

# COMMON CAUSE

## VOICE OF "COMMON CAUSE"

### IMPROVEMENT OF THE JUDICIAL SYSTEM

Judiciary is among the three basic pillars of functioning democracy; legislature, executive and judiciary; each one of them, in its operation, is more important than the others. It provides the primary principle of functioning on the basis of the rule of law.

There are problems and distortions in the operation and functioning of our legislature and executive, and likewise unfortunately there are palpable shortcomings in the area of judiciary. The flaws in judiciary

are evident particularly in the huge pendency of cases in courts, the atrocious delays that come about in disposal of cases, civil as well as criminal; over-crowded jails with the accused languishing in them for years; multiplicity and antiquity of laws and the related rules, regulations and procedures; distortions of functioning of judiciary by frequency of adjournments of cases; multiplicity of holidays and non-observance of requirements of full working hours; shortages in the appointment of Judges and inadequacies in the availability of infrastructure of courts; problems connected with the functioning of Advocates and their Bar Associations; and the general impression about extortionate fees charged by Advocates and their preference for seeking adjournments, adding to the burden of fees on their clients. General impression of the people about the functioning of courts is that justice has become excessively expensive, involving atrocious delays, and overloaded with various pronouncements and interpretations of laws. These various issues relating to the functioning of judiciary are elaborated in paragraphs that follow.

#### PENDENCY AND DELAYS:

Cases pending in the courts, civil and criminal, are stated to be about 2.5 crores (25 million). One can imagine how many individuals and families, in one way or other, are presently involved in these cases. If one takes the minimum average family of four persons being affected by a case (some of the cases have involvement of much larger number, and in any case there are two sides in each case) the number of persons affected by the present pendency of cases would be nothing less than about 200 million, practically one-fourth of the total population.

All sorts of reports of delays in the courts frequently find mention. Recently there was report of a case instituted 14 years ago, which has featured in the court 45 times, but the recording of evidence

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- Membership fee for individuals is Rs.100 for one year; Rs.500 for life membership for individuals; Rs. 200 for annual membership of organisations and associations. Send by crossed cheque in favour of COMMON CAUSE.
- We receive numerous letters. Replies are invariably sent. On the average our receipt is about 20/30 letters every day. Kindly, therefore, write only when you must; letters received in local language present us difficulties in deciphering.
- Donations to COMMON CAUSE are eligible for exemption available under Section 80-G of the Income Tax Act. Your donations, and those of your friends, will be most welcome indeed.

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of plaintiff has not yet been completed. In a criminal case filed in a High Court the accused party got a stay order issued, and for 13 years the case has not come up for hearing; some persons involved in the case have since passed away. There was recent news that an accused in a criminal case was discharged by a court after 30 years. In discharging the accused court passed strictures against the prosecution because the case property, a small item of gold, had been disposed of by prosecution in public auction, but the case was kept hanging due to prosecution claiming that the case property would be produced in evidence. Former Chief Justice of India in a recent statement cited case of an accused who languished in jail for 37 years; of a boy who was beaten up by his employer for stealing "three cigarette packets" from a shop, handed over to the police and detained for four years on the ground that there was nobody to bail him out; and of another case where the accused was arrested for gambling in a public place, the amount recovered from him being only one rupee and ten paise. Delays in disposal of cases cause deep anguish and constitute a blot on the judicial system, distorting the functioning of courts.

### **EXPENSES:**

The problem of expenses for seeking justice has now attained astounding proportions. Constitution governing democracy of our country has emphasised its sensitivity to social justice, and compassion for weaker sections, but the real fact is that the Supreme Court, and also the High Courts, have become unapproachable for these weaker sections for reasons connected primarily with the expenses involved. The fees of lawyers have reached such proportions that litigants seeking justice have now to resort to all possible measures to find the amounts required for payment. Some Senior Advocates are reported to charge anywhere between Rs. 50,000 to Rs. 1,00,000 per appearance, at the stage of admission of a petition. After admission the charge varies between Rs. 50,000/- to Rs. 1,00,000/- per hearing; amount of Rs. 50,000 even for a "conference" with the litigant party. Additional payment of 10% has to be made for "clerkage" and other connected charges. Amount of as much as Rs. 60,000/- is being charged for taking adjournment in a case. Lawyers are stated to be more interested now in taking up cases of big corporations and financial institutions rather than of common people; their commercial interest supersedes civil responsibility. Commercialisation has crept into members of the Bar everywhere, in lower courts and higher courts. It is being now generally said that lawyers do not show inclination to take up cases of poor people. In this connection it is being said that if doctors can open free clinics and dispensaries for poor people then why the fraternity of lawyers should not provide ready and inexpensive services to poor people.

### **REQUIREMENTS OF REFORMS**

There is paramount need of overhaul of the judicial system, to make justice available expeditiously, without any attendant hassles and exasperations, at reasonable expenses, affordable by generality of people in the country. Vigorous and effective steps need to be taken in all connected spheres so that expeditious justice becomes available to everybody who has to knock at the doors of courts. This needs to be done in the area of expansion of availability of courts; reform of the laws and attendant rules, regulations and procedures, including particularly abolition of antiquated laws and modifications of basic operative laws for meeting present-day requirements; changes in environments which would make Advocates and their Bars become more responsive to the requirements of general level of litigants and abide by self-regulations of not going on strikes and not seeking unnecessary adjournments, charging reasonable fees; and implementation of decisions and directions given by the Supreme Court and High Courts on certain matters relating to trial of cases and improvement of judicial functioning. These requirements are briefly presented below.

### **COURTS**

The Government of India as well as State Governments need to assume responsibility and initiate urgent steps, to expand the number of courts, of various levels, criminal and civil, for meeting requirements that have arisen because of the vast expansion of population and the varied requirements that have arisen because of the process of greater urbanisation, and multiplication of problems consequent upon the development of economy and expansion of technology. The Law Commission of India as long ago as 1988 recommended the increase of ratio of 10.5 Judges per million population to at least

50 Judges per million; this to be done within a period of 10 years so that subsequently target of 107 Judges per million is attained in due course. Even after 13 years of this recommendation the present ratio is only of 12 to 13 Judges per million people. The report of Law Commission has had no effect. In relation to High Courts it was recommended by a former Chief Justice of India that there were 181 vacant slots in High Courts; the total strength presently is of 647 Judges. The Government of India needs to effectively take up this task with the Supreme Court and also pursue it with the States, prescribing definite time-span for achieving specified targets and proclaiming these to the people. There is also great need of equipping the courts with the necessary infrastructure, including modernised technological equipment and requisite trained personnel. Existing courts at various places present sad spectacle of lack of even basic essential infrastructure.

A recently retired Judge of the Supreme Court has stated that the screams of people are unable to penetrate the high walls of judiciary in the country. He felt that the Judges are woefully under-trained to handle the responsibility that their work demands. He is of the view that the High Court Judges must voluntarily undergo training at least in initial stages, so that they learn basics like pronouncement of judgements without delay. In any case it is of primary importance that Judges and Magistrates of subordinate courts must be given appropriate training.

### BAR

Lawyers, Members of the Bars, constitute an essential part of judicial functioning. Mention has been made above about the unrestricted and extortionate fees which are now being charged by lawyers. One does wish that some appropriate self-restraint should be exercised by lawyers and also that the Bar Associations, and most importantly the Bar Council of India, should explore the possibility of prescribing suitable Code of Conduct for the lawyers which would include provision regarding the quantum of fees that should be charged. It is undoubtedly not an easy matter but the Bar Council, and individual Bar Associations, should kindly consider this matter; an appropriate decision in this regard and observance of the decision by members of Bars will go a long way to raise lawyers in esteem of the people.

Another matter of primary importance relating to the Bar Council of India and local Bar Associations is that of their restraining themselves from resorting to strikes. It is very unfortunate that in recent years certain strikes by lawyers have been resorted to; recent strike at Delhi on the subject relating to enforcement of Civil Procedure Code Amendments Act is an example. Strikes by lawyers paralyse the functioning of courts and constitute a serious setback to improvement of judicial functioning in the country. On the subject of lawyers' strikes the Supreme Court, on a Writ Petition filed by COMMON CAUSE, had issued specific directions in 1995, with the agreement of the Bar Council of India, that strike by lawyers should not be resorted to excepting "in rarest of rare cases", and instead, peaceful demonstration should be held, such as wearing of arm band, so that functioning of courts is not disrupted. Another very important judgement on this subject has been pronounced by the Supreme Court wherein it has been held that procurement of expeditious justice is fundamental right of the people, part of the fundamental right to life and liberty.

### OUR LAWS

There is undoubtedly a plethora of laws in the country: Central Laws and State Laws; antiquated laws and out-dated laws; totality of the laws would surely be running into thousands; further embellished with innumerable rules, regulations and procedures. This enormous jumble of laws and rules create confusion, hampering effective judicial functioning.

Entire matter of Central Administrative Laws was recently examined by a Committee appointed by the Prime Minister. Comprehensive recommendations were made by the Committee about abolition of inoperative laws and modifications in large number of operative laws. These recommendations are being pursued by the Government of India for implementation. We hope that these cleansing operations will soon be completed and that the statute book containing the Central Laws will be improved, enabling proper enforcement of the laws.

In mentioning the problem of laws it would be appropriate to mention particularly the pending matter of Civil Procedure Amendment Act, on enactment of which loud protests and demonstrations

were made at various places in the country by lawyers, and a large-scale demonstration was held at Delhi where the Police had to be used for dispersing the demonstrators. CPC is the basic law dealing practically with all matters which have relationship with civil cases. The original CPC was enacted about a century ago, in 1908; it is obviously an out-dated law. Its amendment aims primarily at shortening the period of trial of civil cases in courts. Various provisions relating to transmission of copy of plaint of plaintiff to the other party, service of notice on him, submission of reply by him, submission of evidence through affidavits, prescription of limits on number of adjournments that can be sought by any of the parties to suit, and certain limitations imposed on submission of appeals against the court decision, have been made in it. These provisions apparently do not suit the lawyers who benefit by prolongation of cases in the courts, therefore, the demonstrations and strikes were launched by them. The Amendment Act now awaits finalisation and notification, and in the interest of improvement of the judicial functioning one hopes that the hurdles created in its enforcement will soon be overcome. This will greatly help to smoothen the procedures in civil courts and we hope that similar steps will be taken to effect necessary alterations in other important Acts.

In-as-far as criminal cases in the courts are concerned, we would particularly like to mention the measures for expediting decisions that have arisen from the decision of the Supreme Court on Writ Petition filed by COMMON CAUSE. The court has given certain important directions (AIR - 1996 - SC - 1619) laying down that the following types of criminal cases should be closed: traffic challans which have been pending for over two years; compoundable cases where proceedings have not commenced for one year; non-cognizable and bailable cases where trial has not commenced for two years; cases in which only fine can be imposed and trial has not started for one year; cases where maximum punishment prescribed is one year and trial has not commenced for one year; cases where offence is punishable for three years' imprisonment and trial has not commenced for three years; cases in which punishment awardable is seven years or more, and the trial has not commenced for two years, the accused has been in jail for one year or more, should be released on bail or even on personal bond. In giving these directions it was laid down that these relaxations will not apply to certain types of serious offences such as smuggling, mis-appropriation of public funds, cheating and certain other specified offences. These directions have brought about closing down of hundreds of thousands of criminal cases. It needs to be ensured that in all places in the country these directions have been complied with.

Another very important recent decision, in relation to the need of expediting disposal of court cases, is that of Allahabad High Court, taking note of the fact that in U.P. the number of pending cases was over 9 lakhs, of which 3 lakhs were one to three years old, 2.5 lakh cases were 3 to 10 years old and over 60,000 cases were ten years old. Detailed and strict orders have been given by the High Court that all courts in U.P. should categorise the cases according to their pendency, and put them in respective file-covers of red, green and yellow covers, which should be provided by U.P. Government; courts should give top priority to cases more than ten years old, followed by priority to cases in green and yellow covers. Prevalent cases will be considered those which are less than one year old, and appeals which are not more than six months old.

#### **SUPPLEMENTATION OF EXISTING JUDICIARY**

The above circumstances establish that there is paramount need of providing supplementation to the existing judiciary in order to enable proper administration of justice and lessening the burden of courts. An enactment, known as Legal Services Authorities Act was passed as long ago as in 1987. This law was enacted for providing legal services to the weaker sections of society through the setting up of Lok Adalats. It envisaged the establishment of a District Legal Services Authority in each district and through such Authorities to set up Lok Adalats as frequently as necessary. These Lok Adalats were authorised to resort to bring about compromise or settlement between the litigant parties concerned with any dispute whether it was civil, criminal or revenue, or under any other tribunal under the law. It was prescribed in the Statute that where the parties to a dispute pending in a court submit joint application to the court for referring the case to Lok Adalat for settlement of the dispute, necessary action forthwith would be taken. Lok Adalats were expected to arrive at settlement with "utmost expedition", guided by legal provisions and principles of equity and fairplay. Award given by the Lok Adalat is of the status of a decree of civil court or order of any other court or tribunal, and it has been prescribed that it would

be the final decision and would not be appealable. It is reported that 30 lakhs cases have been settled through Lok Adalats.

An Amendment Bill for amending the Legal Services Authorities Act has been introduced in the Parliament. On the enactment of this Bill it will be made mandatory for public utilities to provide simple, quick and inexpensive mechanism for resolution of disputes with the users of their services. It has been felt that the Legal Services Authorities Act, as it stands at present, can play only a limited role and try to settle disputes on the basis of compromise formula. The proposed amendment will further strengthen the functioning of Lok Adalats.

For settlement of cases relating to problems of Government officials, of Central Government or State Governments, an institution known as CAT (Central Administrative Tribunal) has been established. Branches of CAT have been set up in the States. Through this system about 3.5 lakh cases have so far been settled since its establishment in 1985; about 42,000 cases are presently pending before its branches.

### FAST TRACK COURTS

There has recently been talk of establishment of Fast Track Courts. Initiative in this behalf has been taken by the present Minister of Law & Justice. It was contemplated to set up 1734 Fast Track Courts, for which purpose grant of Rs. 503 crores was sanctioned, including the expenditure on setting up of courts. It is not yet clear as to how many courts have actually started operating; claim is that their number is about 900. Former Chief Justice of India, however, expressed doubts about the success of this initiative. His contention was that in initiating the project of Fast Track Courts the Supreme Court had not been consulted and that these courts are likely to be "non-starter". He expressed the view that it would have been much better to leave it to Chief Justices of the High Courts to identify cases which should be referred to these new courts.

Another important development in this context has been the establishment of Consumer Courts under the Consumer Protection Act of 1986. Provisions of this Act brought about the setting up of judicial authorities in every district of the country and at State level as well as the National level for redressal of problems of consumers. These are known as District Forums, State Commissions and National Commission. Everybody is a consumer, in one form or the other, and the enactment of this legislation has been a great boon for enabling aggrieved consumers to seek redress against any wrongful provision of a product or a service. Over 16.5 lakh cases have so far been filed before the Consumer Courts since their inception, out of which about 13 lakh cases have already been disposed of. Present pendency is about 8000 before the National Commission, 90,000 before State Commissions and 2.5 lakh before District Forums. It is a matter of satisfaction that in recent months, since the appointment of the new Chairman of National Commission, a retired Judge of the Supreme Court, a drive has been launched for further reducing the pending cases; every month the disposal of cases is now more than the cases of fresh institution. Adoption of such measures can greatly help to bring down the pendency of cases in normal and other courts.

Supplementary steps for disposal of court cases need to be greatly strengthened and popularised so that more people, particularly among the weaker sections of society, should be able to take advantage of these and get their cases settled without having to go through the anguish which is presently encountered in resort to normal courts. Supreme Court and High Courts can greatly help to direct and persuade the Central Government and State Governments to take effective and continuing steps for spread of Lok Adalats and further expansion of launching of CAT where necessary. In addition to these steps, it would also be desirable to enact suitable legislation if necessary, or alternatively to make necessary arrangements, to set up the institution of Honorary Magistrates in all urban centres. The system of Honorary Magistrates worked very satisfactorily during the British period; it is also presently operating very effectively in U.K. There is no reason why this system should not be adopted by us. Honorary Magistrates appointed by State Government, in consultation with the Chief Justice of High Court, can be given the authority to deal with petty criminal cases instead of their having to be filed in normal criminal courts. Honorary Magistrates can be selected from among retired Magistrates and respectable persons known in the area. Likewise, there can be the possibility of constituting the system of Arbitrators, appointed under the orders of Chief Justices of High Courts; they can exercise the authority of bringing

about settlement of small claims within the prescribed monetary limits through simplified procedures and help of any lawyers appointed by disputing parties.

Central Government and the State Governments need to also examine as to how they can curb the tendency of their officials at various levels to choose the easier way of filing appeals in the courts wherever any case filed against the Government is decided in favour of the Petitioner; they obviously choose this option to escape criticism of favouring the Petitioner. Result of this unfortunate tendency is that in addition to original cases crowding the courts, appeals also add very substantially to the pendency.

These various supplementary steps, of setting up Lok Adalats, branches of CAT, and appointment of Honorary Magistrates and Arbitrators, can greatly help to improve the atmosphere of functioning of judicial system because obviously, as has been the experience of last few decades, the system of functioning of normal District Courts and High Courts has not been able to meet the continuously mounting demands arising from population explosion and expansion of economy. It is desirable that the Central Government, in consultation with the Supreme Court and selected legal luminaries undertake expeditious and comprehensive examination of the entire matter of bringing about necessary reforms for improvement of the judicial system.

### **CORRUPTION IN COURTS**

Matter of very serious concern and of shame is that of reports of corruption having entered even the higher judiciary. In the lower judiciary there have been reports that some Magistrates and Judges are not beyond the reach of corruption, but by and large this impression has been only in regard to a minority of the subordinate judges. But, the matter of deeper concern is that even in the higher courts, the existence of graft cannot be altogether excluded. Present Chief Justice of the Supreme Court is stated to have gone to the extent of claiming that even about 20 per cent of the Judges of High Courts are not clean. He has lamented the fact that it is not possible to remove the corrupt Judges because of the cumbersome procedure relating to their removal and the only recourse in law for removal of higher judiciary is impeachment, which is very cumbersome process and does not succeed in achieving the desired results for reasons that are political. This is undoubtedly a matter of very serious concern and it is necessary that ways and means must be devised for ensuring that the judiciary at all levels, is clean and that necessary steps continue to be taken to effectively monitor any such operations which give indication of likelihood of corruption.

Judiciary being a very important part of the functioning of democracy we hope that these various requirements, comprising the urgent need of effective steps to reduce the pendency in courts and expediting justice, improvement of operative laws and abolition of antiquated laws, reforms required in the functioning of lawyers, increase of number of Judges of all levels and expansion of requisite infrastructure, supplementation of the normal courts through systems of Lok Adalats, Arbitrators, and Honorary Magistrates and very importantly, effective monitoring of the functioning of courts to altogether remove the stigma of corruption, will be set up as essential targets by the Governmental authorities and the Parliament, for being achieved within a prescribed time-frame.

The above comprehensive and self-contained note on the Judicial System has been sent to (i) Chief Justice of India and all Judges of the Supreme Court, (ii) Chief Justices of all High Courts in the country, forwarding to them copies for transmission to all Judges of their High Courts, and (iii) Prime Minister and Union Minister of Law & Justice, requesting all of them to initiate action for effecting required improvements in the judicial functioning which is one of the important areas of functioning of democracy.

In respect of the other area, Executive Governance of the country, we have already sent similar comprehensive note to the Prime Minister and all Chief Ministers of States, all Secretaries of the Government of India and all Chief Secretaries of States. Substance of the note, entitled "WE MUST STRENGTHEN ADMINISTRATIVE SYSTEM" appeared in the last issue of this periodical. We now propose to circulate a similar comprehensive note on the functioning of Legislatures and Electoral System, sending it to all political parties and functionaries of Central and State Government.

H.D. SHOURIE

## “DECLARATION OF PUBLIC SERVICE COMMITMENTS”

The concept of Citizens Charter was adopted in the country a few years ago. Various government departments/public utility organisations have issued Citizens Charters for benefit of the people. There is a feeling, however, that the importance and utility of citizens charters have not reached the common man, and resultantly the people have not been able to get the desired benefits. In most of the cases these Charters have remained only on paper, particularly because the follow-up action, in the event of failure of an organisation to meet the prescribed commitments, have not been specified.

Keeping this in view, COMMON CAUSE has addressed letters to Chief Ministers and Chief Secretaries of all States and Union Territories requesting them to give instructions for issue of “DECLARATION OF PUBLIC SERVICE COMMITMENTS” by every organisation/ institution and government department providing public services. A comprehensive note has been sent to them to facilitate immediate action. Letter addressed to Chief Ministers/ Chief Secretaries and to all Secretaries of the Central Government, forwarding the comprehensive note, is reproduced.

Dear Sir,

We feel there is paramount need for activating and motivating the organisations, institutions and Government Departments which are, in any manner, providing services to the people. The services contemplated in this context are, for instance, electricity, water, medical care, bank, railways, telephone, telegraph, transport, public distribution etc., which operate under the charge of Central Government or a State Government/Union Territory.

In this connection the concept of “CITIZENS CHARTER” based on the pattern of that which was introduced in U.K. about ten years ago by the then Prime Minister, John Major, was propagated about five years ago on the initiative of the Consumer Coordination Council through the Government of India. The concept comprises Declaration of commitments by every public service provider that the services provided by it will be of quality, and of requisite standard, which will meet the requirements of choice, accountability and transparency, and be of the value relating to the expenditure incurred by the recipient of service.

Certain State Governments and Union Territories propagated the concept and succeeded in publishing the CITIZENS CHARTERS of a number of their organisations and institutions. The effort made was undoubtedly praiseworthy because total of over 300 organisations/institutions pronounced and published their Citizens Charters. However, these Charters remained merely published documents and the concept did not penetrate to the people for whose benefit these had been prepared and published. There has in fact been evidence of complete apathy in the follow-up and monitoring of these Charters for giving practical shape to the commitments made in them.

We have, therefore, considered it necessary to put forth this concept in an appropriately revised form, for ensuring that Declarations made by the concerned organisations/ institutions are published in simple words, briefly, and the concept reaches the people and they are encouraged to take benefit of the commitments and ensure the fulfillment of these by the concerned organisations/ institutions.

We are addressing this letter to all State Governments/ Union Territories communicating to them the new concept, requesting them to initiate effective action for issue of “DECLARATION OF PUBLIC SERVICE COMMITMENTS” by every organisation/ institutions and government department providing public service, forwarding to them a comprehensive note for translating this concept into requisite action, also enclosing two samples of suggested Declarations. Copies of these are enclosed.

We request that the Ministries and Departments of the State Governments/ Union Territories which are providing any public service should be directed to take action on the lines indicated in the enclosures. We hope that this matter will be followed up with all service providers and the “DECLARATION OF PUBLIC SERVICE COMMITMENTS” will be got issued and published within a prescribed period.

We would be grateful for information about the consideration of this proposal and for issue of requisite instructions to the service providers. It will be very useful if we are provided a list of service providers under the charge of respective Ministries and Government Departments.

We have requested the Government of India to take action on similar lines in relation to the service providers operating under the charge of their Ministries and Government Departments. We earnestly hope that the Central Government and the State Governments/ Union Territories will initiate the processes which will in the coming weeks translate the proposal into concrete action.

We would be grateful for information about the action taken.

Yours faithfully,  
Sd/-

H.D. Shourie  
Director

**SUGGESTED NOTE FOR TRANSMISSION TO EVERY SERVICE PROVIDER ALONG  
WITH TWO SAMPLES OF DECLARATIONS**

**DECLARATIONS OF PUBLIC  
SERVICE COMMITMENTS**

The public interest organisation COMMON CAUSE has initiated the proposal that every service provider in the country, comprising any institutions, organisations and Government Departments functioning under Central Government or State Governments should undertake and communicate to the people that the services provided will be of appropriate quality and of requisite standard which will meet the requirements of choice, accountability, and transparency, and be of the value relating to expenditure that is incurred by the recipient of the services.

This concept is not new, but it is being put forth in terms and in the shape that is understandable by the people. This concept implies that institutions and organisations which operate under the charge of Central Government or a State Government / Union Territory of the nature of hospital, bank, railways, telephone authority, electricity supply company, municipal body, public works department, postal authority, telegraph office, transport authority, water works, public distribution office, and such others which exist for providing services to the people, must ensure that the service provided by them is of the quality and standard for which they have been established or for which the recipients of service are being charged. Every provider of service must be held responsible for the provision of its services, and there must be transparency in operation and standard of efficiency.

For spreading the implications of this concept to the people we feel that the appropriate term given to it should be "OUR PUBLIC SERVICE COMMITMENTS" (equivalent in Hindi "HAMARA JAN SEWA KA SANKALP"). This appellation is the description of commitment that each one of the service providers would provide for conveying to the people in general and recipients of the services.

This concept has hitherto been promulgated and published in the shape of "CITIZENS CHARTER" which evolved from what was promulgated in the U.K. about a decade ago by the then Prime Minister, John Major. Arising from the initiative taken by the Consumer Coordination Council, and promoted by the Government of India, "CITIZENS CHARTERS" have been charted out and published by over 300 organisations and institutions and Union Territories. Some of these have done outstandingly well in pursuing the objectives of formulation of the Citizens Charters by providing the Services of proper standard in their areas, whereas in many other cases work has been noticeably tardy and even insignificant. Government of NCT of Delhi, for instance, succeeded in getting as many as 51 Citizens Charters issued by practically all cognizable organisations. Governments of Haryana and Himachal Pradesh are reported to have got only one single Charter each



promulgated, and Governments of Karnataka, Maharashtra, Rajasthan and Punjab succeeded in formulating upto about 10 Charters each. Quite a few States apparently defaulted in pursuing this objective.

We have made a detailed study of spread of the concept, formulation of Charters, omissions and failures where these are in evidence, and the important issue of whether this initiative and effort has yielded positive results. The main question is whether the service providers, which have issued these Charters, have actually translated these into practical reality or whether these have been only documents put forth and publicised for complying with the directions received. Information gathered from various sources communicate that the concept of Citizens Charters has remained merely as printed documents; they have not penetrated to the people for whom the Charters were formulated; the Charters spelt out by service providers have either decorated some office walls where they have been pasted or have given the opportunity to some organisations like New Delhi Municipal Council of having brought out a glossy, impressive publication of 60 pages, with impressive Cover; it has apparently not reached widely to the people.

We feel that stage has come when all the Ministries and Departments of the Government of India, and of the State Governments and Union Territories, should take following action for preparation of their Declarations of Public Service commitments published by every organisation, institution and public oriented government department, and for spreading the concept of follow-up of their declarations :-

- (i) Identify all organisations, institutions and operative Departments which provide public service of any nature, and secure their particulars;
- (ii) Translate the title "DECLARATION OF OUR PUBLIC SERVICE COMMITMENTS" in local language, (Hindi equivalent can be "HAMARA JAN SEVA KA SANKALP").
- (iii) Each one of these organisations and institutions should be directed to urgently take up the task of preparation of its "DECLARATION OF PUBLIC SERVICE COMMITMENTS".
- (iv) The DECLARATIONS should normally be of only two or three pages, folded in the shape of a pamphlet, drafted in simple language, for easy understanding by the people, and conveying the basic commitments which the service provider makes for ensuring the provision of stipulated services to the people. Photo-copies of some samples can be communicated to every organisation and institution for facilitating their task of drafting the DECLARATION. We attach herewith two rough samples of the DECLARATION which should be prepared and widely spread among the recipients of the service.
- (v) These DECLARATIONS should be publicised as PUBLIC SERVICE COMMITMENTS so that the people get acquainted with the commitments made in the documents and they start expecting and demanding the supply and availability of services of the prescribed standard.
- (vi) Where any bills are issued by the concerned organisation or institution or where any receipts are issued, it will be desirable to print the DECLARATION of the organisation on reverse of the Bill/ Receipt. Issue of the Declaration should also be displayed in a poster pasted at a suitable place in the office of organisation/institution.
- (vii) Organisation/institution should ensure that prompt and effective action is taken if any complaint is received regarding the inadequacy or non-provision of service provided by the organisation/institution. Efforts should be made to publicise the action taken on the complaint, for people to be informed that the organisation / institution has taken prompt action on the complaint.
- (viii) Initially on monthly basis, and later on quarterly basis, the concerned organisation/ institution should monitor and examine whether there has been any deficiency noticed in the provision of service and whether necessary action has been taken in case of any deficiency, and steps should also be taken to avoid recurrence of such deficiency.
- (ix) Report should be submitted on six-monthly basis by the organisation/ institution to the concerned Government Department about the implementation of these suggestions.
- (x) These six-monthly Reports received by individual Departments and Ministries will enable compilation of the Report for submission to the Chief Minister of the State/ Union Territory, and to the Cabinet Secretary for information of Prime Minister in case of Central Government.

**SAMPLE OF THE DEPARTMENT OF TELEPHONE DEPARTMENT IN  
RELATION TO THE TELEPHONE SERVICE**

**DECLARATION OF  
OUR PUBLIC SERVICE COMMITMENTS**

We will continue to strive to improve our telephone service, and to immediately remedy any faults or failures which come to our notice or where we receive any complaint, through telephone or by letter. Our objective will be to ensure that the subscribers receive fully satisfactory service and that if there is any complaint, it should be promptly attended to and the Complainant is fully satisfied. In particular, we wish to emphasize the following in relation to our commitments of maintenance of our service standards:-

- (i) We have installed an automatic system for dealing with any complaints of (a) absence of telephone signal, (b) fault in the operation of any telephone connection, (c) enquiry about any particular telephone in the area of our operation, (d) supply of information about change of telephone number of any subscriber \_\_\_\_\_, Any disruption noticed in the operation of automatic system will be remedied within two hours of bringing it to notice. If a user notices a fault it should be communicated to the Telephone Office at Telephone No. \_\_\_\_\_ or it should be communicated by letter addressed to \_\_\_\_\_. We will strive to remedy the fault within the shortest possible time, taking into account the nature of fault including disruption of a telephone wire or pole.
- (ii) We send Bills to subscribers on two-monthly basis. If an incorrect Bill is received by any subscriber, complaint should be communicated on telephone to \_\_\_\_\_ or through letter addressed to \_\_\_\_\_. The fault will be remedied within two days. If defect relates to alleged overcharging in any Bill, the details should be supplied, preferably by letter addressed to \_\_\_\_\_. The defect will be attended to within two days and reply will be sent to the subscriber.
- (iii) If the payment of the Bill is not received by the concerned Telephone Office before the prescribed date, the subscriber will be informed on telephone (or through letter if necessary) and the prescribed rules in this behalf will be observed; if disconnection has to be resorted to, on account of non-payment of the Bill even after lapse of the prescribed notice, the telephone connection will be restored within one day after the payment has been received.

**SAMPLE OF THE DECLARATION OF A MUNICIPAL BODY IN RELATION  
TO ROAD CONSTRUCTION AND MAINTENANCE**

**DECLARATION OF  
OUR PUBLIC SERVICE COMMITMENTS**

We \_\_\_\_\_ the Roads Maintenance Department of the Municipality of \_\_\_\_\_ provide service of maintenance of roads in the areas of the MUNICIPALITY. Our objective is to ensure that all our roads are satisfactorily maintained, they are continuously inspected by our road maintenance staff, and that any deficiencies noticed on any of the roads are immediately attended to, so that the pedestrians and vehicular traffic are in no way inconvenienced or disrupted. In particular, the following problems arising in relation to any of the roads will be attended to within the time specified hereunder:-

- (i) Any pits, debris collection, breakages or surface spoilage \_\_\_\_\_ will be attended to within four hours.
- (ii) Obstruction caused due to any accidents will be got cleared, in consultation with Police where necessitated, within four hours so that vehicular traffic is not inconvenienced.
- (iii) Absence of any man-hole Cover will be remedied within four hours.
- (iv) Obstruction caused in any side-drain in the vicinity of the road will be cleared within four hours.
- (v) Resurfacing of the road will be carried out at prescribed regular intervals so that roads remain in satisfactory condition for public convenience.

If a citizen has complaint about condition of the road and its non-maintenance in relation to the commitments made in this Declaration, he should kindly inform the undersigned on telephone No. \_\_\_\_\_ or write to the following \_\_\_\_\_ address \_\_\_\_\_.

## CRIMINALISATION OF POLITICS

Elections were recently held in the States of Manipur, Punjab, Uttar Pradesh, and Uttaranchal. There were reports that the candidates sponsored by certain parties adopted dubious means to garner votes. Money and muscle power were used by some candidates and quite a few of them are stated to have had criminal records. A newspaper report stated that there were as many as 910 candidates in the electoral fray with criminal cases against them.

COMMON CAUSE has been previously highlighting the unfortunate prevalent problem of criminalisation of politics. High Court of Delhi recently delivered an important judgement directing the Election Commission to obtain complete details about the criminal past, and pending criminal proceedings against the prospective candidates. We requested the Union Home Minister and Union Law Minister to initiate steps to implement the directions given by Delhi High Court. We also wrote to the Chief Justice of Supreme Court of India requesting the Hon'ble Court to take suo moto action in the matter of criminalisation of politics on the basis of this news item. The submission made to the Supreme Court is reproduced below.

### IN THE SUPREME COURT OF INDIA

Hon'ble the Chief Justice of Supreme Court of India,

From COMMON CAUSE, a Society registered under the Societies Registration Act, the undersigned Petitioner, Director of COMMON CAUSE, is conveying a matter of extreme concern for the people, comprising news that a number of persons of criminal record have filed nominations for the forthcoming elections in Uttar Pradesh. The attached photocopy of the write-up in the Times of India of 3rd February, 2002 indicates that "there are as many as 910 candidates in the electoral fray with criminal cases against them. Official records indicate alarming 20 percent increase in the number of criminals fighting polls as compared to previous elections. Some have as many as 27 cases lodged against them." The reproduced photograph appearing below this write-up is stated to be of a person filing his nomination papers who is reported to be "a listed Bihar gangster and a close aide of contract killer".

This write-up is stated to be indicative of serious subversion of democracy in the country and prevalence of anarchy. It is being claimed that mere charge-sheeting of a person is not proof of guilt.

COMMON CAUSE is submitting this matter to the Hon'ble Court to take suo moto action on the above-mentioned news. Because of the advanced years (age 90 years) it is not possible for the Petitioner to personally appear before the Hon'ble Chief Justice for making the above request and accordingly he is submitting the request through this communication, asking Shri Prashant Bhushan and Smt. Kamini Jaiswal, Advocates, to represent COMMON CAUSE to request the Hon'ble Court to issue direction to the Union Ministry of Law & Justice (through the Secretary) and the Chief Election Commissioner to immediately ascertain and place before the Hon'ble court full material regarding the authenticity of the above-mentioned news and indicate the particulars and nature of crimes reported to have been committed by the candidates mentioned in the write-up, the stage of investigation of reported crimes, and the charges where they have been framed against the mentioned candidates. Copies of this communication are being sent to the Union Ministry of Law & Justice (through the Secretary) and the Chief Election Commissioner.

The Petitioner is sending copies of this communication to the above-mentioned Advocates, Shri Prashant Bhushan and Smt. Kamini Jaiswal requesting them to appear before the Hon'ble court and make the above submission.

Respectful regards to Hon'ble Chief Justice,

Sd/-  
H.D. Shourie  
Petitioner

## PENSIONS OF MPS

COMMON CAUSE had filed Writ Petition (No. 984 of 1991) in the Supreme Court challenging the sanction of pensions to Members of Parliament. It was contended that the pensions to MPs are being given under an amendment which had been made in 1976 in relation to the previous Act of 1954 which regulated the payment of salaries and allowances to MPs. Authority for the pensions is stated to have been derived from Article 106 of the Constitution which authorises only "salaries and allowances" and not pensions. Likewise, the members of State legislatures are entitled only to "salaries and allowances" under Article 195 of the Constitution. Where the privilege of pensions was to be accorded to the specific authorities named in the Constitution the word "pension" was clearly introduced in the words "salaries, allowances and pensions" of the judges of High Court, and similar dispensation in Article 148 relating to the Comptroller and Auditor General and Article 322 relating to members of Public Service Commission. The word "pensions" does not appear in the provisions regarding the salaries and allowances of the Chairman, Deputy Chairman and Speaker and Deputy Speaker (Article 97), Attorney General (Article 76) and Advocates Generals of the States (Article 165).

When the Petition came up before the Bench the Judges decided that this matter should be referred to the Constitution Bench. The Petition languished for over ten years and came up for hearing before the Constitution Bench in November, 2001. The Constitution Bench observed that the Parliament was competent to sanction pensions to MPs under the residuary Entry 97 of List I. The judgement given by the Supreme Court is reproduced hereunder:

### JUDGEMENT

The Salaries and Allowances of Members of Parliament Act, 1954 was amended by the Salaries and Allowances of Members of Parliament (Amendment) Act, 1976; thereby the principal Act was renamed the Salaries, Allowances and Pension of Members of Parliament Act and Section 8 A was introduced giving to Members of Parliament pensions on their satisfying certain conditions stated therein. The said section 8A has been amended from time to time and the rates of pension originally indicated have been increased.

These writ petitions challenge the constitutional validity of the said Section 8A and they have been directed to be heard by a Constitution Bench.

Our attention is drawn by Mr. Prashant Bhushan, learned counsel for the petitioner in W.P. (C) No. 984/1991, to the provisions of Articles 106 and 195 of the Constitution. Article 106 reads as under:

"106, Salaries and allowances of members:— Members of either House of Parliament shall be entitled to receive such salaries and allowances as may from time to time be determined by Parliament by law, and until provision in that respect is so made, allowances at such rates and upon such conditions as were immediately before the commencement of this Constitution applicable in the case of members of the Constituent Assembly of the Dominion of India."

Article 195 makes similar provision in respect of the Members of Legislative Assemblies and Legislative Councils of States. It is pointed out by Mr. Prashant Bhushan that whereas legislators are thereby entitled to salaries and allowances, there is no provision in regard to the payment of pension to them. The provisions of these Articles are contrasted by learned counsel to the provisions of Articles 125 and 221. Article 125(2) says that Judges of the Supreme Court shall be entitled to such privileges and allowances and to such rights in respect of leave of absence and pension as may from time to time be determined. There is a similar provision in regard to High Court Judges in Article 221. Our attention is also drawn to Article 148 which makes reference to the pension of a Comptroller and Auditor General. Learned counsel's argument is that where pension is to be paid to a constitutional functionary, the Constitution makes specific provision and that, therefore, in not making such specific provision in regard to Members of Parliament under Article 106, it must be assumed that they are not entitled to receive pension.

Learned counsel drew our attention to the judgement of this Court in D.S. Nakara & Ors. Vs Union of India [1983(1) SCC 305] where it has been said that pension is a term applied to periodic money payments to a person who retires at a certain age, considered the age of disability, and it usually continues for the rest of the natural life of the recipient. In the case of Members of Parliament, it is submitted by learned counsel, they do not retire and they are not always of an age of disability when they demit office.

Reference was made by the petitioner in W.P.(C), No. 246-1993, appearing in person, to the provisions of Article 14 and it was submitted that there was discrimination in favour of Members of Parliament by giving them pension when, unlike Judges, they were not subject to the process of impeachment.

The learned Attorney General, appearing for the respondents, drew our attention to Entries 73 and 97 of List I of the Seventh Schedule to the Constitution. Entry 73 empowers Parliament to legislate in respect of the salaries and allowances of Members of Parliament. Entry 97 empowers Parliament to legislate in respect of any matter not enumerated in List II or List III, that is, in the State and Concurrent Lists. The learned Attorney General submitted that the payments empowered under the said Section 8A were covered by the words 'salaries and allowances' under Entry 73 and that in any event, they were covered by the residuary Entry 97 of List I. He also submitted that Article 106 was an enabling provision and could not be read as imposing a bar upon the receipt of pensions by Members of Parliament.

The issue before us is squarely one of competence, namely, the competence of Parliament to enact the said Section 8A. We need not go into Entry 73 of List I for we are in no doubt that such competence is conferred upon Parliament by the residuary Entry 97 of List I, and there is no provision in Article 106 or elsewhere that bars the payment of pension to Members of Parliament.

In our view, therefore, the writ petitions are devoid of merit and must be dismissed.

No order as to costs.

November 22, 2001

(Signed by CJI and four judges)

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THREE WOMEN die and arrive at the Pearly Gates, where they are met by Saint Peter. "Did you avoid sex on the earth?", he asks the first lady.

"I absolutely avoided it," she replies.

"Very good", says Peter. "Here is a golden key, it will open the doors of Paradise."

Then he turns to the second woman and asks, "What about you?"

"Well", she replies, "about half and half".

"Okay", says Peter. "Here is a silver key, it will open the doors of Purgatory".

Then he asks the third woman, "What about you?"

"Me ?" she replies. "I did all the things you can imagine and also many things you can't imagine!"

"Great !" says Peter. "Here is the key to my room, I'll be coming there in a minute".

...

TWO MEN met in heaven. "What did you die of?" asked the one.

"I died of extreme cold. And what about you?"

"I came home from work and heard my wife talking to a stranger. On entering the house I searched every nook and corner of the house but could not find anyone anywhere. I felt so guilty of my behaviour that my heart failed."

On this, the other one said, "Had you cared to open the fridge, neither of us would have died."

...

A YOUNG man walked into a drugstore that was being tendered by the owner's somewhat prudish wife. "May I have six contraceptives, miss?" he asked.

"Don't 'miss' me," she replied.

"O.K." the eager fellow said, "make it seven".

...

## CHANGE IN BILLING SYSTEM OF MTNL

We had <sup>was filed</sup> filed the Writ Petition in Delhi High Court against the decision of Mahanagar Telephone Nigam Limited, notified in the newspapers, that they would hitherto not provide to subscribers the details of STD (Subscriber Trunk Dialling) and ISD (International Subscriber Dialling) calls in the bills. The Public Notice stipulated that those subscribers who want such details can request the designated officers. In our Writ Petition we had inter alia stated that the MTNL may start demanding additional charges from those who desired the details of STD and ISD calls. There was also the possibility and scope of misuse and manipulations by subordinate staff.

The Writ Petition was published in the ~~previous issue~~ of our Journal.

This Writ Petition (No. 7193 of 2001) came up for hearing before the Delhi High Court on 21st December, 2001. Decision was given by the Court on the basis of affidavit filed by MTNL wherein they had stated that there was no proposal to levy additional charges from the subscribers for the details of STD/ISD calls. Ostensibly there is no commitment by MTNL that in future such demand would not be made. The Court disposed of our Petition by the Order reproduced hereunder:

"Grievance made in this petition filed as PIL by the COMMON CAUSE Registered Society is about the decision taken by the respondents to discontinue the practice of sending to the customers the details of Subscriber Trunk Dialling and International Subscriber Dialling calls and to continue providing the details thereof in the telephone bills. Direction has been sought against the respondents not to discontinue the practice which has been prevalent for quite some time. Mr. Ravi Sikri, appearing for the respondents has drawn our attention to the note appended to the public notice stating that the subscribers are notified to get the STD/ISD details mentioned in their bills on request being made in this respect, to the Area Nodal Officer. Names of Nodal Officers and their designations have also been notified. It has also been stated by him on instructions that for the time being, there is no proposal to charge any amount for providing details of STD/ISD calls provided in bills on request of the subscribers. Keeping in view the said statement of the learned counsel for the respondent and the contents of the public notice, we are not inclined to entertain this petition. No order needs to be passed against the respondents."

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A FOREIGN delegation on a visit to India were being shown round the capital. In the evening they were taken to the Secretariat for a panoramic view. Came the closing hour and thousands upon thousands of clerks poured out of their offices. The place was crammed with bicycles and pedestrians.

"Who are all these people?" asked the leader of the delegation.

"They are common people of India, the real rulers of the country", proudly replied the Minister conducting the visitors.

A few minutes later came a fleet of flag-bearing limousines escorted by pilots on motor-cycles followed by jeeps full of armed policemen. "And who are these?" asked a delegate.

"These are us," replied the Minister with the same pride, "the servants of the people."

•••

A FOURTH son ~~was~~ born in the home of the family. The father invited his friend to join the celebration and choose a name for the new born child.

"What names have you given to the three elder boys?"

"One is Rahmat Elahi – (by God's kindness), the second Barkat Elahi (by God's grace) and the third Mahbubu Elahi (beloved of God), "Replied the proud father.

The friend pondered over the names for a while and replied, "I suggest you name your fourth son, Bas Kar Elahi (God, that is enough)."

•••

## DELHI RENT ACT

COMMON CAUSE had filed a writ petition in the High Court of Delhi praying for issue of direction to the Government for notification of Delhi Rent Act, 1995 which was passed by the Parliament and assented to by the President of India. The two Judges Bench had divergent views, and after referring the matter to an umpire Judge the petition was disposed of with the observation that since a revised Bill 1997 is before the Joint Parliamentary Committee, it may not be possible to issue any direction at that stage. However, the Bench observed that the Petitioner can approach the Supreme Court of India. Accordingly, we filed a petition in the Supreme Court of India in April 2001 which has not yet come up for hearing.

Meanwhile, in Civil Writ Petition No. 2783/97 filed by Raghunandan Saran Ashok Saran (H.U.F.), a bench of Delhi High Court consisting of Justice Anil Dev Singh and Justice O.P. Dwivedi has held sections 4, 6, & 9 of the Delhi Rent Control Act, 1958, as ultra vires the Constitution of India. We reproduce below the operative part of the judgement.

"Applying the same rationale as was applied by the Supreme Court in Vishwanath Acharya (supra) and the Kerala High Court (in 1995 (2) KLT 848) (supra), we are of the view that sections 4, 6, and 9 of the Delhi Rent Control Act, 1958, dealing with determination and fixation of standard rent, which have not taken into account the huge difference between the cost of living in the past and the present time, do not pass the test of reasonableness. The provisions are archaic. They contain no mechanism to compensate the landlords to offset inflation. There ought to be a mechanism to increase the agreed rents keeping in view the price index. The landlords are being treated arbitrarily, unreasonably and unfairly affecting their livelihood and in turn right to life and avocation. These provisions relating to standard rent, therefore effect article 14, 19(1)(G) and 21 of the Constitution.

Accordingly the writ petition succeeds. The rule is made absolute and sections 4, 6, and 9 of the Delhi Rent Control Act, 1958, are held ultra vires the Constitution."

Another significant development in connection with Rent Act is that a case is presently before the Supreme Court wherein provisions relating to "Standard Rent" and related matters stand challenged with reference to the provisions of Maharashtra Rent Control Act. This case, filed by certain property owners of Mumbai, was recently heard by seven-member Bench of the Supreme Court, and has now been referred to nine-member Bench. Important points raised in this case refer to the provisions of Article 31(C) of the Constitution. Final judgement in this matter is likely to have nationwide impact on the Rent Control laws of various States.

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IN THE first year of marriage: man speaks and woman listens.

In the second year woman speaks and man listens.

In the third year, they both speak and the neighbours listen.

...

IN AN up-scale pet-supply store, a customer wanted to buy a red sweater for the dog. The salesman suggested that she bring the dog in for a proper fit.

"I can't do that!" the customer said. "The sweater is going to be a surprise!"

...

A TOURIST to India hired a clever guide to take him around Delhi and Agra. When taken to Red Fort at Delhi, he admired the architecture and asked how many years it took to build. The guide replied, "20 years". The tourist remarked, "You Indians are a lazy lot. In my country, this could have been built in five years." At the Taj he again admired its beauty and asked how many years it took to build. The guide recounted the period considerably and replied "Only ten years, sir". The tourist retorted: "Didn't I say you Indians are slow workers: In our country we can construct such buildings in two-and-a-half years." Same story everywhere. He admired the architecture but reduced the period to 1/4th. The guide got irritated. When the taxi was nearing Qutab Minar, the tourist asked: "What is that tower?" Came the reply, "Sir, I will have to go and find out. When I was passing this way last evening, there was nothing there."

...

## OUR GOVERNMENTAL SYSTEM MUST IMPROVE

A very important matter relating to urgent need of introducing administrative reforms was raised in previous issue of our periodical. The views expressed by some very senior retired bureaucrats, both IAS and IPS, were also published. Subsequently, we had written on 14th January, 2002 to the Hon'ble Prime Minister of India, Chief Ministers and Chief Secretaries of all States and Union Territories highlighting the shortcomings, and making specific suggestions to remedy the prevailing malaise.

Some of the readers have written to the authorities concerned. We have also received responses from some Chief Ministers/Chief Secretaries of certain States/Union Territories. The Central Government has already initiated some steps for providing good governance. With a view to inform the readers of the initiatives taken by the Central Government a note written by Shri V.K. Agnihotri, Additional Secretary to Government of India, is reproduced below.

### CURRENT INITIATIVES FOR GOOD GOVERNANCE IN INDIA

V.K. Agnihotri

Additional Secretary to Government of India

With the objective of increasing accountability, transparency, and responsiveness of the administration, the Government of India had convened a Conference of Chief Secretaries in November 1996. The ensuing national debate on the issue of governance culminated in an Action Plan for Effective and Responsive Government, which was discussed and adopted at a Conference of Chief Ministers of the States in May 1997. The three main themes dealt with in the Action Plan were: (i) accountable and citizen-friendly government; (ii) transparency and right to information; and (iii) improving the performance and integrity of the public services. The specific initiatives recommended under each of these themes in the Statement adopted at the Chief Ministers' Conference and the action taken thereon is highlighted in the following account.

#### Accountable and Citizen-friendly Government

**Citizens' Charters:** Ministries/departments/organizations with considerable public interface have been enjoined to formulate citizens' charters indicating broadly the quality of service the people would be entitled to within a specified time-frame. Sixty-eight Central Government organizations have so far issued Citizens' Charters. About 21 States / Union Territories too have issued about 366 Citizens' Charters in respect of organizations with a large public interface. The Department of Administrative Reforms & Public Grievances has conducted evaluation studies of certain charters through internal as well external agencies. Recently, on an experimental basis, a hand-holding exercise for exemplary implementation of citizens' charters in three public sector banks has been taken up. Regional Seminars on Citizens' Charter are being organized to share experiences and document good and avoidable practices. A scheme for awarding Charter Mark is being developed in association with consulting agencies.

**Redressal of Public Grievances:** Machinery for redress of public grievances has been strengthened with the appointment of senior officers as Directors of Grievances in every Ministry/Department, fixing of time limits for disposal of public grievances, development of a software for computerized, web-enabled and networked the monitoring of public grievance redress mechanism (PGRM) etc. A Standing Committee of Secretaries to Government of India has been constituted in 1998 under the chairmanship of the Cabinet Secretary to monitor the public grievance redress mechanism of the Central Government. It has so far reviewed in detail the PGRM of 30 Ministries/Departments. A compendium of Guidelines has been published. A web-enabled version of PGRM software is being installed in all Ministries / Departments to provide instant access to the citizens / clients.

**Review of Administrative Laws:** A Commission on Review of Administrative Laws was constituted in 1998. The Commission reviewed over 2500 laws and recommended repeal of about 1400 laws and amendments to about 241 laws. Action to amend and repeal the laws in the light of the recommendations of the Commission has been initiated in most of the cases under the supervision of a Standing Committee. Action to consolidate subordinate legislation in a time bound manner has also been taken up.

**People's Participation, Decentralization and Devolution of Powers:** People's participation has been sought to be ensured by providing constitutional status to local bodies. This third tier of governance has been strengthened through decentralization and devolution of powers and resources. In pursuance of the adoption of the Action Plan on Effective and Responsive Government in the Chief Ministers' Conference, State level seminars, symposia and declamation contests are being organized to create awareness on the theme of Accountable and Transparent Administration and to gather and disseminate the views of different sections of the society on it. Seventeen such events had been organized till January 2001, at the State headquarters in collaboration with the States. It is proposed to organize a few more such events, especially in the North-Eastern States in association with the Ministry of Home Affairs, and end up with a national event in Delhi in March 2001.



### Transparency and Right to Information

**Freedom of Information Bill:** A Freedom of Information Bill has been drafted. Simultaneously, it is proposed to suitably amend the Official Secrets Act and the civil servants' Conduct Rules. The Bill has been introduced in Parliament on 25 July 2000. Information and Facilitation Counters (IFCs) (including 'May I Help You' Counters) have been set up in 75 ministries/departments/organizations of the Government of India. They have been established outside the security zones of the offices to increase accessibility to information in the public domain for the citizens. A comprehensive study of the functioning of these IFCs was recently undertaken by a team of the Department of Administrative Reforms & Public Grievances.

**E-Governance:** Use of Information Technology along with re-engineering of governmental processes is being promoted in order to improve efficiency and effectiveness of Government and ensure transparency and accountability. A High Powered Committee, with the Cabinet Secretary as its chairperson, has been constituted for this purpose. It is serviced by an Executive Committee chaired by the Additional Secretary (Administrative Reforms & Public Grievances). More details about it are provided in a later section of this paper.

### Improving the Performance and Integrity of the Public Services

**Statutory Status to Central Vigilance Commission (CVC):** In order to strengthen the vigilance machinery and provide for close networking of various related agencies, the Central Vigilance Commission (CVC) has been granted statutory status and the Central Bureau of Investigation (CBI) and the Enforcement Directorate for economic offences have been brought within its purview. A Bill to replace the Ordinances issued for this purpose is with the Parliament and has been referred to a Joint Select Committee of the two Houses. The existing rules and procedures for departmental inquiries and vigilance proceedings of Government employees are being streamlined in order to enable immediate and exemplary prosecution and removal of corrupt officials, and for weeding out staff of doubtful integrity. The CVC has displayed on its website the names of all senior officials against whom it had recommended action for corrupt practices.

**Lokpal Bill:** In order to deal effectively with corruption in high places and the nexus among politicians, civil servants, business and criminals, a Lokpal Bill has been introduced in Parliament on 14 August 2001.

**Modernisation Scheme:** A plan has been in operation since 1987-88 to assist the Central Government Ministries and Departments to improve their work environment through adoption of functional lay out, creation of open offices to facilitate better supervision, better services to the people, more efficient management of data through reduction in paper work by using modern aids, such as computers, as well as cutback in cost and space, effective records management etc. Since its inception, an amount of Rs. 132.7 million has been disbursed to 269 proposals received from over 50 Ministries/Departments upto 31 March 2001.

**Award Scheme:** A scheme to reward Government employees doing good work has been introduced. It seeks to award the operational staff below the level of the Joint Secretaries for their meritorious services. The scheme is currently under revision.

**Code of Ethics for Civil Servants:** A Code of Ethics has been drafted with a view to promote sensitivity within the civil services to core values. The proposed Code will be in addition to the existing Conduct Rules. The Code has been prepared after extensive consultations and is under consideration of the Government of India.

**Security of Tenure:** Frequent and arbitrary transfers of public servants affect the ability of the system to deliver services effectively to the people. An institutional mechanism in the states on the lines of the Central Government to consider the proposals for transfer of senior civil servants has been recommended.

### New Initiatives

It is essential to deepen the existing agenda set by the Chief Ministers' Conference and to add a few initiatives which would provide the over-arching TQM approach. In order to make Citizens' Charter initiative impact more visibly on citizens' lives, it is necessary to focus more closely on their full and exemplary implementation in certain identified sectors.

**Rightsizing of Government:** It has been increasingly felt that the size of the government's workforce has grown enormously over a period of time and is having counter-productive effect on its efficiency and effectiveness. Certain across the board initiatives have been taken from time to time to reduce the size of the workforce. Efforts are now being made to identify functions, institutions and cadres of personnel, which have become redundant in the context of the changing role of the state on account of liberalization and decontrol. Ten Ministries / Departments (primarily in the commerce and industries sectors) were identified for the purpose. Work in respect of Ministry of Small Scale Industry & ARI, Department of Industrial Policy and Promotion, Department of Industrial Development, Department of Food and Public Distribution and Department of Consumer Affairs has been completed so far. Government of India (Ministry of Finance) has set up an Expenditure Reforms Commission in February 2000, inter alia to address the issue of rightsizing of Government of India. It has so far submitted two reports. A proposal for introducing a Voluntary Retirement Scheme for surplus employees has been prepared and restructuring of the Surplus Cell is proposed to be taken up simultaneously.

**Procedural Reforms:** The agenda for review of administrative laws etc. would need to focus on procedural systems impacting on the citizens as well as on the internal Government processes. Five committees on procedural reforms have been constituted to address issues of procedural delays in financial approvals, recruitment in general and appointments to senior positions in particular, vigilance matters and service litigation. Reports of all the committees have been received and are at different stages of processing.

**Information Technology in Government:** As information technology gradually permeates the working of the Central Government, a minimum agenda for e-governance has been drawn up with the assistance of the IT Managers designated in various Ministries and Departments on the lines of the Grievances Officers, Vigilance Officers etc. This minimum agenda inter alia ensures provision of a basic minimum infrastructure as well as certain Government to Government and Government to Citizen transactions. The progress of implementation of this Minimum Agenda is being monitored. An award for exemplary implementation of the Minimum Agenda is proposed to be instituted. Training programmes for capacity building of IT Managers are being designed.

As part of the recommendations of the Task Force on Information Technology, the Ministry of Personnel, Public Grievances and Pensions has been entrusted with the task of setting up of a National Institute of Smart Government. The Institute would attempt to raise societal awareness of and capability in smart governance by promoting policies and practices which reinforce 'hassle free' environment for the citizens. It would develop high impact e-governance applications in delivery of citizen services for the central and state governments. It would be the focal referral site for any information on solutions, benchmarks and best practices within the country and abroad. It would have a physical as well as virtual existence, moving gradually more towards the latter with the passage of time. It has been decided to set up the Institute at Hyderabad. A Business Plan for the Institute has been developed by NASSCOM and is under consideration of the Government.

Several Ministries/Departments and other Government organizations have instituted their websites. It is proposed to organize them into a portal in a user-friendly manner. This would enable the citizens to obtain information about as well as delivery of certain basic services from Government in a manner convenient to them. An award to recognise the best among government websites is proposed to be instituted.

The crux of e-governance, however, is in its citizen interface. The Department of Telecommunications has set up Customer Service Centres. The Central Passport Organization of the Ministry of External Affairs proposes to set up franchisee centres for collection of applications. A project is being prepared for setting up of multi-utility centres of Central and State Governments to provide certain value-added services to the citizens through one-stop non-stop shops (OSNSS). As regards the Central Government, the services such as payment of telephone bills, making application for telephone connections, filing income tax returns, submitting passport applications, making airlines and railway booking, availing of postal services, applying of school, college and university admissions etc. could be provided through these OSNSS. As far as the States are concerned, the services such as payment of electricity bills, supply of ration card, registration of vehicles, issue of driving licences, filing of First Information Report (FIR), obtaining of birth and caste certificates, issue of land holding certificate, etc. could be provided by these centres. A pilot centre of this type (TWINS) was set up in Hyderabad by the Government of Andhra Pradesh in 1999. It has now been launched as a state-wide initiative under the title e-seva (i.e. e-service). The Central Government proposes to support similar initiatives on a pilot basis in selected States. If possible, the Central and State multi-service centres could be integrated or at least located at the same venue.

**Dissemination of Good Practices:** Documentation and dissemination of good practices in order to encourage replication of success stories is being promoted through organization of lectures under the banner 'Ideas That Have Worked', and bringing out publications and documentaries, particularly on Information Technology in the service of the people. A documentary series to showcase best practices, including Information Technology in the service of the citizens, is also on the anvil.

**Quality in Government:** The concept of quality has been widely applied in private sector to improve the performance of organisations and to endow them with a competitive edge. The watchword is continuous improvement. The relevance of TQM in Government organisations has been highlighted by increasing focus on citizen friendly, transparent and accountable Government. Quality in Government has the potential of integrating the Citizens' Charter and Information Technology initiatives of the Government of India under a holistic umbrella.

The Ministry of Personnel, Public Grievances and Pensions is implementing a project on introducing TQM in Government initially in training institutions. The current project is funded by the Department of International Development, UK through the British Council Division. This is being coordinated by the Lal Bahadur Shastri National Academy of Administration, (LBSNAA), Mussoorie. The Department of Administrative Reforms and Public Grievances has made an arrangement in collaboration with the Quality Division of the Confederation of Indian Industries (CII) to introduce TQM practices in the Department of Administrative Reforms & Public Grievances. A section entitled 'Quality in Government' has been included on the Department's website (<http://persmin.nic.in/argp>) to provide details on this and other Quality initiatives.

A TQM seminar was organised on 6 August, 1999 to generate awareness about the concept of TQM among senior civil servants. The Department of Administrative Reforms and Public Grievances, in collaboration with the LBSNAA and the Quality Division of CII also organised a one-day concurrent session on 'Quality in Government' during the Seventh Quality Summit conducted by the CII from 17-19 November, 1999. This was repeated during the Eighth and Ninth Quality Summits on Service Quality (16-18 November 2000 and 28-30 November 2001). A Roundtable consultation on 'Quality in Government' was arranged during a CAPAM (Commonwealth Association for Public Administration and Management) Seminar organised in February 2000, to share experiences with the participating Commonwealth countries. In addition, an International Conference on Good Governance was organised on 30 November- 1 December 2000 to develop action agenda for the country on the themes of Leadership and the Management of Change, Operationalising Citizens' Charters, Information Technology in Government, and Rightsizing of Government, with the assistance of national and international resource persons and delegates. An International Conference is proposed to be organized from 5 to 9 November 2002 in New Delhi in collaboration with International Institute of Administrative Sciences on the theme of "Towards Quality Governance for Sustainable Growth and Development".

**Schemes of Administrative Reforms:** A new plan scheme to undertake pilot projects in administrative reforms has been sanctioned in the year 2000-01. Under this Scheme, inter alia, it is proposed to implement projects in collaboration with external / private agencies in the fields of evaluation and benchmarking, application of IT in government, research studies in administrative reforms, development of knowledge management systems, and assessment of quality in government. Projects for obtaining assistance for this purpose from World Bank, Asian Development Bank, Department for International Development, UK and Ford Foundation are at various stages of consideration.

### Refocusing the Strategy

There is need to carry forward the agenda outlined in the Statement adopted during the Chief Ministers' Conference held in 1997, and think more holistically in terms of reforming/reinventing government. The various initiatives taken so far have to be put in a proper perspective in order to accelerate the process and make the reforms sustainable.

**A Three Dimensional Model:** The first thing that government organisations would need to do is to identify the services they provide and their clients. This in itself would be a great step forward in terms of the private and public sector divide. Having done this, the next step would be to strive for customer / citizen satisfaction. International experiences have shown that information technology has a great potential in terms of increasing citizen satisfaction. E-governance not only speeds up decision making, but also provides for transparency and seamless delivery of services. The mantle of quality has to be put on in order to make things fall in place. This is the three dimensional model / paradigm of service quality being addressed by the Government of India.

In the light of the experience of countries like Australia, Canada, Malaysia, New Zealand, Singapore, the UK, the USA, etc. in introducing measures to improve the delivery of public services, it would be in the fitness of things to start an initiative for Capacity Building for Quality Government in India. Administrative Reforms is about problem solving and Total Quality Management (TQM) is a holistic approach to problem solving. It propounds that, in the first place, the Chief Executive of the organization must lead the problem solving initiative. In order to find the root cause of the problem we have to look at the processes rather than functional areas. Moreover, the improvement initiative has to be a continuous exercise rather a series of spurts and drives. Certain other components of TQM approach are: customer focus, stakeholder involvement, empowerment of employees, team work, data-driven decision making, benchmarking of best practices, etc. This approach would help improve the organizations in their entirety and would, therefore, be especially useful in revitalizing existing organizations by bringing about change in attitudes of employees and work culture through awareness building and training.

The over-arching TQM in Government initiative may also include development of a Charter Mark for Citizens' Charters and a public service excellence model, developing a system for evaluating the level of maturity of Central Government organisations in dealing with public grievances, benchmarking of best practices, and facilitating certain selected Central and State Government organisations to develop and implement TQM action plans. For this purpose, activities in the nature of awareness generation, capacity building, survey and documentation etc. would need to be organised. TQM is an approach to holistically reform organisations rather than introduce piecemeal changes through initiatives such as Citizens' Charters, review of laws etc. However, it is a long drawn out and difficult exercise. It is, therefore, recommended to promote this approach selectively in a few willing and able organisations on an experimental basis.

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WE'VE just received the results of a survey conducted to ascertain the various reasons men get out of bed in the middle of the night. According to the report, 2% are motivated by a desire to visit the bathroom and 3% have an urge to raid the refrigerator.

The other 95% get up to go home.

...

IT WAS their second anniversary: husband sent her flowers. He told the florist to write "Happy Anniversary, Year Number 2. Love" on the card. She was thrilled with the flowers, but not pleased about the card. It read "Happy Anniversary. You're number 2."

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## REMOVAL OF CORRUPTION

*S.P. Mathur, Additional Director Vigilance, Chennai.*

Corruption can take place in a variety of ways, more prominent of which could be classified as:

- a) Policy and Political level corruption;
- b) Vendor / Contractor related corruption
- c) State's revenue collection related corruption;
- d) Public Service related corruption.
- e) Improper enforcement related Corruption;
- f) Intra-organisational corruption.

This classification is independent of the departments and organisations.

The German NGO Transparency International has tried to give a relative measurement of prevalence of corruption in different countries through Corruption Perception Index (CPI). In absolute terms, the total quantum of corruption has however, never been assessed or attempted to be known, even using statistical tools. If the popular perceptions were to be reckoned for summing up corruption instances, it could be in the region of a mind boggling 7 or even 8 digit figures. Without euphemism, it means millions of cases per year. We have, unfortunately come to such a pass that in several organisations, it could be safely said that unless proven otherwise, every transaction of major purchase/contract or revenue assessment / collections or issuance of certificate / licence etc, is a case involving some form of corrupt practice or the other. A case of corruption need not be given a softer title like 'irregularity' or 'malpractice', just because the prevalence is rife or the perpetrator is a dignified authority.

Likewise at national level, the generation of black money annually could be measured in only astronomical 12 digit figures; (or in plain-speak, it means multiples of hundreds of billions of rupees). We can barely gauge the real contour of such fast spreading cancer. The twin evils of corruption and black money, conjointly pose a serious challenge to our civilized order or probably to the survival of the nation state itself, as documented by serious authors.

### PERCEPTION OF VIGILANCE (THROUGH KNOWLEDGE MANAGEMENT)

The D.V.A.C. on its part is in the process of making history and has already set out a clear mission for itself: "Prevention of deviance and promotion of excellence".

It is, in fact, creating a new paradigm: excellence to supplement Vigilance, presently, and to supplant it prospectively. It is believed that this is the only way our organisations or the States and for that matter the country could survive, much less thrive, in an extremely competitive global scenario obtaining in third millennium. At this defining moment, the DVAC would like to tackle corruption, of the varied hues, through innovative rather than stereotyped measures.

- a) **Educative vigilance or promotional vigilance** - Interaction with experts in various fields, for preparation of ethical/moral literature for wider circulation.
- b) **Public enlightenment** - Conceptualisation and Operationalisation, in dynamic mode, of public enlightenment, including knowledge of functioning of various departments / organisations. Such information (provided through print medium or web site) could include the policies, the plans, the projects, the programmes, the schemes, the regulations, the routine notices, etc, relating the organisations on one hand and rights and responsibilities of the people, on the other. Citizens charter, preferably in structured and uniform format, of various departments/organisations, could be an integral component of this system. Much of it could be covered under Right of Information Act of State Governments and a similarly drafted Central Bill.
- c) **Public empowerment & participation** - Creation of high-tech interface between authorities and the general public for redressal of grievances, or more broadly speaking for communication of ideas, comments, suggestions, etc, in structured and unstructured form. Varied versions of such systems are projected to help bring about much-hyped e-democracy, in the country, which is the truly participative / representative form of democracy desired by one and all.

- d) **Research and follow up on Vigilance matters** - Interaction with educational and research institutions for taking up purposeful and actionable research projects with special focus on areas related to prevention of revenue leakage and wrongful expenditure, as also for enhancement of public satisfaction.
- e) **Organisation level vigilance and anti-corruption planning**  
Creation of comprehensive Appreciation Reports for all the organisations, with the help of Chief Executive Officer/Head of Department (CEO/HOD) and Central Vigilance Officer/ Vigilance Officer (CVO/VO) of the departments/ organisations. Prevention of corruption is to be integrated with promotion of excellence in all the organisations.
- f) **Vigilance on use of discretionary powers** - Liaison with experts for the creation of highly sophisticated computer based systems, including expert systems, which could minimise, if not altogether eliminate, exercise of unjustified discretion on part of various authorities, for making decisions viz. on purchase/contracts, or on placement/postings of officials etc.,. This exercise could include use of some of the well established management principles like, cost benefit analysis, opportunity cost concepts, sensitivity analysis, regression analysis, pay-off matrix etc., the way such concepts are used in modern organisations and corporations including MNCs which operate with, or beyond ISO 9000 certification.
- g) **Use of intelligence for Vigilance** - Integration of intelligence received from open and confidential sources is of crucial importance for law enforcement agencies including Directorate of Vigilance to act efficiently and effectively in detection and investigation of corruption cases. Use of audit reports is of prime importance, as information is compiled quite professionally and thoughtfully in such reports. Systematic study of such reports covering larger periods and wider areas could help figure out certain trends and thus be useful in formulation of the correct policies and programmes for prevention of recurrence of various corrupt practices.
- h) **HRD for law enforcement officials** - (i) Creation of e-learning processes and systems (integrated with e-testing and valuation modules) for officials of all levels of different departments/organisations; (ii) Creation of Web-based R&M (Review and Monitoring) customised software; and (iii) Computer-assisted and structured - information based inspection systems, with basic emphasis on self-inspection and with inspecting authority limiting its work in verification mode mainly, unless making creative/innovative comments and observations.
- i) **Creation of deterrent effect** - Systematic research in the functioning of Criminal Justice Administration (CJA) as a whole and its component organisations with focus on generation of creative ideas for creation of adequate deterrence. Innovative involvement of media of mass communication to subservise the above objective. Creation of a clear signal that corruption is high risk, low profit enterprise, rather than the converse of it, as presently perceived.

### SYNERGISTIC OUTCOME

As a consequence of operationalising the aforesaid integrated strategy, the nation would not merely be perceived less corrupt, by having a drastic positive shift in its CRI, but be surely seen as more development-oriented with upward swing in its Human Development Index (HDI). The resultant synergy could help boost INDIA as a brand which, in turn, could help the nation improve its exports, even to more demanding overseas markets. Prevention of corruption promotes individual excellence indirectly through improvement in discipline, which in turn improves self-esteem, self confidence and hence personality as a whole. The same logic is applicable at collective level, including organisational level also.

Our job thus be seen not just as mundane as laying traps or shuffling documents or handling cases or conducting occasional surprise checks but as significant and planned as the one contributing genuinely to the economic development of the nation, and possibly philosophically speaking, in greatly helping the people – specially the poor and under privileged ones -- in improving their quality of life.

## MAKE THE COUNTRY SCAM-FREE

*Shivendra K. Sinha*  
(IAS OFFICER IN BIHAR CADRE)

There is no way you can make a dent into the corruption in the government without (a) first breaking for good the nefarious interdependence and open collusion between the bureaucracy and the political executive, and (b) there is no way you can break the unholy nexus between corrupt politicians and corrupt bureaucracy without abolishing the cadre system of IAS and IPS. It has resulted in the officers from these services developing a career long stake in the politics of the concerned state, unabashed cronyism and quid pro quo. It has also spelt the doom for conscientious officers who insist on going by the book. The cadre system has reduced the IAS/IPS officers to the status of spineless bonded labourers of the politicians, and it must go, even if it means taking a fresh look at the All India Services Act. Officers must be rotated among the states for fixed tenures, and appointed to various posts under the state governments in exactly the same manner in which they are appointed to posts under various ministries and offices under the central government.

The system of empanelment of officers for filling all important posts under the central government is equally flawed. Having an "adequate" number of "Outstanding" ratings in the annual confidential remarks is a prerequisite for such empanelment. Such "ratings" are often made on anything but an impartial and objective basis. Most often it is the most pliable and spineless who keep getting the "outstanding" ratings. It has resulted in an outrageous absurdity that the likes of the wheeling dealing former Chairman of the Central Board of Customs & Excise, Runu Ghosh (Sukh Ram's collaborator), and all those blue eyed boys of the government languishing behind the bars now for their acts of commission and omission in the fodder and other scams have been duly empanelled on the basis of so called 'outstanding' ACRs (Annual Confidential Reports) generously bestowed by their corrupt godfathers in politics and bureaucratic hierarchy. On the other hand the incorruptible among them who have stoutly refused to buckle under pressure or allurements have been left in the cold and have had their careers doomed. In Bihar alone, during the last 12 years some fifty odd senior IAS officers, with a consistent previous record of brilliant contribution to the government, have been made to fade away and retire in ignominy from "non-cadre" posts in defunct organisations while the known collaborators of the corrupt regime have been rewarded with multiple plum jobs in the state as well as the central government thanks to the thoughtless mechanism adopted for grading and placement of officers in the higher bureaucracy.

The present system must be scrapped altogether and replaced by a broadbased Evaluation & Placement Board manned by nationally respected and non-controversial individuals from bureaucracy, judiciary and academics. It could, for example, consist of a former Cabinet Secretary, a former Supreme Court Judge and a top level academician. The Board should constantly keep evaluating the performance of each officer by rotation every three years on the basis of self assessment reports and comments of the immediate supervisors, supplemented by impromptu responses to a well structured questionnaire designed to evaluate professional skills, level of maturity and attitudes. The Board should also make recommendations regarding placement of the officers after taking into consideration the available data as well as the Board's own consensual evaluation on the basis of a personal interview.

Secondly, it's high time the electoral process must be digitalised. That is to say, it should be possible to vote in the elections in much the same way as one routinely uses a recharge coupon of a mobile phone or expresses his opinion at the numerous opinion polls conducted every day, or participates in various TV shows, through the Interactive Voice Response (IVR) system. UK is already considering permitting voting on the web. At the current level of accessibility to a phone, it is very much possible to extend the IVR voting system to a substantial segment of the electorate, especially the silent majority in the metros, urban and semi-urban areas, those who are prevented for one reason or the other from casting their votes.

It would not only make elections more broad based and representative in character but also substantially reduce the costs over logistics, paper, fuel, law and order, manpower, loss of mandays

and the like. It would make elections so much hassle free for the common man, the administrative machinery, the state exchequer and the Election Commission itself. The few who are not covered by IVR can continue the familiar practice, with so much better arrangements now made possible for them as a result of savings on the rest. It will be foolproof, and the results can be announced, after thorough multi-level checking and re-checking. In this kind of system, no one would grudge even voting a second time after a few days. Typically, no candidate secures over 50% votes and in all such cases, the two candidates securing the highest number of votes should be asked to face the electorate once again in the final round as soon as practicable. As it would result in a near 100% poll, it would be a virtual impossibility for a candidate to win solely on the basis of a narrow sectarian appeal, nor can a known criminal hope to get over 50% of votes in such a high level of electoral participation in any constituency in the country.

Regarding electoral funding, the only people who must be permitted to fund the elections are the people who are claimed as the supporters of the political parties or candidates, surely not the state exchequer. Let it be open for any elector to open an account in the local branch of a bank falling in the area of his normal residence in favour of the candidate he intends to support in the next elections subject to (a) proof of identity as an elector of that constituency, and (b) submission of the certified copy of the last income tax return filed by him. The upper limit of contribution by an individual should bear a reasonable proportion to the last amount of income tax paid by him. The candidate concerned and the media would be free to publicise the opening of such an account, thus directly or indirectly inviting more contributions into that account. All such accounts can, of course, be monitored through a centralised computer system of the banks right up to the Reserve Bank of India, and cross-checked by the computers of the Income Tax department, the Chief Electoral Officers and the Election Commission.

The political parties should be permitted to open their own contributory electoral account (subject to the same conditions) in the area of their supposed influence, publicise and advertise the same, and hope for the best. The annual deposits in their account can be a trustworthy index of their status in the area or state, which the Election Commission should take into account while determining their status as regional /state/national party. This kind of system would be transparent, logical and practicable. It is hard to quarrel with it either theoretically or on practical grounds.

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#### Sleepy Lawyer

A Texas jury had convicted Calvin Burdine of capital murder in 1984. Burdine, along with an accomplice, had committed a robbery in which a man was killed. The court stated that punishment would be death by lethal injection.

All through the trial, Burdine's court-appointed counsel was Joe F. Cannon. In 1994, Burdine filed an appeal with the US Court of Appeals that justice had not been carried out since his lawyer was asleep during trial. Four highly credible, neutral witnesses testified that Cannon repeatedly dozed or slept when witnesses were questioned and evidence presented against Burdine.

One of the witnesses said that Cannon "would nod his head down, bob it, with eyes closed".

Cannon testified he had a "habit" of closing his eyes and tilting his head forward while concentrating, but that he had never slept during Burdine's trial.

The court decided that the defense counsel had repeatedly dozed and/or actually slept during substantial portions of the capital murder trial, so that defense was, in effect, absent.

#### The Verdict

The court vacated Burdine's capital murder conviction and stated that the State was free to retry Burdine for capital murder.

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A MAN who lived in a block of apartments thought it was raining and put his head out of the window to check. As he did so a glass eye fell into his hand. He looked up to see where it came from and saw a young woman looking down. "Is this yours?" he asked. She said, "Yes, could you bring it up?" The man agreed. On arrival she was profuse in her thanks and offered the man a drink. As she was very attractive, he agreed. Shortly afterwards she said, "I'm about to have dinner. There's plenty; would you like to join me?" He readily accepted her offer and they enjoyed a lovely meal. As the evening was drawing to a close, the lady said, "I've had a marvelous evening. Would you like to stay the night?" The man hesitated then said, "Do you act like this with every man you meet?" "No," She replied, "only with those who catch my eye."

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## 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

### 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.*

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. Direction 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.

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.**