislatures. All are areas of malfunctioning, indiscrimination and indiscipline. The most glaring problem is the great spread of unscrupulousness which appears to have penetrated deep into our systems.

Major problem which will inevitably affect every family, of course with exception where the people are taking appropriate steps, is the burgeoning population of the country, migration to cities, and consequential mounting problems of the cities. It would be difficult for the people to recognise that fifty years ago, at the time of our attaining independence the total population of the country

was less than one-third of what it has now become. There are huge digital clocks installed in certain cities which demonstrate how every second a new child is presently being born; the population will further swell by another one-third in 30 years if this goes unchecked.

Some half-hearted measures are being taken to educate the masses. China was till recently the country of largest population, but their fixed child norms have borne fruit and we might soon outstrip that country. A large number of our problems are because of the population explosion, but considerations of religion, caste and politics are handicapping every effort to check it.

- OUR MINUS & PLUS SCORE
- JUDICIAL SYSTEM
- CORRUPTION INDICES

- CONSUMER PROTECTION
- WATER HARVESTING
- OUR LEGISLATORS-PEOPLES' VIEWS

In education, a number of fake universities and bogus teaching institutions have mushroomed. They charge high fees from gullible and aspiring students, offering them blandishments of unrecognised degrees and meritless qualifications.

In transport sector, multiplication of vehicles is further compounded by unscrupulousness of the drivers of public buses, disregarding regulations and signals. Traffic police has failed to check this, leading to accidents almost every day. The enormous expansion of vehicles has led to problems of pollution. Enforcement of any pollution standards has been rendered impractical in spite of all possible efforts. In fact, pollution in Delhi's atmosphere, as well as water, has become a serious matter, particularly with river Yamuna badly spoilt.

The corrupt builders, practically everywhere, know how to make quick money, flouting norms and building regulations of structural safety and encroachments. In Delhi alone, the builders have helped develop about 1500 unauthorised colonies, of about four lakh pucca houses, presently with population of 30 lakh people, completely disregarding requirement of taking sanction of even one house. They were made possible only with the connivance and collusion of the subordinate municipal staff and with the tacit approval of politicians who count on vote banks.

Corruption has, to all appearances, crept into every possible lower services of public administration, everywhere where a department has to deal with the public. Operation of building regulations and bye laws provides splendid opportunities to the unscrupulous ones. Transport by road as well as by rail, has many loopholes for such exploitation. Enforcement of any standards and norms in business and industry, in setting up of industries, in the matter of quality standards or observance of ethical practices provides splendid opportunities of greasing palms at various levels. Tax evasion, of course, is considered an indispensable necessity for making profits.

This is not confined only to lower administrative levels. Over the past many years there have been huge scams and frauds in which big fish and enormous amounts are involved, at the level of various ministers and dignitaries. However, their investigations have languished for years and so no big fish has yet gone behind the bars.

Crime is on the rise. The elderly being murdered, of mafia operating at various levels, of gangsters resorting to fire-arms; even cricketers have taken undue advantage of match fixing are daily headlines. Concerned police force is unable to curb such tendencies. The judiciary has not been able to achieve the objective of dispensation of expeditious justice. There are now about three crore cases pending in the courts of the country, practically one-third of which are criminal cases.

These are some of the glaring problems which face the country and the people. These are man-made. On these has got superimposed wrath of nature, latest being the very serious earthquake of Gujarat which has caused such great disasters; previous earthquake of Latur, cyclone of Orissa and droughts which have caused such widespread devastation.

There is growing consternation in various cities that there have been omissions and failures of structural engineers and municipal authorities besides greed of builders and these have apparently been the cause of such extensive destruction by the earthquakes.

The list of woes is endless. Citizens need to awaken themselves. They must assume responsibility for applying correctives.

ATTENDING A wedding for the first time, a little girl whispered to her mother: "Why is the bride dressed in white?"
"Because white is the color of happiness, and today is the happiest day of her life," her mother explained, keeping it simple.

The child thought for a moment and asked: "So why is the groom wearing black?"

BRIBE-TAKING LEGISLATORS SHOULD BE LIABLE FOR PROSECUTION

by Justice BP Jeevan Reddy
Chairman, Law Commission of India

The four Jharkhand Mukti Morcha (JMM) Members of Parliament who voted for the Narasimha Rao government in return for monetary consideration were let off by the court on the basis of the words contained in one significant clause in the Constitution, viz. clause 2, Article 105: "in respect of anything said, or any vote given by him".

Article 105 guarantees the members of Parliament absolute freedom of speech in the House. Clause 2 of this article, which is actually a continuation of clause 1, enjoins that no proceedings shall be taken against any member of Parliament in a court of law 'in respect of anything said or any vote cast by any member within the House'. And clause 3 specifies that the privileges and immunities of the members of Parliament shall be the same as those of the members of England's House of Commons.

In the JMM case, the prosecution argued that the four JMM MPs and Ajit Singh were given money for voting against the motion of no-confidence against Narasimha Rao. (It was a minority government and needed the support of MPs of other parties to defeat the motion). The JMM MPs voted against the motion, while Ajit Singh took the bribe but did not cast his vote.

The Supreme Court having already held that the members of Parliament are public servants, and come under the purview of the Prevention of Corruption Act and the Indian Penal Code, the prosecution framed charges against those who took the bribes as well as those who gave them.

But the JMM MPs contended in the Supreme Court that even if, assuming that they have taken the bribes the court cannot prosecute or punish them for that because of the language contained in the clause 2 of article 105. In short, even if money was offered, it is something, which is in respect of their casting of a vote in Parliament.

An identical question was gone into by the US Supreme Court in 1962 in what is known as the Brewsters case. In that case, the majority (six out of nine judges) held that the charter of absolute freedom given to members of Congress is not a charter for corruption. It amounts to perverting the basic concept behind the charter of freedom. Members cannot sell themselves. However, the minority opinion (three out of nine) held a contrary view. According to this view, if such protection were not guaranteed to the members of the legislature, then they would feel constrained or not absolutely free in the manner of voting or speaking in the house. They said that the threat of such prosecution in the court could have a chilling effect on the free speech right. The Brewsters case was extensively cited and relied upon by both the prosecution and the defence counsels while arguing the JMM bribery case.

But in the case of our Supreme Court, three out of the five judges or the majority opinion decided to follow the minority opinion given in the Brewsters case. Which meant that the freedom of speech was absolute and the MPs could not be prosecuted in respect of anything said or any vote cast by any member within the house. Whereas, the minority of two judges preferred the majority opinion given in the American case that the freedom of speech cannot be absolute. The judges while giving the judgement further pointed out that Ajit Singh who had also taken the bribe but not voted could not claim immunity since he did not cast his vote.

Another question, which was considered by the judges, was that under the Prevention of Corruption Act, sanction of the appropriate authority has to be obtained before a public servant's prosecution but that neither the Prevention of Corruption Act nor the Constitution specified who should be the authority to sanction the prosecution. On this issue there was a divergence of opinion amongst the judges. The minority was of the view that the permission of the Speaker in the case of the Lok Sabha and the Chairman in the case of the Rajya Sabha was sufficient, as they were the competent authority. The majority view held that since it was not specified, no one could give this sanction. But they also pointed out that this is not a happy situation and it calls for a change.

Before we go into the changes that are being proposed to be introduced, one important distinction between the American and Indian legislature needs to be highlighted. In the United States, as a result of the Principle of Separation of Powers, how you vote has no effect on the life of the executive. For instance, in the Clinton impeachment trial, many Democrats voted against Clinton while many Republicans voted for him. The party discipline is not of great significance. But in a parliamentary system like in India, party discipline is of great import as it can make or break a government. It is for this reason that we have a provision for a party whip etc.

The question that needs to be considered is whether the majority opinion of the Supreme Court that MPs enjoy freedom in respect of speech and voting in Parliament should be introduced. To probe this question reference was made to earlier cases, English cases, Lord Salmon's and Lord Nolan's reports, the British Law Commission etc. Most took the view that bribe taking cannot be allowed.

So, we were prima facie of the opinion and this should not be permitted.

There are two alternatives, which can be considered. Whether immunity should be removed only in respect of voting or both in respect of voting and speaking. We have suggested a new clause in article 105. Clause 3(a) 'Nothing in the clause 1,2,3 should bar the prosecution of a Member of Parliament under the Prevention of Corruption Act etc, if they take money for voting in Parliament'. The other issue is of the competent authority to grant sanction for prosecution. We have suggested the constitution of a permanent committee of five members elected by the MPs themselves. It would comprise three members from the Lok Sabha and two from the Rajya Sabha.

We have made this consultation paper public to generate a debate. We have to still finally make up our minds on whether to suggest this change and the manner in which this is to be effected or to let the situation remain as it is.

PM SHOULD BE UNDER PURVIEW OF LOKPAL

The Union government should solicit the help of astrologers for figuring a *muhurta* before thinking of introducing the Lokpal bill in the current session of Parliament. More than six attempts to do so in the past three decades have failed due to lack of sincerity among law makers.

The Lokpal/Lokayukta concept is similar to the Scandinavian Ombudsman. The term Ombudsman has its roots in the constitutional practice of the Nordic lands. Sweden established an Ombudsman in 1809. But it was only after World War II that the institution spread to more than 40 countries.

In India, there is no formal forum to deal with public grievances against corrupt public officials. The exposes of corruption by the media are usually forgotten. Only once in a while does the CBI or a government commission or a court of law pursue a case of corruption. That takes years, in fact, decades, and usually end up holding no one guilty. It is due to this reason that the Administrative Reforms Commission (ARC) recommended establishment of a statutory body, the Lokpal.

In Norway, there are six Ombudsmen, including those for military affairs, children, consumer affairs, and even equal status. In India the emphasis is only for an Ombudsman for public administration. In a market driven age an Ombudsman for consumer affair seems equally important. Besides, an Ombudsman for military affairs needs to be created. It would certainly help in maintaining an atmosphere of openness and trust within the defence establishment. Both should be subordinate to the Lokpal. Sweden too has bifurcated the office into two separate branches: Ombudsman for civil affairs and another one for military affairs.

The most striking feature of the present bill would be the inclusion of the prime minister under the purview of the Lokpal. This provision was first mooted in 1977 under the Janata Party. Conversely, the 1985 bill excluded the PM from its jurisdiction. The 1989 bill defined public functionary in such a broad way so as to cover the

office of the prime minister and all ministers. The 1996 bill too largely shared the perception of the 1989 bill about "public functionaries".

The issue of inclusion of the PM has been debated all along. The division has been on expected line. While the Congress has not supported the idea, non-Congress parties have always pleaded bringing the PM under its jurisdiction.

Union home minister, while participating in a debate in the Lok Sabha on August 18, 1969 argued against the inclusion of the PM: "The real authority for the removal of the PM is Parliament. So no Lokpal or Lokayukta can have the authority." The argument is flimsy. The office of the PM is after all a source of major executive orders which necessarily makes it vital and vulnerable to corruption. The emergence of the PMO as a power center and the position of the PM as a 'first among equals' underscores the need to include the PM under the purview of the Lokpal. This would make the institution more accountable.

The present bill reportedly plans to exclude MPs from Lokpal's jurisdiction. They were brought under its purview in 1977 and 1996. Admittedly, it would neither hamper their performance as public representatives nor curb their freedom if they were included under the Lokpal's purview. After all, MPs across political parties are frequently involved in various corruption charges.

There is no use making the institution merely a semblance of the Ombudsman. The ARC's recommendations regarding Lokayuktas have been implemented in some of the states in the last three decades. The experience, however, has remained disappointing as the institution has invariably remained toothless.

A former Bihar chief minister let the institution die an unnatural death. In this respect, other states too have followed the Bihar tradition. The fate of the Lokpal should not be like that of Lokayuktas in the states. It must signify dignity and power of an independent institution and should not be treated merely like a ceremonial office.

(Rakesh Sinha of Delhi University)

A MAN died and went to heaven. When he got to the pearly gate, St. Peter told him that new rules were in effect due to higher literacy on earth. To gain admission, one must answer two questions: (1) Name two days of the week that begin with "T", and (2) How many seconds in a year?

The man thought for a few minutes and answered: (1) The two days of the week that begin with "T" are Today and Tomorrow, and (2) There are 12 seconds in a year.

St. Peter said: "OK, I'll buy the Today and Tomorrow, even though it's not the answer I expected. But how did you get 12 seconds in a year?"

The man replied: "Well, January 2nd, February 2nd, March 2nd, etc....."

Saint Peter lets him in without another word.

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THREE OLD men are at the doctor's for a memory test. The doctor asks the first old man, "What is three times three?" "274" was his prompt reply. The doctor worriedly asks the second man, "It's your turn. What is three times three?" "Tuesday" replies the second man. The doctor sadly tells the third man, "Okay, your turn. What's three times three?"

"Nine", says the third man.

"That's great!" exclaims the doctor. "How did you get that?"

"Jeez, Doc, it's pretty simple," says the third man. "I just subtracted 274 from Tuesday."

...

A DEFENDANT in a major lawsuit told his lawyer: "If I lose this case, I'll be ruined." "It's in the judge's hands now," said the lawyer. "Would it help if I sent the judge a box of cigars?" "Oh no! This judge is a stickler of ethical behaviour. A stunt like that would prejudice him against you. He might even hold you in contempt of court. In fact, you shouldn't even smile at the judge," the lawyer cautioned.

Within the course of time, the judge rendered a decision in favor of the defendant. As the defendant left the courthouse, he said to his lawyer: "Thanks for the tip about the cigars. It worked!"

"I'm sure we would have lost the case if you'd sent them."

"But, I did send them." "What? You did?" asked the lawyer, incredulously.

"Yes. That's how we won the case." "I don't understand," said the lawyer.

"It's easy. I sent the cigars to the judge, but enclosed the plaintiff's business card."

PRICE OF JUSTICE

"Law Minister Arun Jaitley has been getting a good press for the various measures he announced in a bid to reinforce liberalisation with much needed legal reforms. The broad object of his legal reforms has been to cut down the time consumed by litigation. The curtailment of the procedure is expected to lead to a reduction in the costs as well. But then, delay is not the only reason litigation has become so notoriously expensive. The more tangible cause is the high (or, as some say, extortionate) fee demanded by the lawyers. Indeed, the elaborate fee structure built by the bar at every level stands as a barrier between the common man and justice. Yet, for all his exertions to reform the legal system, Jaitley has been surprisingly silent on this vital aspect.

On second thoughts, is his silence really surprising? After all, before becoming a minister, Jaitley himself was among the highest earning lawyers in the country. It is not easy for somebody who was until the other day part of the problem to acknowledge it now as one. But even if he demonstrates the will to make the necessary mental adjustment, it is not going to be easy for him to take on the deeply entrenched interests of the so-called legal luminaries.

Any serious attempt to tackle the problem of high fees will have to begin at the Supreme Court, since the biggest grossers are there. Let us, therefore, look at the fee structure of the 20-odd senior advocates who are in greatest demand at the apex court. These black-robed stars charge anywhere between Rs. 40,000 and Rs. 1 lakh per appearance at the stage of admission of the petitions. After admission, the seniors are engaged for regular hearings at the equally exorbitant rate of Rs. 50,000 to Rs. 1 lakh per hearing. In criminal cases, the accused seeking bail from the court of last resort will have to cough up as much as Rs. 50,000 to Rs. 1 lakh. As if that was not hard enough for the litigants, the seniors also charge them Rs. 15,000 to Rs. 75,000 just for conference (that is, for being briefed about the case). The bills they slap on the litigants contain charges under a wide range of heads, including about 10 per cent for clerkage. If these figures are confusing, here's another way of looking at the fee structure of this select club which is estimated to handle a majority of the admission matters. In a single day of admission matters, each of these senior advocates may make more money than what the judge, whom he or she addresses reverentially as "My Lord," earns in a whole year.

The purpose of describing the fee structure of the leaders of the bar is not to grudge them the price they command for their intellectual capital. Neither is it to highlight that the commercialisation of the bar detracts from its traditionally-held status of being a noble profession. Rather, the attempt is to show that when there is an unbridled reign of the free market forces at the bar, there is bound to be an adverse effect on the system of justice and ultimately, on the public interest.

Take, for example, the plight of a cash-strapped government undertaking which had the misfortune of engaging a senior advocate who carries a price tag of Rs 1 lakh per appearance. Since he charges on "per appearance" basis, he manoeuvres more hearings than are necessary. There is no built-in check to stop him from squeezing his client dry or from enriching himself unjustly at the expense of public money. But thanks to his badge of seniority, he gets precedence over junior lawyers under the Supreme Court rules. And yet his services are being allowed to become more and more unaffordable to individual litigants with limited economic means. Not surprisingly, the only one who can really afford his "appearances" – irrespective of how many he manoeuvres – are the corporate clients with deep pockets.

It was against this background that last month the Supreme Court Bar Association passed a resolution urging the government to amend the law and do away with the class of "senior advocates." The reason for the resolution is only to "protect the independence, dignity and solidarity" of the lawyers. The Bar Association is aggrieved by the fact that there are no prescribed criteria for being designated as senior advocates and that the courts confer that badge purely at their own discretion. But if the legal profession is actually made egalitarian, it may have the unintended effect of weakening the current "star" system which feeds on the official recognition of seniority.

Jaitley will, therefore, do well to consider this proposal of abolishing the tag of senior advocates. Another aspect of the Advocates Act crying to be revised is the schedule prescribing the fee that the lawyers can charge. Since those rates are hopelessly out-dated, they are observed only in the breach. In fact, the reforms to reduce the time of litigation stand a better chance of working if Jaitley also brings down the cost of litigation." (Manoj Mitta in Indian Express)

OUR PUBLIC UTILITY OFFICES REEK OF CORRUPTION

A Survey was recently conducted in six cities of the country, Delhi, Lucknow, Ahmedabad, Chennai, Pune and Hyderabad, in the functioning of public service utilities, for assessing the existence and extent of corruption at the functioning level of administration, particularly where the people come in the contact with the "babus". The offices covered in the Survey included Urban Development Authority, Municipal authority, Electricity, Telephone, Driving licence and Ration Cards/Civil supplies departments. The results of this Survey reflect the stronghold of the phenomenon of corruption that cuts across civil and geographical barriers. Sample of Survey was of 900 persons, in the shape of "exit poll" after they had visited the public offices in relation to the work.

The following is the result of this Survey, showing the extent of corruption prevailing in these offices of the respective cities:

LEVEL OF CORRUPTION : CITIES AND DEPARTMENTS

	Urban Dev. Authority	City Govt.	Electricity	Tele- phone	Driv. Lic.	Ration Card
	(in percentage)					
Delhi	51	46	53	43	72	72
Lucknow	62	45	66	25	83	57
Chennai	54	52	65	64	86	80
Hyderabad	56	68	54	45	86	82
Pune	23	45	36	28	67	59
Ahemdabad	82	-	40	-	-	33

In each of these six cities, the departments dealing with driving licences and ration cards are perceived as most corrupt.

The urban development authority and the electricity and telephone department are, in many cases, seen as only a step behind.

And, on an average, one in every two persons has at one point or other greased a palm to get his work done.

Not surprisingly, it is the politician who tops the charts for fuelling corruption except in Hyderabad where the "officer" is pulled out of the shadow and held accountable.

What the people in Delhi say in regard to these findings of the Survey:

- Two-thirds of those interviewed believe corruption in Delhi is "real" and not exaggerated. Forty per cent admitted to having given a bribe. An equal number admit having got their work done through middlemen'.
- Two-third visitors to the Delhi Vidyut Board think it is corrupt; 70 percent feel the same about the civil supply office; nearly half of those who visited MCD and DDA offices think likewise. Forty per cent hold the same opinion about MTNL.
- Sixty per cent think judiciary is not able to tackle corruption cases due to outdated laws. Fifty-five per cent feel that corruption in public offices is not dealt with seriously.
- Politicians and officers are considered as responsible for corruption in public utility services.

Another recent Survey relating to the functioning and attributes of bureaucrats, conducted in various countries will be of interest in this connection. This is contained in a news item from Singapore which is reproduced below:

SINGAPORE : Hong Kong, Singapore and Australia have the best bureaucracies in Asia, while Vietnam, the Philippines, Thailand, Indonesia and India have the most cumbersome, a report said Sunday.

Pay rates, the political environment and level of economic development are among the factors that determine how well the bureaucratic machinery functions, the report by the Hong Kong-based Political and Economic Risk Consultancy (PERC) said. In a survey, the consultancy asked businessmen in 13 Asian economies to rate the bureaucracies there on a scale of one to 10, with zero being the best grade possible.

Hong Kong emerged with a top score of 3.29, improving from 4.00 last year and 4.61 in 1999. Singapore had a score of 3.60, from 2.71 in 2000 and 4.27 in 1999. Australia got a score of 4.00, from 6.19 last year.

Vietnam was at the extreme end of the range, with a grade of 9.50, getting worse from 8.90 last year and 8.50 in 1999. Both Thailand and the Philippines, which experienced changes in governments this year, scored 8.0, along with Indonesia. India was graded just one notch below the worst at 9.0, from 9.60 last year. For India, "red tape is a way of life".

LANDLORD GETS BACK PREMISES AFTER 23 YRS

After a 23-year-long legal battle, a man has got back the possession of his house in Agra. The Supreme Court, ruling in his favour, expressed concern over long delays in disposal of cases.

The rent controller took four years to find one Pradeep Srivastava, the landlord, who genuinely needed the house he had rented out, and said the tenant Gaya Prasad had alternative accommodation.

An appellate court took three years to dismiss the tenant's appeal against eviction. He then appealed before the Allahabad high court, which took 15 years to uphold the eviction order.

Gaya Prasad then moved the Supreme Court. It upheld his eviction and spoke its mind out on the "syndrome of delay" that has crept into the administration of justice.

A bench said: "If a citizen is told that once you resort to legal procedure for realisation of your urgent need you have to wait and wait for 23 to 30 years, what else is it if not to inevitably encourage and force him to resort to extra legal measures for realising the required reliefs?"

"A republic, governed by rule of law, cannot afford to compel its citizens to resort to such extra legal means which are very often contra legal means," it said.

Sounding a warning, the bench said: "The time is running out for doing something to solve the problem which has already grown into monstrous form."

"It is worth considering whether a cell can be set up in each high court where the backlogs are a stirring problem, to pick out such cases to be brought to the notice of the chief justice of the high court concerned so that he could take appropriate steps in the matter," the bench added.

(news item)

THREE HEADS of state went to meet God. Asked the American head-of-state, 'Dear God, When will corruption end in my country?'

Said God, 'In another fifty years.' The premier broke down and started crying.

'Oh! God,' the American sobbed, 'I am so depressed that corruption will not be wiped out during my lifetime.'

Then came the elderly Japanese head-of-state. Asked he, 'Dear God, when will corruption end in my country?'

And God said, 'In another thirty years.' He too broke down and sobbed, 'Oh! God! I am so depressed that corruption will not be wiped out during my lifetime.'

Then came the Indian head-of-state's chance to ask: 'Dear God, when will corruption end in my country?' At this, God broke down and wept copiously. 'I am so depressed,' God lamented, 'corruption will not be wiped out in your country during my lifetime.'

CONSUMER PROTECTION IN DEVELOPED AND DEVELOPING COUNTRIES

The consumer protection is a serious concern in every country at various stages of development. It has national as well as international significance. The complexities of modern industrialization, mass communication and aggressive advertising have accentuated the problem of present day marketing system.

At present, due to huge exploitation of consumers at global level, the theme of consumer protection has become a matter of academic discussion. In developing countries like India, due to huge population, struggling to gain a modicum of economic well being, the plight of consumers is indeed woeful. In developing countries like India, Pakistan, Bangladesh, Malaysia, Mongolia, Mauritius etc; due to lack of consumer movement the consumers are yet unorganised, widely scattered and highly exploited. The consumers of these countries are facing a plethora of problems like adulteration, excessive prices, inferior and spurious goods, misleading and manipulative advertisements, black marketing, hoarding, shortweighing, exorbitant credit charges, poor quality of merchandise and services, monopoly and restrictive trade practices.

In developing countries the public utility services like electricity, housing, road, transport, insurance, finance and municipality are inadequate to meet the aspirations of consumers. In such countries the battle of consumer protection presents a paradoxical situation. On the one hand there is a legislative bonanza by the government enacting plethora of acts, rendering consumer education and hectic activities by vigilant social and voluntary organisations, and on the other hand the exploitation of consumers remains unabated. Hence, the problem is dangerous in its magnitude and dimensions.

The consumer exploitation emerged from the industrial revolution which began in early 17th century in European countries. The main objective of these countries was to accumulate more and more capital and to maximise their profit through any kind of unfair practices. In developed countries the consumer exploitation is a product of advancement made in science and technology.

Due to unaware and unorganised consumers in developing countries the slogan of "Buyers beware" is prevalent. In these countries the emphasis is on strong legislations to combat consumers' exploitation. In developed nations, due to strong consumerism the consumers are organised and aware of market updowns, price and quality of commodity. Hence, the slogan of "Seller's beware" is prevalent there and the emphasis is given to strong consumer movement rather than consumer education. In countries like U.K., U.S.A., Germany, Sweden, Norway, Netherland, Canada and Japan the consumer organisations are playing a vital role to educate consumers.

In U.K the emphasis has been given to consumer education which helps the consumer to become a better manager of his resource of money and time. In Germany, Sweden, Norway and Netherland "the consumer affairs courses" are included in primary and secondary school curricula to ensure younger generation becomes familiar with consumer's problems. In U.S.A. the consumer movement preceded legislative reform. These developed nations appointed consumer ombudsmen for redressal of consumer grievances. Similarly, the Norwegian consumer protection approach is different from India. In Norway, if a limb has been lost in industrial accident, lumpsum compensation is 100 percent for the resultant loss of earning for life. Belgium has an independent consumer's organisation research and information centre for redressal of consumer grievances.

Fortunately, recent communication revolution and economic reforms in India have made a breakthrough in consumer movement which has altered the old slogan of "Caveat Emptor" to "Caveat Venditor".

Developed countries have flexible consumer protection laws. They frequently amend and strengthen the laws. On the contrary the developing countries have rigid consumer protection legislations. Some

developed nations like Sweden, U.S.A., Germany, U.K. etc. appointed consumer ombudsmen for redressal of consumer grievances. However, the developing countries motivated consumer organisations to redress consumer grievances. Developed nations have effective redressal mechanism, on the contrary the developing nations have rudimentary redressal mechanism. The developing countries enact comprehensive consumer protection legislations in many spheres and their main thrust of the acts is to promote consumer's welfare. However, the developed nations enact few acts with regard to consumer's problems and mainly emphasise on product advancement and standard of goods.

In developed countries the role of media is widespread and extremely effective and potent tool of consumer protection through consumer education. These countries, lay emphasis more on consumer education rather than on enacting consumer protection legislation. Developing countries where large chunk of consumers belong to low income bracket are facing the problem of nonavailability of essential commodities and price escalation. Hence developing countries need egalitarian consumerism to overcome the consumer grievances.

(Neelam Singh, Deptt. of Economics, Govt. College, Dholpur (Rajasthan))

EDUCATION COMES UNDER PURVIEW OF CONSUMER COURTS

The National Consumer Disputes Redressal Commission has finally given the green signal for hauling up educational institutions for negligent service rendered. In a recent order, the apex consumer court has resolved the basic question of whether educational institutions come under the ambit of Consumer Protection Act held that they too are liable for deficient services rendered.

The significance of this recent order of the National Commission can be understood from the fact that for 14 years, the issue of applicability of the CP Act to educational institutions remained uncertain, thereby putting a big question mark on whether students and parents could use the provisions of the CP Act for redress against deficient services rendered by educational institutions and universities. Now the Order of the National Commission in the case of Bhupesh Khurana vs Vishwa Buddha Parishad should at last set at rest this basic doubt.

Of course in the first place, the confusion over the issue arose from the order of the National commission itself, delivered in 1996 in the case of Chairman, Board of Examinations, Madras vs Mohideen Abdul Kader. There the Commission clarified that it had not considered in any of the cases pertaining to education, the general question of whether imparting of education for consideration would come under the definition of 'service' in the Act. "Whether a university or an institution affiliated to it imparting education is within the arena of consumer jurisdiction is a question which this commission will consider and decide when it directly arises before it", the Commission had said.

Viewed in that context, what the National Commission has now said in the case of Bhupesh Khurana becomes highly relevant. The importance of this order in fact lies in just one paragraph, where the National Commission states clearly and unambiguously: "Imparting of education by an educational institution for consideration falls within the ambit of 'service' as defined in the Consumer Protection Act. Fees are paid for services to be rendered by way of imparting education by the educational institutions. If there is no rendering of service, question of payment of fee would not arise. The complainants (the student in this case) had hired the service of the respondents (the college) for consideration and so they are consumers as defined in the Consumer Protection Act".

This order (OP no 168 of 1994) came in response to a class action suit filed by twelve students, complaining that the Buddhist Mission Dental College run by Vishwa Buddha Parishad had in their advertisements given an impression that the college was affiliated to Magadh University, Bodh Gaya and recognised by the Dental Council of India. It was only when the college failed to conduct the examinations had they realised that both claims were untrue.

Holding the service rendered by the college to be deficient, the National Commission directed it to refund the admission expenses of all the twelve students along with 12 per cent interest. In addition, it also directed the institution to pay Rs 20,000 to each of them by way of compensation for the expenses defrayed on purchase of books, hostel, etc and for the loss of two academic years. It also awarded Rs 10,000 as costs of the petition.

The National Commission had in fact awarded compensation in at least two somewhat similar cases against private educational institutions earlier, but what makes this order unique is that one paragraph on the primary issue of education coming under the purview of consumer courts. And in the circumstances, this order is very positive, even though it could have dealt with the subject in more detail.

There is of course another question to be tackled in future. If educational institutions come under the purview of consumer courts, how can examination-related issues be kept out? I say this in the context of earlier National Commission judgements where it has categorically held that students do not have a redress before consumer courts in matters pertaining to examinations conducted by a university or a board.

Considering that consumer courts can offer victims of negligent examination-related services, quick and inexpensive redress, one hopes that the apex consumer court would re-examine this issue in the right perspective.

(Puspha Girimaji)

SOLACE FOR ACCIDENT VICTIMS

There is a spate of road accidents causing fatal/serious injuries to the victims. Investigations are tardy and in many cases the offending drivers are not brought to book due to various reasons. The victims or their families do not get compensation as the insurance companies and the owners of the vehicles inevitably try to evade responsibility. The litigations before the Motor Accidents Claim Tribunals (MACT) go on for years causing further harassment and humiliation to the victims.

The Apex Court recently gave a verdict which was reported in newspaper on 9.1.2001, (news item is reproduced below). The court has ruled that a victim is entitled to compensation even when there is no direct fault of the person against whom the liability was claimed by the victim. It has also ruled that a person injured in an accident involving a vehicle can claim compensation from the owner of the vehicle even when it was established that there was no rash or negligent driving by him.

All the vehicles are compulsorily insured against 'third party risk'. Keeping in view the spirit of the judgement, we have written to the Department of Insurance, Government of India; Department of Law, Justice & Company Affairs and Chairman, Insurance Regulatory & Development Authority suggesting that compensation should be immediately ordered by the Motor Accidents Claim Tribunals on the basis of Police/Hospital records without trying to fix responsibility either on the owner of the vehicle/driver or the insurance company. The amount should be paid by the Insurance Company under the "third party risk" and it should be left to the owner and the insurance company to apportion liability/responsibility among themselves, preferably through mutual settlement or, failing which, through a court of law.

Where the vehicle involved in the accident happens to be un-insured, the MACT may direct the Owner of the vehicle to pay the compensation. We have suggested that if necessary, a Committee may be constituted to formulate a detailed Scheme for the purpose.

APEX COURT SIDES THE ROAD RAGE VICTIM

Rushing to the aid of victims of road accidents across the country, the Supreme Court has ruled that a victim is entitled for compensation even when there was no direct fault of the person, against whom the liability was claimed by the victim.

It also ruled that a person, injured in an accident involving a vehicle, can claim compensation from the owner of the vehicle even when it was established that there was no rash or negligent driving by him.

Allowing an appeal by the widow of a road accident victim, the court directed the New India Insurance Company Ltd to pay her damages of Rs 2.70 lakhs with 9 per cent interest from the date of accident on March 20, 1986, about 15 years ago. She had claimed a compensation of Rs. 3.26 lakhs for the death of her husband.

A Bench comprising Justice K T Thomas and Justice R P Sethi, however, said compensation on account of accident arising from the use of the motor vehicle could be claimed under the Common Law even without the aid of Motor Accidents Claim Tribunal (MACT) Act when one of the exceptions- "actual fault" or "the act of God" - as laid down under the famous English case Ryland vs Fletcher (1861-1873), was there.

The court said in the case of no fault liability the "compensation amount is fixed and is payable even if any one of the exceptions to the rule can be applied."

MACT in Uttar Pradesh had only ordered Rs 50,000 compensation to Kaushnuma Begum, whose husband was hit by a jeep when its front tyre had burst.

The owner of the jeep had disclaimed the liability on the ground that he was not responsible because the accident did not occur due to his negligence.

The MACT had held that rash and negligence of the jeep was not established. The Allahabad high court had rejected Kaushnuma's appeal against MACT order.

The judgment came when the court answered in affirmative the question "even if there is no negligence on the part of the driver or owner of the motor vehicle, but accident happens while the vehicle was in use, should not the owner be made liable for damages to the person who suffered on account of such accident?"

Distinguishing the 'no fault liability' envisaged in section 140 of the Motor Vehicle Act from the rule of "strict liability", the court said "in the former the compensation amount is fixed and is payable even if anyone of exceptions to the rule can be applied."

"It is a statutory liability created without which the claimant should not get any amount under that count", the Bench added.

Compensation paid under the 'no fault liability' clause of the MVA could be deducted from the final amount awarded by the tribunal. "We are, therefore, of the opinion that even apart from section 140 of the MVA, a victim in an accident which occurred while using a motor vehicle, is entitled to get compensation from a tribunal unless any one of the exceptions would apply," the Bench said.

ON A PLANE bound for New York a flight attendant approached a woman sitting in the first class section and requested that she move to coach since she did not have a first class ticket. The blonde replied, "I'm blonde; I'm beautiful; I'm going to New York; and I'm not moving." Not wanting to argue with a customer, the flight attendant asked the co-pilot to speak with her. He went to talk with the woman, asking her to please move out of the first class section. Again the blonde replied, "I'm blonde; I'm beautiful; I'm going to New York and I'm not moving." The co-pilot returned to the cockpit and asked the captain what he should do. The captain said, "I'm married to a blonde, and I know how to handle this."

He went to the first class section and whispered in the blonde's ear. She immediately jumped up and ran to the coach section mumbling to herself, "Why didn't someone just say so?"

Surprised the flight attendant and the co-pilot asked what he said to her that finally convinced her to move from her seat. "Simple," said the captain, "I told her the first class section wasn't going to New York."

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(A Book of 'Funniest Jokes', compiled by DIRECTOR of
COMMON CAUSE has been published by PENGUIN PUBLISHERS
and is now available in Book Shops.)

PEOPLE'S PARTICIPATION IN RAIN-HARVESTING

There is an acute shortage of drinking water in various parts of the country. The sources of drinking water are the rivers, reservoirs and ground water. When there is a shortfall in rains, the level of waters in reservoirs and flow in the rivers go down causing problems for supply of water for treatment. The underground level of water-table is also depleting because of excessive extraction and lack of re-charging.

There is substantial rainfall in the country. However, it is limited to few months and the water considerably goes waste. Our ancestors used to harvest the rain water in village tanks, those traditional ways of harvesting rain water have largely been abandoned. Unless the rain water is captured and tapped properly, the situation is likely to become very serious in the coming years. There is enough rain water and the only need is to harvest the same which will not only help irrigation but also in re-charging the underground water.

The Central Ground Water Authority has initiated some steps and is conducting training programmes on rain water harvesting for groundwater re-charging including rooftop rain water harvesting. They have issued a pamphlet indicating suitable mode of rooftop rain-water harvesting depending on the area of roof. However, it is the field level functionaries, particularly the Collectors in different districts, who have to take up this work urgently and guide and help the populace to check wastage of rain water. An example has been set by Collector of Dewas in Madhya Pradesh. How the government and people have joined hands is indicated in the following article.

"For the people of Mandsaur, Dewas and Dhar districts of Madhya Pradesh drought has been a daily scourge that they learnt to live with. They would wait endlessly for water trains, lock barrels of water to prevent theft and protest sporadically against the scarcity. The recent drought, however, has made the government adopt a novel scheme in which it involved the victims themselves in conserving their lifeline.

The scheme is simple. The district administration provides technical help and partly finances projects like construction or repair of *talabs* (ponds) and setting up of rooftop rainwater harvesting systems (RTRWHS). The people chip in with cash and labour.

Dewas has virtually declared war against water scarcity. The collector, M Mohan Rao, said: "When I took over as district collector, I declared Dewas a 'water scarce district' and banned drilling of tubewells. The villagers were taught how to recharge wells and dig deeper tanks. Mining pits were also filled with water."

However in Dewas, it is the RTRWHS that has succeeded more than anything else. Almost 1,000 systems have been installed here with 700 of them in towns and 300 in other areas. The patented Dewas filter, designed by Rao and engineers of the rural engineering services, are provided to users for Rs. 600. Building permits are now issued only after applicants promise to install rainwater harvesting systems.

Public programmes

The chief executive officer (CEO) of the Zilla Parishad, Rashmi Shammi, said: "We started our campaign from the Karamchari Colony that had only 32 tubewells. We provided RTRWHS to 25 houses. There are 600 pending applications for filters." One of the first residents to install RTRWHS, A Lunavat says: "Earlier, it used to take 24 seconds to fill a bucket. After installing the system that is done in 16 seconds flat."

Under the Jal Hetu Bhoodan project, several ponds have been built on revenue land. Farmers with over 8 hectares of land were exhorted to donate a portion to build tanks. "These keep the

moisture level of the fields intact and farmers have willingly given money for such tanks," says Shammi.

One of the tanks in the Harnawad village now has 0.98 million cubic metre (mcum) of water. "The villagers lent their excavators for digging the tank. The black cotton topsoil was dug out and used for the *bunds* around the pond. The water level in the downstream area has risen and the moisture content in the soil also increased," says Shammi.

In the predominantly tribal district of Dhar, 669 gram panchayats have approved the Mahabhogirathi drinking water plan prepared by 1,488 villages. Of these, 1,210 are afflicted with water-scarcity.

"The district has black cotton soil and black basalt that causes low ground-water recharge. As a result, about 2,500 handpumps have run dry during summer. In some places, groundwater recedes to a depth of 122 metres," says the collector of Dhar.

Drinking water crisis

The district had about 2,300 handpumps in 1986. In the last 14 years, the number of handpumps has increased five-fold. Groundwater is now being increasingly used for private irrigation that has consequently dried drinking water sources.

This year there has been a drought in Dhar with the total rainfall only two-third of the normal. This has aggravated the drinking water crisis. By March-end, 60 per cent of the handpumps in the blocks of Nisarpur, Nalcha, Kukshi, Umarban and Tirla had run dry.

To combat the drought, wells have been repaired and desilted, new ones built, checkdams constructed, pumped water supply schemes implemented and water supply extended. Significantly, out of the total plan of Rs 7.22 crore spent on water conservation, Rs 1.52 crore was by way of public contribution.

People's Participation

The success stories of these schemes are many. Villagers contributed free labour for cleaning and increasing the depth of the spring pool, the only source of drinking water for the village. They also built a pucca lining for the pool and installed a water tank.

In another village, desiltation and digging deeper tanks have recharged wells downstream. While some villagers have given their labour, others lent their tractors to dig the soil. The panchayat only worked as a facilitator. Earlier, there wasn't enough watering holes for animals but after these tanks were dug they could easily find water. An excellent example of tank renovation can be found at Ristal where a 14th century tank has recharged wells six to seven km. downstream.

Multifarious activities are being carried out to increase the ground water. Some of the activities taken up under the mission are - deepening and strengthening of the bunds of the existing tanks, creation of new tanks, percolation pits near handpumps, nallah bunding structures, cleaning, repairing and deepening of wells and *bauwades*, recharge tubewells in tanks and dugwells and the most important of all - the cheap and effective technique of "ROOF WATER HARVESTING".

When my boss takes a long time, I am slow. When my boss takes a long time, he is thorough...When I do things too fast, my boss does it in a flash, he is a pro....When I don't do it, I am lazy. When my boss doesn't do it, he is too busy...When I do something without being told, I am trying to be smart, when my boss does the same, that is management.

...

INVITED TO dinner, a guest noticed that his buddy preceded every request to his wife with endearing terms, calling her honey, darling, sweetheart etc. He was impressed, since the couple had been married almost 40 years.

While the wife was in the kitchen, the man remarked: "I think it's wonderful that after all these years, you still call your wife those pet names." The host hung his head. "To tell you the truth, I forgot her name about 10 years ago."

GLOBAL CHALLENGE OF BURGEONING POPULATION

In the past decade in every environmental sector, conditions have either failed to improve, or they are worsening:

Public health. Unclean water, along with poor sanitation, kills over 12 million people each year, most in developing countries. Air pollution kills nearly 3 million more. Heavy metals and other contaminants also cause widespread health problems.

Food supply. Will there be enough food to go around? In 64 of 105 developing countries studied by the UN Food and Agriculture Organization, the population has been growing faster than food supplies. Population pressures have degraded some 2 billion hectares of arable land--an area the size of Canada and the US.

Freshwater. The supply of freshwater is finite, but demand is soaring as population grows and use per capita rises. By 2025, when world population is projected to be 8 billion, 48 countries containing 3 billion people will face shortages.

Coastlines and oceans. Half of all coastal ecosystems are pressured by high population densities and urban development. A tide of pollution is rising in the world's seas. Ocean fisheries are being overexploited, and fish catches are down.

Forests. Nearly half of the world's original forest cover has been lost, and each year another 16 million hectares are cut, bulldozed, or burned. Forests provide over US\$ 400 billion to the world economy annually and are vital to maintaining healthy ecosystems. Yet, current demand for forest products may exceed the limit of sustainable consumption by 25%.

Biodiversity. The earth's biological diversity is crucial to the continued vitality of agriculture and medicine-- and perhaps even to life on earth itself. Yet human activities are pushing many thousands of plant and animal species into extinction. Two of every three species is estimated to be in decline.

Global climate change. The earth's surface is warming due to greenhouse gas emissions, largely from burning fossil fuels. If the global temperature rises as projected, sea levels would rise by several meters, causing widespread flooding. Global warming also could cause droughts and disrupt agriculture.

Toward a Livable Future

How people preserve or abuse the environment could largely determine whether living standards improve or deteriorate. Growing human numbers, urban expansion, and resource exploitation do not bode well for the future. Without practicing sustainable development, humanity faces a deteriorating environment and may even invite ecological disaster.

Taking action. Many steps toward sustainability can be taken today. These include using energy more efficiently; managing cities better; phasing out subsidies that encourage waste; managing water resources and protecting freshwater sources; harvesting forest products rather than destroying forests; preserving arable land and increasing food production through a second Green Revolution; managing coastal zones and ocean fisheries; protecting biodiversity hotspots; and adopting an international convention on climate change.

Stabilizing population. While population growth has slowed, the absolute number of people continues to increase--by about 1 billion every 13 years. Slowing population growth would help improve living standards and would buy time to protect natural resources. In the long run, to sustain higher living standards, world population size must stabilize.

(from Population Reports published by US AID)

GLOBAL WARMING: WORRISOME SIGNS

Scientists increasingly agree that the earth's atmosphere is becoming warmer. A long-term rise in the global climate could cause sea levels to rise around the world and bring a number of other adverse consequences. Reliance on fossil fuels as an energy source and the widespread destruction and burning of forests are chiefly responsible for the carbon emissions - the so-called greenhouse gases--that lie behind global warming.

One indication of global warming is that over the past 40 years the ocean surface (the top 1,000 feet) has warmed an average of half a degree Celsius. The US National Oceanic and Atmospheric Administration (NOAA) has reported that tropical waters in the Northern Hemisphere have been warming up even faster--in fact, 10 times faster than the measured global rate--because tropical oceans retain heat more readily than other areas.

Rising Sea Levels

Studies project that by 2100 the earth's surface temperature could increase between 1.0 and 3.5 degrees Celsius. If the highest projection were reached, Greenland's ice sheet probably would melt. As a consequence, the global sea level gradually would rise as much as seven meters.

Computer models project that this rise in sea level would take more than a millennium. Some climatologists, however, think that sea levels could rise much faster, pointing to dramatic shrinkage of the Arctic ice cap over the past 30 years.

Even a rise of one meter in sea level--which could occur by 2080, according to the computer models--would inundate many low-lying coastal areas around the world. For instance, much of the Nile River Delta of Egypt would disappear. A one-meter rise in global sea levels also would inundate close to 20% of the coastline of Bangladesh and displace millions of people.

Adverse Health Effects

Rising global temperatures also would carry adverse health consequences. As temperatures warmed and episodes of droughts and floods became more frequent, the incidence of water-borne diseases and a resurgence and spread of infectious diseases carried by mosquitoes and other disease vectors probably would increase.

Warmer global temperature also would magnify the effects of human activities on the environment, including more pollution and habitat destruction. Climate change might even cause some ecosystems to exceed critical thresholds, leading to their irreversible decline.

Climate Change

Over the last 150 years burning of fossil fuels has released some 270 billion tons of carbon into the atmosphere in the form of heat-trapping carbon dioxide gases. Since 1950 annual worldwide carbon emissions have increased fourfold, reaching 6.3 billion tons in 1997. Other emissions that contribute to climate change include methane (mainly from domestic livestock and agriculture), nitrous oxide, and chlorofluorocarbons.

Atmospheric concentrations of carbon dioxide reached 363 parts per million in 1998, the highest level since the time of massive volcanic activity over 160,000 years ago, based on examination of ice cores in Antarctica and in the Arctic. If current trends continue, atmospheric concentrations of carbon dioxide would double during this century.

About three-fourths of the huge increase in carbon emissions over the past half-century is due to increased energy consumption per capita; about one-quarter is due to population growth. Western industrialized countries account for nearly half of atmospheric carbon emissions, but developing countries are producing a growing share as industrial activity increases and populations grow. China is now the world's second largest Carbon emitter, after the US.

OUR LEGISLATORS-PEOPLES' VIEWS

The following three articles of Director of COMMON CAUSE have recently appeared in the Times of India :

- (i) Can poor India afford its legislators?
- (ii) Politicians have defiled our politics.
- (iii) Is there no hope for benighted Bihar?

A large number of letters are normally received from the people in response to COMMON CAUSE articles in TOI. The above mentioned three articles elicited overwhelming response from the readers; they expressed their views strongly in the letters. We compiled these letters in a Publication under the title "DO YOU KNOW?" This Publication has been sent to all MPs and MLAs in the country. Copies have also been distributed widely among the media. We have considered it appropriate to reproduce a few letters incorporated in this Publication

LETTERS RECEIVED FROM READERS

"Can poor India afford its legislators? My answer is 'No, Cent per cent No'. I am quite well-educated and still I've been so dumb not to know of the facts mentioned by you. I am quite sure, 99% of our population either don't know or do not bother to know these facts, the struggle to survive being the prime aim. Taking advantage of this, the so-called 'Netas - I would prefer describing them the more dangerous 'Veerappans' - are looting them in broad-daylight and holding the people of India to ransom. My blood is boiling at 110°. I must do something to reduce the tension in me. While people are dying for want of minimum basic needs of water, roads, medicine, hygiene, one time meal, these Netas are living the life of Moghul kings. Oh, my pitiable Motherland is burdened by a consciousnessless tribe of these Netas. Do we really need them? I strongly feel like REVOLTING."

Rampol T. Nadar, Mumbai.

"You have very rightly said that 'Persons who enter politics are motivated more by what they get rather than what they will do for the people'. You have very strongly proved this point by giving details of the perks and privileges enjoyed by today's legislators. Really the tremendous amount spent on them is criminal wastage of national resources and most unjustified burden on the honest tax payers. It is not less than a day-light robbery and so morally degrading for the country. The most unfortunate part of this tragedy is that all parties support, unashamedly, these perks, privileges and allowances, showing utter disregard for the poor people whom they claim to represent."

Anil Mahendra, Amravati.

"Though I am very pessimistic about the outcome of such an exercise - yet a public debate questioning the need of such costly luxuries of the legislators be set up. India certainly cannot afford these costly legislators. I am also pessimistic about the outcome of the legal cases pending before the courts for such a long time. Moreover what is the guarantee that the constitution itself will not be amended in case the judgement is not in favour of the legislators. Remember that in such cases all the political parties sink their differences. The perks and facilities to themselves bring them together.

You have cited three cases pending before the Supreme Court chalengng, a) the privilege of life time pensions, b) railway passes for free travel for themselves and a companion, c) funds for the development of their constituencies. The question is whether they really need and properly utilize these facilities. We will not be surprised that for the sake of votes the political parties may ask for such facilities to be extended to gram panchayat people also.

How much money is spent on their personal security gunners and shadow men? Do they really need this or is it just to show off, and a question of personal status. With the dynastic tendencies becoming a norm, the privileges will continue in the family even after they have ceased to be members of legislatures. Mrs. Indira Gandhi abolished the privy purses of the rulers of princely states of British India. But these perks, life long pensions, free travel etc. to the legislators are just privy purses to the present day Rajas and Maharajas of free and democratic India."

S.N.Dikshit, Lucknow.

"It has been observed during the last few years that the legislators are becoming increasingly greedy and are exploiting every opportunity to get additional perks year after year. It is done in not-so-subtle a way. Usually the bill is introduced through an independent member on the last day of the session, put to vote and passed without opposition. We are now happy to know that there is a case pending before the Supreme Court regarding the 'pension for life'. It is really a pity that the writ petition by COMMON CAUSE is pending before the Supreme Court and in spite of this petition the MPs are able to draw the pension. If the writ petition is pending for 7 years it would be appropriate to get immediate stay prohibiting MPs to draw their pension. It is high time COMMON CAUSE approach the Supreme Court for speedily deciding the case.

COMMON CAUSE should publish how much an MP or a Legislator is getting by way of salary, house rent, constituency allowance, office expense allowance, travelling allowance, loans for conveyance, income tax relief, etc. per annum, so that the voters would know how much these 'rajahs and maharajahs' are getting. In return what do we get from MPs. Mr. M.U.Kawalle had written an article in Organiser that more than 35% of the MPs are involved in some kind of trouble with the law authorities and indulging in shady deals. There should be ban on persons contesting elections whenever any criminal case is pending in the court. Those who are anxious to contest should approach the court and ask for speedier disposal. Under any circumstances such persons should be debarred from contesting elections. There should be code of conduct for legislators. In order to qualify for the various monetary benefits, a legislator should be present in the Parliament (or Assembly) at least for 3/4th period of the session time.

Secondly, legislators who indulge in damaging the property in the assembly or parliament, e.g. damaging microphones, indulging in unruly behaviour like rushing to the well of the house, snatching papers from the ministers, using abusive language, etc. should be disqualified for the entire session and fined. Such legislators should not be allowed to contest elections by the Election Commission.

MPs or Ministers who do not vacate the allotted quarters should be forcefully evicted. It is absurd that MPs are allowed to attend parliament even though cases are pending against them. Even when it is known that some MPs had accepted money (in crores) to support Mr. Rao's Govt, the court gave a ruling that it has no jurisdiction over the manner they voted in parliament. All the MPs should submit their progress report to their respective constituencies every year and if any false claims are made, such MPs should be disqualified. When they are asking for free 50,000 calls, water and electricity, the day is not far off when they would ask for free rice, wheat, dal, vegetables, mutton, tea, sugar etc. to look after themselves."

Pandurang Wadi, Mumbai.

"Director of COMMON CAUSE deserves gratitude from a number of citizens whose feelings have been expressed by him. He has listed the unending number of perks enjoyed by Members of Parliament and State Legislatures, one of the most scandalous among them is the lifetime pension awarded to them even after they cease to be MPs or Legislators. At the beginning the qualification was restricted to a full tenure of one term prescribed in the Constitution. Since the Houses began to be dissolved before running their full term, all the MPs and Legislators reduced the qualifying period to two years only. Very recently the Maharashtra Legislative Assembly resolved unanimously that as soon as a member took the oath of office, he/she will be entitled to the pension. In voting a large number of perks to themselves the members of the ruling party and the opposition are one and there are no walkouts or violent fights in the house. Thus, holding an office of an M.P. or a State Legislator has become a business or commerce.

It is welcome news to learn that COMMON CAUSE has filed petitions in the Supreme Court challenging the constitutional validity of the scheme for pensions and of the M.P's Constituency Development Fund Scheme. But legal delays take a toll of such Public Interest Litigations. In the Bombay High Court such a petition filed in 1994 by the late Prof. Ram Joshi, Mr. Madhav Gadkari and Navnit Shah challenging the Constitutional validity of the M.P's Constituency Development Scheme on grounds, among others, that it is in conflict with the 73rd and 74th Constitutional Amendments conferring such powers on the panchayats and municipalities, has still not come up for final hearing. In the meanwhile the new Maharajahs make hay while the sun shines. Even the Municipal Corporators and Councillors have conferred such benefits on themselves unanimously. It is no wonder the Governments are drawing heavily on the Reserve Bank to meet such unscrupulous expenses."

M.A. Rane, Mumbai.

"Dr. Gour Das Chakravarti, Member of the Governing Council of Indian Law Institute once wrote in an article in the Souvenir of A.O.R. of Supreme Court in 1998 that'... one thing should be kept in mind that as thugs and thieves cannot be entrusted to make penal law reforms, the scamsters should not be asked to make judicial reforms... When the country is run by thugs and thieves ... etc. etc.' All our legislators (Parliament, both upper and lower houses, state assembly members) are thugs and thieves, they can loot the country's wealth by making laws for themselves. 1,50,000 free telephone calls? If minimum time allowed is 3 minutes per call, then a member has to spend 20 hours 24 minutes per day for making telephone conversation. Where is the time for other works of daily nature plus the public works? The real secret name of Constituency

Development Fund is Harshad Mehta Rojgar Yojna Fund meant for Parliamentarians. You might be remembering the allegation that one crore rupees bribe was reportedly given by Harshad Mehta to the then P.M. and all opposition MPs demanded a probe. In order to save himself, the P.M. quickly declared one crore of rupees for each MP for spending in their constituency. All MPs were thus silenced. But this should be stopped immediately. The MPs of Super Cyclone Area in Orissa did not allow their C.D. Fund money to be used for relief and rehabilitation purpose treating the same their personal property as if got by a son-in-law from his father-in-law.

From the platform of COMMON CAUSE, the case about the allotment of Constituency Development Fund was taken to Supreme Court, but it is pending. Nobody knows when the S.C. will finalise the issue. Common people expected our judiciary to come to their help. Once Justice V.R. Krishna Iyer in his book - Equal Justice And Forensic Process: Truth and Myth published by Eastern Book Company in 1986, wrote - ...'Even some Supreme Court judges are habitual offenders and make glaring deviances like pronouncing judgements (or not pronouncing at all) years after the arguments are closed. This is an innocent instance of callous neglect but there are other nascent cases best left unsaid'. In PIL Writ No. 239 of 1998 ex. CJI R.N. Misra has said: "All of us are experiencing to our honour degrading human behaviour in society every day. The deterioration is gradually becoming sharper..."

Chakradhar Mohapatra, Bhubaneswar.

"Legislators are not employees of the Govt. of India, as such they should neither be paid salaries nor perks nor any pensions by the government. Legislators are social workers of their respective parties, the party should pay their salaries, perks as per their merits. Government should pay them only allowances (Travel, Lodging and Boarding, Telephone etc.) to attend meetings and any other official work of the government. If at all public feels that Legislators should be paid salaries and perks by the government then: (a) Govt. should fix minimum qualifications, experience etc. as in case of any other Govt. official; (b) Salaries and perks should be in line with their merits. All other conditions should be similar to any other Govt. official. Pension should be given only to those who work continuously as legislators for minimum period of twenty years. They should, as in case of other Govt. officials work together to run the Govt. smoothly; (c) they should be liable for prosecution for any wrongdoing as per Indian law; (d) their services should be terminated if found indulging in any unscrupulous activities; they should not be protected for their wrong doings, and, finally, responsibility should be fixed for any legislator and there should be a clarity of work and decision.

If the above suggestions are considered by the SC, our government will save large funds which can be utilised usefully for developmental work."

Dilip Sinkar, Mumbai.

"Not poor but even rich India should not subscribe to the legislators of today including the negligible percentage of sincere legislators who are also swept away by majority dictum (all parties included). As per the gist of perks and privileges, they are the 'most expensive club' of our democracy; despite some perks might have been excluded. We have lived sufficiently long in an era of hypocrisy and humbug. Let only poor and principled men represent in legislatures - idealism, not quantity matters. Perks and privileges of MPs and MLAs are attracting more mafias and moneyed persons which would turn Parliament and Assemblies to business centres and mock fight shows. By Presidential Ordinance, the total benefits of ministers (Centre and States), MPs and MLAs be made half (1/2) with immediate effect."

A.C.Chakraborty, West Bengal.

"The whole lot of politicians are dishonest and are sucking our blood and eating our flesh. There may be some rare good politicians. In most cases politicians are criminals and they are patronising thieves, dacoits, eve-teasers, kidnappers, spies, bootleggers, murderers, drug-traffickers, smugglers, scoundrels, gundas, antisocial elements and what not. If they are allowed to stay in the country they will continue their nefarious activities. As we have been telling Britishers to leave India, these politicians should also be asked to quit. They should be deported to "kalapani" for remaining part of their lives."

Anonymous

"The MPs and MLAs who have law making powers will not vote for laws which will cut their payments and perks. But for social justice, Smt. Indira Gandhi had laws passed which cancelled privy purses and privileges of Rajas and Maharajas. Now we have division strength of Maharajas in new avatar of MPs and MLAs with unending payments and privileges. The law makers have become above the law. Is our country Republic or personal kingdom of thousands of Maharajas (MPs). If

we have democracy, all should be equal before law and should have same privileges and opportunities. 1) All their pays, pensions and perks should be as per rules and regulations which should be on line of Government officers. This will control the waste and corruption, now sky is the limit; 2) air travel, telephone, electricity and other amenities should not be provided free. Airlines, Railways, Telecoms, Electricity Boards, Civil Corporations should be paid directly by MPs who should then claim reimbursement (like Govt/ Corporation employees); they may take advance from Assembly/Parliament Secretariat. This will provide figures and a control mechanism on this huge expense; and 3) all the medical expenses, travel expenses and other expenses should be restricted to MPs/MLAs and for dependent spouses and children (upto two only).

Government employee gets life pension when he renders qualifying service. He/she does not get life pension for one year service. Then why MPs/MLAs get life pension for being MP/MLA even for one year. In a democratic country there should not be different rules for ordinary people and MPs/MLAs (are they Rajas and Maharajas?). Ex-ministers/ex-MPs/ex-MLAs should get pensions/privileges/security cover only after vacating official accommodation given for such position. They should not get pensions/privileges/security cover till they pay/settle tax arrears, debts outstanding with banks and institutions etc. They should not get any perks/privileges till their criminal cases are settled. All legislative councils should be abolished. Jumbo Ministries are huge drain on tax-payers' money. Strength of ministries is not as per requirement but for horse trading and political settlements. There should be law, laying down maximum percentage of ministers to the total strength of parliament/legislature."

Ram J. Bhatija, Mumbai.

"The Constituency Development Fund Scheme, the perks and the privileges enjoyed by Members of Parliament have proved that most of the politicians, if not all, of today have no sense of belonging. It may not be wrong to say that persons who enter politics are motivated more by what they get rather than what they will do for the people. The Constituency Development Fund Scheme is not a healthy policy for obvious reasons. Who can say that this fund is being utilised for development of the constituency concerned? Crores of rupees earmarked for this scheme will encourage even the most dangerous criminals to contest and win the election by using unlawful means, including capture of polling booths. Since MPs and MLAs are not government servants, it appears that to grant lifetime pensions to them means to treat them as government servants. I request you to pursue your writ petition in the Supreme Court."

Thanghopao Ngaihte, Manipur.

"I may add that the perks and privileges are not limited to legislators only. Office holders and members of municipal bodies and panchayat bodies like Zilla Parishad, Mandal Parishad and Grama Panchayats have started claiming perks and privileges citing cases of legislators. In a poor state like Orissa there are about 5000 panchayats, 314 blocks and 30 zilla parishads. State Govt. has conceded their demands. They are claiming in thousands. What is surprising is that they demand Constituency Development Fund as available to MPs and MLAs. In Orissa an MLA gets Constituency Development Fund amounting to Rs. 25 lacs. MLAs are accommodated in quarters admissible to Ministers or Secretary level officers. In Delhi there is a proposal for construction of houses for ex-MPs. Similar demand has come from ex-MLAs.

In the present system Constituency Development Fund is equivalent to discretionary grants. MP selects the projects and select the persons who will execute them as contractors. Collector gives utilisation certificate on the basis of report of subordinate staff, details of expenditure are not given. If MP is asked to spend his entire money on tree plantation, hardly a tree shall grow. Other schemes like water harvesting, safe drinking water supply, community latrines in rural areas where many people ease themselves by road side, are never selected. These are schemes where people's participation is most important. The scheme is faulted on two grounds: he gets an unfair advantage over a would-be candidate and being the custodian of people's money, he cannot execute projects by spending the money which he has been sanctioned as a Member of Parliament. It is the function of Executive, i.e. Bureaucracy.

MPs have some justification to enjoy free telephone calls at Delhi. In their own constituency they need not be given any such facilities as they get constituency allowance. These free calls are enjoyed by their family members and party supporters. If an MP is asked to give his tour diary, it will reveal he hardly moves to interior parts of his constituency. He may be touching a few parts in his constituency connected by good roads for attending opening/inauguration functions where persons are carried by vehicles to make the gathering impressive and, ultimately, expenditure is borne by State. Size of ministry is very important. Any person elected as a Member of Parliament or State Assembly expects he should be a minister. This has given rise to appeasement and instability in Govt. In States, Chief Ministers having two thirds majority feel shaky because the aspirants for ministership are many. Mr. Venkataraman, ex. President had suggested to limit it to 10% of total strength of the lower house by way of legislation."

C. Nayak, Bhubaneswar.

1. We are used to seeing vacant benches in the parliament while in session. The allowances must be linked to the physical presence of the members, barring the ministers who have official duties.
2. Loans for buying items like cars, airconditioners etc. must not be given.
3. Railway passes must be given to the members alone to attend the parliament sessions.
4. Medical reimbursement must be given only if they utilise government approved hospitals.
5. For a long service rendered by the employees of the State/Central Govt. pension is given to meet their old age needs. Giving pension to MLAs/MPs for one-year tenure is ridiculous. Pension need not be given even if they continuously get elected.
6. As trade unions, they unite themselves irrespective of the party they belong to and sanction more allowances, perks etc. for themselves at the cost of the poor taxpayer. None of the demands is reasonable.
7. The MPs have special fund at their disposal to spend for the welfare of their constituency. This power should not be vested with them as it is being misused. And will be infringing the powers of the district administration and panchayats. Some checks and balances need to be introduced.
8. Anything given free is bound to be misused. Our elected member must be asked to pay for the services they utilise like the rest of the public.
9. Two months before elections the salaries of the MPs and MLAs must be stopped so as to enable the Govt. to recover its dues. No credit should be given to them regarding the usage of planes etc. as they have very short memory in this regard and do not pay the dues."

Suryakumari, Raipur.

"In addition to the perks mentioned by you, there are hidden components too - eg. the security provided by the State to the Legislators, corporators et al. The State's duty is to protect the life and limbs of all citizens and residents. But the State is burdened with the expenses on providing security to only a select few, which includes MPs, MLAs, corporators, politicians, film personalities and even gangsters. One cannot understand why the government should provide protection to such persons who might have antagonised people; they should face the music at their own expenses. It is a discrimination of sorts to protect only politicians, filmwallahs and the Mafia dons. It is ridiculous the way security is provided to generations of politicians' sibilings. All this must stop. The alacrity with which politicians vote higher salaries and perks for themselves with rare unaimity is missing when national issues are discussed in Parliament. A government servant is granted a pension after a 'qualifying service' only after superannuation. Pension is only a 'deferred pay' for service rendered. Hence to give pension to legislators is violative of the Constitution.

So also the Constituency Development Fund doled out to them generously is a hidden income. If the fund is used for works involving contracts, the Legislators get a big cut out of it. This should be withdrawn. Specific projects like water supply, health care, education, famine relief, disaster tackling, water harvesting etc. should be the main components for spending CDF. The expenditure should be audited periodically. Reputed NGOs should monitor the progress. Lifetime railway passes and air travel for retired Legislators is often abused and misused and should not be continued. The tax payers should not be burdened to pay for the pleasures of unproductive dead wood that the politicians - legislators are."

A. Sreenivasan, Madras

"The politicians are legally plundering the country. A good many are doing so illegally in diverse ways. Democracy in our country has been distorted by various forms of corruption. All this while at least 40% of the people languish in dreadful poverty with, may be, one meal a day, only the clothes they wear and a plastic sheet for a roof. As the fate of the PILs filed for Lok Pal and in the matter of pensions shows, we are not making much headway on basic issues. Perhaps reforms will come only when the politicians feel that if the essential reforms are not conceded their citadel will come under siege by the people. Throughout history rulers have never given in to legitimate peoples' demands that restrict their own power, until forced to do so. The earliest example is when King John I of England was compelled by the people to sign the Magna Carta in 1210 A.D. As such I believe we too must think in terms of applying the necessary pressure on the powers that be.

The whole idea of these functionaries lading themselves increases of salary, additional perks etc. is atrocious and ethically wrong, even though they may endeavour to justify it on the plea that there is no higher authority to decide on these matters. In no other organisation, whether of Govt. or private does such a system prevail. The universally accepted procedure is for the owner/s of the funds concerned to decide how much to pay any person/s who render services to him/them. In the instant

case the funds belong to the people and a referendum would be the ideal solution. However, a practical difficulty exists for such referendums to be held from time to time, not only in terms of the magnitude of the exercise but also its costs. As such it may be more practical to establish some relationship between the per capita income of the country and the income (salary and allowances) of the legislators. This will also create an incentive for the legislators to improve the lot of the people. It may also be relevant to know how such matters are settled in other democracies such as UK, USA, France and Germany.

Salaries are paid for actual services rendered during a determined period. Pensions are paid out of consideration for the totality of services rendered and the probable inability of the individual to earn an income when his services are terminated by rules in force. Payment of a pension to a legislator who has just served one year cannot be justified by these criteria. Since the Supreme Court has ruled that MPs and MLAs are public servants, the pension rules applicable to public servants should apply to legislators also. PIL filed in this regard with the Supreme Court nine years ago was referred to a Constitution Bench where it still lies. Cases vital to the nation should not be in the same basket as those of individuals or organisations and the necessary changes should be effected to ensure that these are decided within specified time limits."

CJM Mathew, New Delhi.

"I fully agree that a poor country like India cannot afford to spend so much on its legislators. Actually no wing of the Government should have the liberty of fixing its own pay and perks. Our legislators take full liberty on enhancing their salaries and other facilities from time to time. Justice demands that the pay structures of the legislators, judiciary and the executive should be related to the per capita income of the country. At present, there is no balance between the standard of living of an average person of India and the highly placed officials/judges/legislators/ministers etc. A major part of the taxes being realised from the Indians is being spent on maintaining the high standards of living of the persons who are running the government."

KCP Singh, Udaipur (Raj.).

"It is our duty to safeguard our rights. Actually these huge expenses are thrust on us and we have to bear the same. I feel sad that nothing could be done to stop it since they are the law makers. I also feel that such type of articles will surely create public awareness. It is the only weapon which can be used to rein politicians."

Mirza Matur Beg, Kanpur.

"It is shocking that the 'Law Makers' and 'Representatives' of our large, diversified and potentially rich but deliberately kept poor country, are broad day, respectable bandits and bandicoots. To be concrete and forceful, cost per representative (per annum, per month, per day and per hour) should be translated into figures. It will astonish the people of India - their employer - and will put the representatives on their guard. The cost the country bears can be worked out when its representatives spend hours on trifle inaugurations, absenting themselves from important business in the Parliament and the few hours they might spend (devote?) to do their homework and oversee the governance. Countries which progressed have also known such 'bandits' and Robinhood became their Hero. Is not Veerappan a hero and larger than two of our large states, almost equal to any European country? This is aptly summarised in the Editorial of Times of India 'Hostage State'.

Once the above figures are worked out from authentic sources say, for 2 years, public debates could be pursued on TV channels for awareness of our masses, who are at the moment drugged by TV channels with films, dances, sex, vulgarity, brutality and sophisticated fantasies to wean them away from the harsh reality. The life our people live in urban slums and in rural areas is unimaginable. Perhaps their subsistence income could be contrasted with that of their MPs and MLAs. Their annual income will be far away from the per hour official income of their representative not to speak of the un-official loot they effect whilst in office.

The question is that of eligibility of the candidates. In any organised sector, an employer lays down clear minimum educational qualifications and personal qualities required for a candidate for every post. Higher the post, higher is the remuneration and higher too are the qualifications, experience and personality traits so that the said candidate can effectively deliver the goods. The people of India are supreme employers of our MPs and MLAs. Hence the high cost they bear should be matched with the qualifications and contrast it with the abysmal lack of such qualities in the vast number of our existing MPs and MLAs, some of whom are also known criminals. Although on this account PIL is pending with the Supreme Court, it should be linked with the cost and the quality of MPs and MLAs to create an awareness so that our Constitution, our Courts and our Election Commission take cognisance, so that the people could elect the right candidates at the time of election, by eliminating the undesirable at the filing of nominations stage.

The Comptroller & Auditor General passes stringent remarks on the misused and unutilised public funds. Why is there no sanction by way of punishment clearly defined and implemented speedily and surely? The guilty must be punished and the misappropriated and misused funds must be recovered, and if without sufficient reason the funds remain unutilised - which retards all round development of the country - the concerned officials, along with the down-the-line staff, should be prosecuted for dereliction of duty. Alas! Nothing follows! Such reports of the CAG are meant only to frustrate and embarrass the few who read the news daily. There is no fear, no correction, no progress, instead further deterioration may be there."

S.E.Fernandes, Goa.

"We could note, apart from salaries, what other perks are being enjoyed by our elected legislators. A few of our ex-Prime Ministers and Chief Ministers even after enjoying these privileges are facing charges of corruption/scams, what to say about rest of legislators? Do you really feel we deserve this type of legislators who have made our parliament as well as state assemblies like battle fields. Unfortunately, we have legislators who may or may not be able to write their own name but governing the nation/state which is moving in 21st century, and looking towards Information Technology, food and housing for all. Most of the legislators are elected by only illiterate people at the cost of one quarter of liquor or one time food. Can we expect anything else from these legislators except that they can fill their own coffers, at the cost of contributions made by common/honest citizens in the form of taxes etc. As a matter of fact, we don't deserve parliamentary form of democracy. It is India which requires independence, not Indians. Our judiciary must take stern and prompt action against any crime taking place in the country irrespective of caste or position."

P.N.Mathur, New Delhi.

"I venture to suggest that a convincing memorandum be submitted to the National Commission to review the constitution for making fool-proof provisions in the Indian Constitution in their recommendations in respect of the following burning issues: a) population control, b) corruption, c) to reduce and put a ceiling on the salary, allowances, perks and various benefits to be given to the legislators and elected representatives at various levels - whether the legislators should enjoy the power to decide what they should get. It is seen that all the parties join together on this issue irrespective of their hue and colour; d) to put a reasonable ceiling in the number in formation of cabinet and other governing bodies - the large number of cabinet/ governing members we have, and can have with no limit, is a shame and blot on democracy."

R.B.Patnaik, Cuttack.

"The greatest tragedy of life is that; it is not the wickedness and bad actions of the wicked, crooked and criminals that has done more harm than possibly the silence, passivity and indifference of the good people, probably due to fear of threats, suffering and humiliation at the hands of wicked and crooked. The silence encourages the wicked to do more harm with impunity and authority. In fact, during all these fifty three years after freedom, all its fruits and benefits have only been eaten away and usurped by the greedy and wily politicians, bureaucrats - the mere schemy babus, ever greedy industrialists/ businessmen/traders and their satellites of miscreants, musclemen, criminals and law-breakers of all types and in all fields. Possibly all politicians, bureaucrats and industrialists etc., may not be greedy and corrupt. But generally the politicians, ministers, bureaucrats and political parties not only misuse the IAF planes, Govt. vehicles, they do not pay house rents, electricity and telephone bills. They continue to occupy big bungalows and houses etc., even after they are not entitled. While generally the MPs and MLAs of ruling and opposition parties fight and criticise each other on practically every petty issue, strangely they combine and unite to get frequent hikes in their salaries, perks and other facilities. It is also reported that most of the MPs and MLAs make at least one foreign tour every year, on some pretext or the other, at Govt. expense. They also collect and earn huge illegal amounts in all possible official dealings and contracts - both domestic and foreign - a few of which such as hawala, chara, telephone scams only come to light. While proceedings in these cases continue in courts and CBI offices etc. for years together, nobody is punished and finally even the most corrupt and the guilty person is set free on some technical grounds. People rightly feel that all this is farce and show-managed by connivance of all concerned in position and power. People have, therefore, to be cautious and vigilant.

As the review of constitution is under progress, some of the urgent reforms and measures for good governance are warranted. Some of these are : fixing of minimum qualifications for seeking election to parliament/legislative assemblies, debarring all criminals and law-breakers including even those whose cases are pending in the courts and with other investigating agencies; fixing minimum period of two continuous full terms for entitlement for pension; right of the people to call back their elected representatives; yearly review of performance of the elected members by people; seizure of properties

acquired by legislators/members of political parties, bureaucrats and businessmen, illegally beyond their known sources of income."

B.N.Pathak, Goa.

"I fully agree with you that the expenditure on our legislators, right from top to bottom and including their secretaries and other staff, is a big drain on public money. In addition to the salary, they enjoy hefty perks at the cost of citizen's hard earned money. The perks are utilised, not only by the officials concerned, but also by a number of unauthorised people, e.g. their relatives, friends and even chamchas. At present, legislators decide their own emoluments and perks. In my opinion, these should not be defined by themselves, but through another competent but independent body. Perhaps, some formula can be devised to make these proportionate to the earnings of common man."

Krishna Vahalia, Mumbai.

"The facts are well known but people's apathy allowed this exploitation of our country's resources. Section 106 of the Constitution empowers the members of parliament to revise or provide for salaries for themselves. It does not provide for perks or other goodies that they have ensured they get whether they are in parliament or out of it. There is therefore a definite flaw and we feel that like the award by pay commissions, the members of parliament should draw only those salaries as recommended by such commissions. Perks should draw only those salaries as recommended by such commissions. Perks should be curtailed to a minimum and covered under total expenditure allowable for carrying out their duties as representatives of the people. If at all they are allowed pensions these should only be applicable if a member has served continuously for twenty years. No perks should be permissible after the member loses his/her seat.

On the question of bungalows being occupied by members of parliament etc., we feel that no bungalows should be converted into memorials. The Indian Airlines and the Railways can ill-afford the free passes to members of parliament, both serving and former, for life. Over the years trains may have to be run without any paid passengers. The number of free tickets should be curtailed and, if allowed, should be limited only to current legislators. Telephones should be within budget expenses and not unlimited. Usage over and above allowed as per budget, should be paid for."

Col. H.N. Handa, Gurgaon.

"The answer to the query 'can poor India afford its legislators?' is 'no'. This is really crime when thousands and thousands of citizens belonging to each MP's constituency are not getting single meal a day. The development fund is misused for getting votes in next election. As regards the pension for legislators, let them work for providing pension for poor and helpless senior citizens of their respective constituency. A Rs. 500/- p.m. pension will be a great help. At least a single meal per day will be a great boon to these people. Let MP's office identify these deserving people and collector's office may take care of distribution. Misuse of privileges by legislators and political parties must be stopped. Persons with criminal background, persons against whom criminal cases are pending in courts and persons having more than three children should not be allowed to participate in elections."

Angel Fernandes, Maharashtra.

"In spite of spending so much we do not get the quality of legislators. We must look now for parameters for our MPs and MLAs and impose certain restrictions on their remunerations and privileges which they enjoy and misuse our hard earned money. Damages should be recovered from their salaries and perks if there are walkouts during session, which have become frequent, or any damages done during session in the house, like breaking furniture, microphones and for wastage of time."

Dr. B.K.Pandey, Bokaro.

"If the courts are reluctant to act, as brought out by you, then what is the alternative to put this right? It is also revealing that the emoluments and perks even of rich countries like the US, is not one tenth to what we give our legislators. In that country, except for the President, no one has a government house allotted to him. The members of Senate and Congress are not given any office staff, and have to pay from their pockets for telephones, stationery and even their PAs. They don't get free air or rail passes except when travelling on specified official duty. Finally, when they quit office, they call it a day - there is no pension or any other benefits after that."

Brig. N.B.Grant, Pune.

"I had been trying to tell the leaders of political parties about the conduct and performance of their party MPs during my long association with the Lok Sabha. In the prevailing circumstances it is felt that a committee be constituted to recommend a code of conduct for the legislators. It would be interesting to mention that the British Parliament, traditionally regarded as the role model for the Indian Parliament, had recently formed a Committee on Standards in Public Life, headed by Lord Nolan, which prescribed a Code of Conduct for Members of Parliament. When self-regulating and self-correcting mechanism fails, some really effective institutional arrangement has to be devised to ensure that legislators conduct their business in a disciplined and responsible manner. The problem needs to be seriously addressed before the people lose their faith and confidence in the elected bodies."

Dr. D.N. Gadholkar, Mumbai.

"The article has shockingly unmasked the ugly face of democracy in this country. Most of the people are unaware of the scale of featherbedding indulged in by the legislators elected by them. To expose them further I suggest: (1) The demand of grants in the Lok Sabha and Rajya Sabha may provide main heads and sub-heads in respect of each and every type of emoluments including individual perks. These are not reflected in the present format. This may be taken up with the Finance Minister and Speakers of the two Houses and (2) some designated professional agency may undertake research to correlate the emoluments with per capita income of a few selected developing and developed countries. Constituency Development Fund for MPs is a big monstrosity by all counts."

Sharad C. Misra, Mumbai.

"Thousands of people in villages and towns struggle hard for a morsel of food, clothing and shelter. Many of them commit suicide, with their wives and children, being unable to bear the pangs of poverty. With all the plump amount the politicians receive from our coffer what tangible service they have done for the upliftment of the poor? They have looted public money, misused their official position and many cases of corruption and other irregularities committed by them are being heard in the courts. They have not paid their house rents, phone bills and air fares. At least they should behave decently in parliament. They waste money there also without transacting any business for the whole day, the Govt. spends thousands of rupees for a day. They behave like rustics breaking tables, chairs, plucking the mikes provided for them and exchanging blows with each other. We have to painfully watch this on TV. It is high time for the honest enlightened persons, with patriotic zest, to form a shadow parliament out of the Govt. purview and take the errant and corrupt politicians to task in the court. I pray to the eminent advocates to desist from defending such politicians, in the national interest and welfare."

K. Virupakshan, Valsad.

HE HAS been drinking at a pub all night. The bartender finally says that the bar is closing. So the man stands up to leave and falls flat on his face. He tries to stand one more time, same result. He figures he will crawl outside and get some fresh air and maybe that will sober him up.

Once outside he stands up and falls flat on his face. So he decides to crawl the 4 blocks to his home and when he arrives at the door he stands and falls flat on his face. He crawls through the door into his bedroom. When he reaches his bed, he tries one more time to stand up. This time he manages to pull himself upright but he quickly falls right into bed and is sound asleep as soon as his head hits the pillow.

He awakens the next morning to his wife standing over him shouting loudly, "So, you've been out drinking again??" "What makes you say that?" he asks as he put on an innocent look.

THERE'S A guy at the bar, just looking at his drink. He stays like that for half-an-hour. Then this bully steps up next to him, takes the drink from the guy, and just drinks it all down. The poor man starts crying. The bully says: "Oh, come on man! I was just joking. Here I'll buy you another drink. I can't stand to see a man crying."

The troubled fellow replies, "This day is the worst of my life. First I get fired for oversleeping and getting to work late. Then I'm leaving the building and find out my car was stolen. I get a cab to return home and forget my wallet and credit cards in the cab. Then I find my wife in bed with the gardener. So I end up at this bar and just when I was thinking about putting an end to my life, you show up and drink my poison."

A MAN with two red hot ears went to his doctor. The doctor asked him what had happened to his ears. He answered: "I was ironing a shirt and the phone rang - but instead of picking up the phone I accidentally picked up the iron and stuck it to my ear."

"Oh Dear!" the doctor exclaimed in disbelief. "But .. what happened to your other ear?"

"The scoundrel called back!!"

DOWNSIZING GOVERNMENT ? WE'VE HEARD IT ALL BEFORE

When finance minister Yashwant Sinha spoke about "right-sizing the establishments" in the ministries and departments of the government in his Budget speech for 2001-02, officials in the department of personnel and training (DOPT) had a sense of *deja vu*. After all, hadn't Sinha said the same thing last year?

Sample what he said on downsizing in his 2000 Budget speech:

"Fresh recruitment in Government departments and institutions will be limited to minimum essential needs."

"The Scheme for redeployment of surplus staff will be made more effective and will provide facilities for retraining. A VRS will also be introduced for staff in the surplus pool".

Now, sample some of what is there in this year's Budget speech:

"All requirements of recruitment will be scrutinised to ensure that fresh recruitment is limited to one percent of total civilian staff strength," said the FM.

"The surplus pool under the department of personnel will be streamlined and equipped to redeploy and retrain surplus staff. Employees in surplus pool will also be offered an attractive VRS package."

So what's different, Mr Sinha? By stating what he did last year, the FM seems to have indirectly admitted what officials in the personnel ministry are saying-- that the "initiatives" Sinha said he was introducing last year were never implemented. "There were no instructions to implement; and in fact those proposals are still under consideration," said an official.

In fact, the ministry of personnel which had prepared a Cabinet note for trimming flab is still waiting for approval. It is learnt that the note came up for consideration before the Cabinet once but has been in cold storage since.

The proposals mooted for down-sizing by Sinha, in fact, were part of the note sent to the Cabinet, said ministry sources. Even the Expenditure Reforms Commission constituted by the government last year had made suggestions in line with what was recommended by the ministry, said officials.

Moreover, while Sinha on Wednesday said the Government hopes to reduce manpower by two per cent annually and 10 per cent in the next 10 years if recruitments are limited to one per cent of total staff strength, the Commission had recommended a 30 per cent decrease over the next decade.

Recommendations apart, what is essentially needed are instructions to implement them, said officials. Instructions which never came from the finance ministry last year.

The Commission suggested downsizing of the department of economic affairs, I&B, coal, heavy industry, small-scale industries and the department of public enterprises. Sinha assured the Commission's recommendations will be implemented by July 31 and "identified surplus staff transferred to the surplus pool".

But, redeployment of surplus staff has little meaning since they still continue to draw their salaries. In fact, an official noted that staff placed in the surplus pool is often reluctant to join the department they are deputed to. "They give all kinds of excuses and most want to go to the lucrative departments, so they keep delaying their joining the department they have been posted to," remarked an official. The personnel ministry had, in fact, suggested that staff in the surplus pool be made to wait for two years and then retired under VRS.

Another problem area is that of autonomous institutions which need not seek the finance ministry and Cabinet's prior approval before creating a post, said an official.

The Railways and the department of posts and telegraph are some of the leading culprits where creation of posts is concerned. Employees in group 'C' and 'D', too, are in excess of requirements. To be fair to Sinha, he has begun reducing the staff in his ministry. By doing so, he said he was confident that others in the government will follow suit. One wonders how many of his 80-odd ministerial colleagues will be next to follow suit.

FROM BUSYBEE COLUMN OF "AFTERNOON", MUMBAI.

Apropos this new law, where if you are caught carrying a plastic bag you are arrested and locked up in a dark jail for the next five years, it is not likely to happen to me. I never carry a plastic bag.

First of all, I hardly shop, so there is not much likelihood of my acquiring a plastic bag. And even when I do shop, I insist that the shopkeeper wrap my purchase in a plain brown paper, or a newspaper sheet, as the plastic bags carry the name of the shop without being paid for it. Would Jackie Shroff advertise something without being paid? No, Then why should we.

I like to keep my hands free. I have never carried a briefcase in my life. I would not know what to put in the briefcase if I had one. I know people who will not step out of their house without a briefcase, even if all they have inside is their lunch box.

I also do not much care for men who come to the office carrying a little plastic lunch box, which their wife has lovingly or otherwise packed for them early in the morning with *bhindi bhaji* and mango pickle. Grown up men should go to a restaurant and eat. Or, if they cannot afford it, eat *batatawada* and SS chutney in the street. And now that I am on this subject, I may as well tell you, I have never carried a wallet in my life. I carry money in my pocket, loose, only notes, no coins, because coins tear the pocket. And the only other thing I carry in my pockets is a single house key, not extra keys. I have never lost any money, never been pick-pocketed, at least, if I have been I am not aware of it.

And since I do not carry a wallet, I do not carry visiting cards. First, because I forget to carry them, second, because carrying them loose in the trouser pocket crumples them. When others present me with their cards, I find myself apologising I do not have one of my own. And they invariably say: "But you do not need one, ha ha." That's not flattery, that's saying something for having to say something.

Durg Morarji Desai's prohibition era (it will for ever be Morarji Desai's prohibition and Indira Gandhi's Emergency), I used to carry my liquor permit on me. Now I don't. What did you say? Credit cards? What that!

In the monsoon, I carry an umbrella. Though I normally forget to carry it with me. Then, when I find myself sitting in the office and it is raining cats and Bolshois outside, I send the peon to buy me an umbrella, the very cheapest available. By the end of the monsoon, I have a large collection of umbrellas.

That's life. Unburdened in hands, pockets, and mind.

I have decided to observe this year as a Be Nice To Politicians Year. For too long, I think, they have been

given a bad name and blamed for everything that is wrong in the country. If it rains in January, they are responsible for it, if it does not rain in June, they are the cause, and if it rains in excess in July, it is because they were the cause of it not raining in June and did not do anything about it.

Good harvest, bad harvest, they are the cause. If an ambitious project for public welfare fails, what did you expect with such politicians in charge. If money for a project disappears, it is because they have lined their pockets with the money. If the flyovers are not coming up at an appropriate pace, blame the politicians, if they are coming up too fast and there are too many, suspect the politicians. Sometimes it seems they cannot do anything right.

If they want to make the state the IT capital of the country, they are talking through their hat (cap). If they say that is not immediately possible, they have no vision. And they are always compared with others – unfavourably. Look at our politicians and look at American politicians, with what dignity they conducted their recent election crisis! Or, where are Japanese politicians and where are Indian! They are compared with private entrepreneurs, NRIs, multi-nationals, foreign experts, and always disqualified as second best.

If there is a riot, the politicians are behind it. If people are killed, it is on account of political rivalry. If there is an encounter death, the politician ordered it. If an athlete wins a bronze instead of gold, it is because the politicians let her down. If a masjid is brought down, it is because of the game the politicians have been playing. If something does not work, it is because of politics.

The poor politicians, they do not have a leg* to stand on, or an ear to listen to them. If their sons make money, it is under the protection of their father, if their in-laws become rich overnight, it is because they are holding on to their political loot. If their wives throw a little weight about with traffic policemen, it is because of their husbands' political clout. If some police officer gets transferred in routine course, it is because a politician has ordered his transfer for not doing his bidding.

And everything the politician does is suspect. If he visits you at home, he has come for your vote and you will never see him again, not for five years at least. If he helps somebody get a loan for his project, he has got a cut in the loan or project or both. If he changes parties, it is not to serve you better but because he cannot serve himself better in the old party. If he goes abroad, it is on a holiday, not a study tour.

Yes, this is going to be my Be Nice To Politicians Year (BNTPY).

OUR ACTIVITIES AND PROGRAMMES

COMMON CAUSE, a registered Society with membership all over the country and operating on All India basis, has earned reputation and credibility as an Organisation dedicated to public causes for seeking redress for problems of the people. Its initiative in public interest litigation, for solving the common and collective problems of the people, has greatly contributed to the evolution and spread of the system in the country and its adoption by the people on a substantial scale for effecting redressal of public grievances.

A large number of writ petitions have been filed by the Organisation in the Supreme Court and Delhi High Court, and quite a few important cases have been taken to the National Commission established under the Consumer Protection Act. The very first case taken up by COMMON CAUSE, almost two decades ago soon after its establishment, related to the problems of pensioners. Almost four million pensioners benefited from the three important decisions which the Organisation was able to secure from the Supreme Court, relating to the extension of liberalisation of pension, restoration of commutation of pension and extension of the scheme of

family pension. An important matter relating to the pending criminal cases of the courts of the country was taken to the Supreme Court. In our writ petition specific suggestions were submitted for adoption of procedures for dealing with backlog. The important decision given by Supreme Court in this case led to the discharge of large number of accused persons and release of prisoners whose cases had dragged on for long periods. These directions have brought about termination of hundreds of thousands of cases all over the country. On the subject of general malfunctioning of Blood Banks a writ petition was formulated and taken to the Supreme Court. Directions given by the court on this important matter has led to the evolution of system for registration of Blood Banks and stoppage of use of professional blood donors. On the general matter of corruption and establishment of the institutions of LOKPAL and LOK AYUKTAS in the country the Supreme Court, on a writ petition of the organisation, gave a verdict of severe punishment in a particular case, and the matter relating to the appointment of Lok Ayuktas has continued to be pursued by issuing direction to all States. On another writ petition the Supreme Court gave very important direction in relation to the conduct of election campaigns by the political parties, in relation to a provision which has been incorporated in the election law. The Court also directed strict compliance with law in relation to the submission of Income-tax Returns by the political parties.

OUR GRATEFUL THANKS

We have the privilege of receiving assistance also from the well known Friedrich-Naumann-Stiftung of the Federal Republic of Germany, the Foundation which is supporting various projects and activities connected inter alia with consumer awareness, entrepreneurship development, economic and civic education, environment protection, legal services, income generation and rural development. The Foundation is named after the known socio-liberal statesman Friedrich Naumann and works towards his ideals and the vision of Liberal society. In India the Foundation operates from USO House, 6, Special Institutional Area, New Delhi-110067. We are also grateful to Kumari L.A. Meera Memorial Trust, Kerala, for providing us financial assistance for our activities.

In Delhi High Court a number of writ petitions have been filed by the organisation. Problems of general importance, such as anomalies arising in the Property Tax and the difficulties encountered in the operation of old Rent Control laws, have been taken up and are being pursued. There has been large-scale theft of electricity in Delhi on account of which electric distribution has often got disrupted and the authority has had to resort to load-shedding; these problems have been taken to Delhi High Court and are being pursued. A major problem in Delhi has been the large-scale establishment of unauthorised residential colonies. There has been demand for their regularisation; this was challenged by the organisation and the matter continues to be further pursued.

An important matter relating to Rail Disasters which have taken place in the country in recent years has also been taken to the Supreme Court. Other important matters recently taken to the Supreme Court include the functioning of Fake Universities and ineligible Teaching shops, Crime and Violence on TV, Telephone freebies to over 3 lakhs employees, required change-over to two Time Zones, and deficiencies found in the implementation of Voluntary Disclosure of Income Scheme (VDIS) of GOI. The National Commission established under the Consumer Protection Act has, on our submission, issued certain important decisions on matters such as use of iodized salt, stoppage of malfunctioning in relation to intravenous fluids, operation of buses on Delhi roads and strikes by Banks and Air India. Important decisions in general interest of consumers secured from the Supreme Court include establishment of Consumer Forums in all districts of the country and price printing also on all imported packages.

Membership of the organisation is open to all. Membership fees are Rs. 100 for annual membership for individuals, Rs. 500 for life membership and Rs. 200 for annual membership of organisations and associations. Quarterly Periodical COMMON CAUSE goes free to all members; it has no separate subscription. Donations to COMMON CAUSE are eligible for exemption available under Section 80-G of Income Tax Act. Everybody can take membership of the organisation. No form is required. Send your name and address, written in capital letters, along with cheque/DD, drawn in favour of COMMON CAUSE.