

COMMON CAUSE

VOICE OF "COMMON CAUSE"

CHILDREN OF THE POOR THEIR EDUCATION : THEIR FUTURE

The subject of Elementary Education of children, of rural areas and urban slums, and particularly of poverty stricken families, is obviously of paramount importance. On this subject we have made detailed study of the position as it exists in the country, of the provisions of the Constitution and the laws which have relevance, and of the inadequacies of functioning in the related areas, for achieving the desired objectives. We have embodied the findings of the study in a note, and have taken up the matter with the Ministry of Human Resource Development and the Ministry of Rural Development, for ensuring that the changes which have been effected in the Constitution and laws are utilised to the best advantage, and effectively as well as expeditiously.

- Everybody is eligible to take membership of COMMON CAUSE. No form is required. Merely send your name and complete address, preferably written in CAPITAL LETTERS. Send it to our new address: COMMON CAUSE, Common Cause House, 5, Institutional Area, Nelson Mandela Road, Vasant Kunj, NEW DELHI 110070. We are ever so grateful to Mr. Vikram Lal, of Eicher Tractors for having enabled construction of COMMON CAUSE HOUSE.
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Subject : PRIMARY EDUCATION OF CHILDREN.

Education is of fundamental importance for carrying the country forward. In the area of Primary Education of the children there has till recently been considerable inadequacy, and even failure. An important provision of the Constitution in this regard, embodied in Article 45, obviously continued to be disregarded.

Considering the importance of the primary education from the viewpoint of future development we have expressed its relevant aspects in the enclosed comprehensive note. Based on the 93rd Amendment of the Constitution, effected in 2002, the subject of primary education was made a "Fundamental Right" and the Ministry of HRD has initiated the important project of "Sarva Shiksha Abhiyan" which has put before itself the targets of achieving the objective of providing five years of primary schooling to all children by 2007 and to complete eight years of elementary schooling by 2010, ensuring also the

extension of this benefit to the children of Scheduled Castes and Scheduled Tribes, and girls. The requisite funds have been earmarked for the achievements of these objectives. This is satisfactory development.

We have in the enclosed note also dealt with the developments arising from 73rd Amendment of the Constitution effected in 1992 which prescribed the introduction of Panchayati Raj system, including establishment of Panchayats at the level of village, intermediate between village and district, and at district level. Among the tasks entrusted to the Panchayati Raj the subjects of Education including Primary Education and Vocational Training have also been included. Incorporation of these requirements in the Panchayati Raj, which is under the charge of the Ministry of Rural Development, is another welcome addition.

For satisfactory and expeditious implementation of the important objective of ensuring education to all children of age group 6 to 14, including girls and children of Scheduled Castes and Scheduled Tribes, which goal will ultimately lead to a better future for the country, we feel that it would be very

**MILLIONS OF POOR CHILDREN
SPREAD OF AIDS
MAKING YOUR WILL**

**CONSUMER PROTECTION ACT AMENDMENTS
CORRUPTION
BIG-SIZED ADVERTISEMENTS IN NEWSPAPERS**

desirable that the subject of spread of primary education should be dealt with under the joint auspices of Special Coordinating Wing of the two Ministries because, firstly, there will be great need of identifying individual out-of-school children, finding children who are being used for labour in workshops etc., and ensuring that girl children are not exploited for sexual abuse and that they are treated on equal footing with the boys in their development. We earnestly hope that this suggestion of organising coordinated endeavour of the two Ministries will be given serious consideration for implementation.

(H.D. Shourie)
Director

CHILDREN OF THE POOR THEIR EDUCATION : THEIR FUTURE

India's neglected, marginalised and vulnerable children, many millions of them, in rural areas and urban slums, are inevitably a matter of concern to everybody, in governance and otherwise. Condition of these children, largely of poverty stricken families, presently constitutes a serious blot on our functioning. For many of them struggle for survival begins in the womb, since their mothers' health is severely depleted by early marriage and child-births at short intervals. Over two million of the under-five children die premature.

According to some reports over 20 million children, out of those who survive, remain yet out of school, inspite of the projects of primary education launched by the government; they are either never enrolled or their circumstances necessitate their dropping out of school. Many of them are girls, on whom poverty and gender determination converge. Overwhelming number, estimated to be near about 100 million, are under-age workers. Large numbers of them are bonded. They toil in inhuman and hazardous conditions, in workshops, beedi making, glass-ware, carpet weaving, construction work, chimney sweeping, drain cleaning, and domestic help in better off families. Even more heart-rending is the fact that millions of them are silent victims of sexual abuse, and large number of girls are tricked, flogged and coerced into prostitution. Upto about a million of them inhabit the under-world, alongwith the children born to five million prostitutes in the country. Millions of children are steeped in urban

Contd. Next Page.....

THESE POOR CHILDREN : SEEN, BUT NOT HEARD

Seen, but not heard - these are India's marginalised, vulnerable and neglected children. A huge and growing underclass within India's population of some four hundred million children, who silently endure grave and multiple violations of their rights.

They account for more than half of India's children; stunted as a result of sustained malnutrition, illness and depressed appetites. For many of them, the struggle for survival begins in the womb since their mother's health is severely depleted by early marriage and child births at short intervals. They are among the 2.6 million under-five children who die premature, often preventable deaths each year. They are children whose births are never registered, whose very existence remains officially unacknowledged. They are also among the over 20 million out-of-school children - those who are never enrolled and those who are compelled to drop out.

The seen but not heard children are among the 250 million people living below the poverty line, preponderantly in rural areas. Many of them are girls, on whom poverty and gender discrimination converge, to obliterate their sense of autonomy and self-worth.

An overwhelming number of children - pegged between 11 and 100 million - are underage workers. A significant proportion of them are bonded. Most toil for a pittance in inhuman, hazardous conditions in fields, workshops, industries and the homes of the better off.

Breathtaking numbers - between 10-26 percent of all children in India - are silent victims of child sexual abuse. Brushed under the carpet & trivialised, their traumas often resurface in debilitating ways in later life.

Each year, a large pool of children are tricked, flogged and coerced into prostitution - between 50,000 and 2 million of them inhabit the same closed netherworld as that of children born to the 5 million adult prostitutes in the country.

Including in the underclass are the 20-30 million orphans and 11 million street children compelled to make it on their own, competing in an adult and often hostile world.

(From VHAI)

slums and squalor. Children of scheduled castes, scheduled tribes and backward classes are facing same problems, even more acutely.

The extent, variety and degree of marginalisation and neglect of our children has assumed tragic dimensions. These facts cannot be denied. Condition of these children is apparently not causing serious extent of concern to the people and government functionaries, of the Centre and the States.

It is of paramount importance that condition of these marginalised and neglected children must not be allowed to remain unheard. Nobody with heart in right place, nor any informed society, should put up with such abomination. Knowledge of individual cases of brutality against these children and their abuse and exploitation is undoubtedly heart-rending. Yet, in India, we continue to bear it, ignoring intensity of its existence, not bestirring ourselves to overcome this collective tragedy and shame.

Time has come for us, the people in general and functionaries of the government, in the Centre and the States, to wake up to the requirement of determination of strong measures which need to be taken to mitigate this malaise. For determining the requirements of remedial measures let us look at some of the provisions which exist in our Constitution and the laws. These can provide certain avenues for reaching out to undertake the task of solving these problems to some extent.

One cannot help first referring to the provisions of Article 45 embodied in the Constitution which specifically prescribed that "the State shall endeavour to provide, within a period of ten years from the commencement of this Constitution, free and compulsory education for all children until they complete the age of fourteen years". The Constitution was formulated over 50 years ago; this Article placed a positive and clear-cut responsibility on the country's governance to achieve the objective within ten years of passing of the Constitution, "providing free and compulsory education, for all children upto the age of fourteen years". There was obviously miserable failure in complying with this direction. This Article was a Directive Principle but that in no way reduces its obligation; it can be contended that the words used in it were "endeavour to provide". It would be obviously wrong to take shelter under the excuse that requirement embodied in the Article did not place implicit obligation on the governance. Fact remains that for 50 years this specific requirement embodied in the Constitution of the country remained uncompleted.

Some positive efforts towards achieving this objective emerged in 1997 when a Bill was introduced in the Parliament to declare that essence of this provision embodied in the Constitution shall be considered a "fundamental right", thereby placing the responsibility on the governance for taking this direction as of primary importance. It is unfortunate that this Bill was allowed to languish for four years.

It was only on 21-12-2002 that eventually the Bill was passed by both Houses of Parliament, as 93rd Amendment of the constitution, adding Article 21-A to the Constitution, and deleting Article 45 of the Constitution which in any case had remained inoperative.

While dealing with provisions of the Constitution we may also glance at the important provision embodied in Article 24. This Article prescribes that "no child below the age of 14 years shall be employed to work in any factory or in mines or engaged in any other hazardous employment". It is undeniable that there has been flagrant violation of this Constitutional provision.

Another relevant provision of the Constitution is contained in Article 46 which prescribes that "The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation".

In contrast, the figures embodied in the Central Government Economic Survey of 2002-2003 are that number of working children is 10.4 million; they are stated to be employed in unorganised and home-based industry and domestic services. Policy of the Government of course is to ban the employment of children below the age of 14 years in factories, mines and hazardous employment.

Arising from the declaration of primary education constituting a "fundamental right", embodied in Article 21-A of the Constitution, an important step taken by the Ministry of Human Resource Development of the Government of India has been the launching of "SARVA SHIKSHA ABHIYAN". This programme aims to achieve positive target in universal elementary education, of ensuring that elementary education of all children in the age - group 6 to 14 is satisfactorily completed by the year 2010. The other goal incorporated in this Project is to bridge the social, regional and gender gaps with the active participation of the State Governments, community as a whole and management of schools. This project is in response to the demand for quality and basic education all over the country, providing opportunity for promoting social justice through basic education. In implementing this project the HRD Ministry has decided to effectively involve the Panchayati Raj Institutions, School Management Committees, Village and Urban Slum Level Education Committees and other grass-root structures which have relevance to the functioning of elementary schools. The project aims at effecting full partnership between Centre, States and local authorities. The objectives placed before this project are : (a) all children of age-group 6 to 14 must be put in schools by 2003; (b) all children must complete five years of primary schooling by 2007; (c) all children must complete eight years of elementary schooling by 2010; (d) to ensure provision of elementary education of satisfactory quality, and (e) to bridge all genders and social category gaps of primary stage by 2007 and at elementary education level by 2010. Emphasis of the project will be on mainstreaming all out-of-the-school children, as far as possible, by providing eight years of schooling for all children in 6 to 14 age-group. The State Governments will be fully involved in the implementation of this project, ensuring financial partnership between Centre and States for its implementation. Education of girls, especially those belonging to scheduled castes, scheduled tribes and minorities, will be one of the principal concerns of the project. For achieving the objectives of the project the Centre and States will ensure recruitment of qualified teachers and opportunity for teacher development in all related spheres. Efforts will also be made to explore areas of public - private partnership in development and functioning of schools. It is envisaged that financial assistance for conducting this programme will be on 85 : 15 sharing arrangement between the Centre and States during the Ninth Plan, 75 : 25 sharing arrangement during the Tenth Plan, and 50 : 50 sharing thereafter.

Another development is of significant importance, which has considerable scope for attainment of the objective of primary education for children, and which will remove the existing blot on the inadequate governmental functioning in regard to the subject of primary education is the 73rd Constitutional Amendment which was effected in 1992. Through this Amendment of the Constitution law was enacted for setting up Panchayati Raj. Article 243 of the Constitution with its clauses ranging from 243 (A) to 243(O) were incorporated in the Constitution. These clauses respectively prescribe the provision for setting up Gram Sabha, constituting the body of persons registered in Electoral Rolls of the village, intermediate level implying the level between the village and district and defining Panchayat as instrument of Self-Government. According to this Constitutional Amendment in every district there have to be Panchayats in all villages, Panchayat at intermediate level and Panchayat at district level. It has been prescribed in this Amendment that reservations must be provided in the Panchayat system at every level for the scheduled castes, scheduled tribes and women on the basis of population of these categories. All requisite powers have been conferred on the Panchayats for discharging their responsibilities in the interest of the people. An important matter, in relation particularly to the subject of Primary Education is that in the 11th schedule embodied in the Constitution on the strength of Article 243, there is a specific provision for (a) education, including primary and secondary schools; (b) technical training and vocational education and (c) adult and non-formal education.

ANOTHER WRIT PETITION IN SUPREME COURT

A Writ petition which we have recently filed in the supreme Court is on the subject of AIDS in our country. Official estimate is that there are about 4 million AIDS cases in India whereas international experts believe that number of AIDS cases in this country are of the order of about 20 million. There are reports that this serious matter is not being given adequate attention by the governmental authorities at the Centre as well as in the States. Almost about Rs. 1000 crore expenditure is being annually incurred for checking the spread of this dreaded disease and the treatment of the victims, but indications are that some funds fall into the hands of bogus and unreliable organisations and are not fully utilised.

We have highlighted the relevant facts in the Writ Petition, in which Government of India as well as concerned organisation have been made Respondents. Our plea is that the concerned governmental authorities should take urgent steps to weed out the suspect and the bogus NGOs, set up a proper mechanism for monitoring the work of NGOs, enact appropriate legislation for ensuring that no doctor or hospital should refuse to treat a HIV patient, to provide substantial and fully satisfactory treatment and take other requisite steps for combating the dreaded virus.

The substance of writ petition is reproduced hereunder :

IN THE SUPREME COURT OF INDIA CIVIL EXTRAORDINARY JURISDICTION WRIT PETITION (CIVIL) NO. OF 2003

In the matter of :
COMMON CAUSE
(A Registered Society)
A-31, West End,
New Delhi - 110021
Through its Director
Shri H. D Shourie.

... PETITIONER.

Versus

1. Union of India,
Ministry of Information and Broadcasting,
Shastri Bhawan,
New Delhi - 110011
Through its Secretary.
2. National Aids Control Organisation,
9th Floor,
Chandralok Building,
36, Janpath,
New Delhi-110001
Through its Project Director.

... RESPONDENTS.

PETITION UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF A WRIT IN THE NATURE OF CERTIORARI AND OR MANDAMUS AND OR ANY OTHER DIRECTION DIRECTING THE UNION OF INDIA IN THE MINISTRY OF HEALTH & FAMILY WELFARE AND THE NATIONAL AIDS CONTROL ORGANISATION (NACO) TO INFORM THE COURT ABOUT THE REAL POSITION REGARDING SPREAD AND PRESENT PREVALENCE OF AIDS, MONITORING BEING DONE FOR EXERCISE OF EFFECTIVE CHECK ON THE OPERATIONS OF NACO IN REGARD TO LARGE NUMBER OF NGOs' WHICH ARE OPERATING IN RELATION TO THIS PROJECT, STEPS INCLUDING THE PROVISION OF COUNSELLING WHICH ARE

BEING TAKEN TO CHECK FURTHER SPREAD OF AIDS, AND ACTION THAT IS BEING TAKEN TO ENSURE THAT HIV-POSITIVE PATIENTS ARE NOT TURNED AWAY BY THE HOSPITALS AND ARE GIVEN PROPER TREATMENT, IN THE CONTEXT OF FUNDAMENTAL RIGHTS OF THE PEOPLE GUARANTEED UNDER ARTICLE 21 OF THE CONSTITUTION OF INDIA.

To

THE HON'BLE THE CHIEF JUSTICE OF INDIA AND HIS LORDSHIP'S COMPANION JUSTICES OF THE HON'BLE SUPREME COURT OF INDIA.

The humble petition of the petitioner above named MOST RESPECTFULLY SHEWETH :

1. That the petitioner is a Society duly Registered under Societies Act, 1860 and is engaged In taking up various common problems of the people for securing redressal thereof. The Petitioner Society has also brought to this Court various constitutional problems. The Petitioner has an established locus standi in its capacity as a bonafide public interest organisation for taking up matters of general public importance. The Petitioner is submitting the present public interest petition for consideration of the Hon'ble Court,
2. That the Respondent No. 1 is the overall authority in the matter of health services in the country. Respondent No. 2 is the premier Central Agency for combating and prevention of AIDS virus. It is also expected to monitor the functioning of various NGOs, and other activists / organisations in the field of AIDS prevention and provision of funds for the purpose.
3. That it has been reported in a write-up which appeared in the "INDIA TODAY" magazine dated 9-12-2002 (Annexure "A") that despite Rs. 1,000 crore being spent on AIDS prevention every year, the Respondents have not been able to achieve any success in effectively stopping the spread of the dreaded AIDS virus. The position, on the contrary, is reported to have become worse. As per Government's own reports the HIV-Positive persons in India have doubled to four million since 1994. According to International Experts the HIV positive persons in India are actually five times this figure i. e., 20 million. This vast spread of AIDS in the country is a matter of very serious concern.
4. That despite various pronouncements by functionaries of the Government the basic requirements have apparently not been provided. There are no separate treatment centres for the HIV Positive patients; against an estimated requirement of four lakh separate beds for AIDS patients, only four thousand beds are reported to have been provided in hospitals. Even these are not actually being utilised as the HIV-Positive patients are reportedly turned away by general hospitals. This is confirmed by Government of NCT of Delhi as reported in the attached news item which appeared in the Times of India dated 14-1-2003 (Annexure "B"). Even the doctors specially assigned to red-light areas are reported to be refusing to treat sex-workers. As per NACO there were 2,524 AIDS deaths during the period 1986-2001. However, according to Director of the Society for HIV -AIDS Lifeline Operation, Manipur (SHALOM), the actual figure is stated to be many times more. Copy of the Human Rights Bulletin of January, 2003, dealing with this subject, is also attached (Annexure "C").
5. That there is apparently no paucity of funds. Sufficient funds are being provided by International Agencies such as International Development Agency, USAID, and Gates Foundation, in addition to private funding and through provision made in the Central Budget. Expenditure of the order of about Rs 1,000 crores is reported to be incurred annually on this project. These funds are apparently not being properly utilised. The Respondents are reported to have not even set up any effective control mechanism for monitoring the work of NGOs and other Activists to whom funds are released for taking up measures in the field of AIDS prevention.
6. That the absence of any accountability mechanism is reported to have encouraged establishment of fly-by-night NGOs in the field. It is stated that "everybody from Ministers and Bureaucrats to small-time drug peddlers have set up NGOs". Out of 1800 NGOs operating in relation to this project, as many as 80% are reported to be suspect, many are bogus and others are run by an individual or a family. Though these have been purportedly set up for AIDS prevention, in reality majority of these are reported to be operating for self-aggradisement.

7. That the NGOs and AIDS activists/workers are reported to be engaged in making money is evident from the complaint of a sex-worker of G. B. Road, Delhi, a red-light area, that the AIDS workers demand a cut of Rs. 10/- per packet of contraceptives meant to be distributed free. The act of money-making is further elaborated by an AIDS worker who says that "we were warned (by a Delhi based NGO who had invited applications from fresh graduates to become Training Officers for HIV AIDS) that unless we got five members each donating Rs 250 - Rs. 1,000, we would not get our salaries." Such report shows that the AIDS workers are kept busy collecting funds for their salaries than for any genuine work in the field. Such AIDS workers cannot be expected to provide any worthwhile help as they themselves have half-baked knowledge.
8. That 35% of the reported cases in India are in the 15 - 24 age group. This clearly shows that there is lack of proper education and knowledge among this group. This calls for sex-education in schools and colleges. One State Government at least, viz., Andhra Pradesh is reported to have woken up and launched an educational programme aimed at creating awareness about the threat posed by HIV - AIDS in all the 11,464 government and private high schools in the State. Other States need to follow the example.
9. That whereas funds are being disbursed to NGOs without any accountability, Respondents are reportedly not providing any monetary support for production of anti-retrovirals (ARVS) which check the progress of AIDS; these continue to be expensive, at Rs 1,200/- a month per prescription for each patient. Similarly, there is dearth of diagnostic facilities which cost Rs 4,000/- per patient; tests need to be conducted every three months. With nutritional supplements each patient needs to spend Rs 8,500/- a month which most of them cannot afford.
10. That the petitioner considers that effective monitoring mechanism needs to be urgently set up to check the legitimacy and functioning of NGOs operating in this field, for continuing check on the utilisation of funds allocated for the purpose, for spreading awareness of the dangers of AIDS infection including the utilisation of contraceptives by sex-workers in every part of the country, and for ensuring that requisite steps are taken for proper treatment of the persons who get infected HIV-Positive. The Respondents need to be directed that steps taken by them in these various fields are reported to the Hon'ble Court in a period of not more than six months and thereafter every six months in the next two years, treating this as a matter of national importance,
11. That the above grounds are being submitted without prejudice to one another and the Petitioner craves leave to add to or to amend the above.
12. That the present Petition is being submitted bonafide and in general public interest.
13. That no other writ Petition or proceeding has been initiated by the Petitioner in any High Court or the Supreme Court of India on the subject matter of the present petition.
14. That the Petitioner has no alternative equally efficacious remedy in law for the course of action agitated herein.

PRAYERS

In the above premises it is prayed that this Hon'ble Court may be pleased :

- (i) to issue a writ, direction or order in the nature of mandamus and/or any other writ, direction or order directing the Respondents to start an extensive awareness drive through sex-education and counselling centres about threat posed by AIDS - HIV and submit a six monthly progress report to the Court for 2 years;
- (ii) to issue a writ, direction or order in the nature of mandamus and/or any other writ, direction or order directing the Respondents to put in place a mechanism to monitor the work of NGOs and other Activists before disbursing funds, to weed out suspect and bogus NGOs and other organisations so as to ensure that available funds are judiciously utilised for AIDS prevention.
- (iii) to issue a writ, direction or order in the nature of mandamus and/or any other writ, direction or order directing the Respondents to set up separate treatment centres/hospitals with required number of

beds for providing medical aid to the AIDS-HIV patients.

- (iv) to issue a writ, direction or order in the nature of mandamus and/or any other writ, direction or order directing the Respondents to take such steps as to provide subsidised essential medicines and set up diagnostic centres to carry out required tests either free of cost or at subsidised rates;
- (v) to pass such other and further orders as may be deemed necessary and proper on the facts and in the circumstances of the case.

FOR WHICH ACT OF KINDNESS THE PETITIONER SHALL, AS IN DUTY BOUND, EVER PRAY.

Petitioner

Through

(H.D. Shourie)

Director, Common Cause.

Place : New Delhi.

Dated :

HUSBAND : After I get up in the morning and shave, I feel 10 years younger.

WIFE : Why don't you shave before you go to bed?

...

"FOR THE last time", a husband shouted towards the bedroom, "are you ready to go ?"

"For heaven's sake, be quiet", retorted his wife "I've been telling you for the last hour that I'll be ready in a minute."

...

A MAN, who wanted to sell his car phoned a newspaper and asked how much it cost to put an ad in the paper.

"Two thousand rupees for 2.5 centimetres." the man on the phone answered.

"I can't afford it then", said the caller. "My car is four and a half metres long."

...

"THERE, NOW," cried little Christine the other day rummaging through a drawer in the bureau,

"grandma has gone to heaven without her spectacles".

...

"Darling ..." began a young wife, hesitatingly.

"Yes dear?" said her husband.

"I hardly know how to tell you".

"Tell me what?"

"Th-that soon there will be a third sharing our little home."

"Sweetheart ! Are you sure?"

"Positive, dear. I had a letter from my mother this evening saying that she would be here next Friday".

...

"Our Insurance company", said an insurance agent, "is one of the swiftest payers in the world. We are on the twelfth storey. Last month a window cleaner, who was insured with us fell from the twenty ninth storey. As he passed our window we handed him out his cheque*."

...

CORRUPTION

There was recently a news item that India has unfortunate distinction of being the second most corrupt country of Asia. A Research Group based in Hong Kong has gone into details of 12 countries and come to this conclusion. Indonesia gained the top position; Singapore came up as the least corrupt. The Survey measured perceptions among the business people. The corruption according to Survey affects people's daily lives in basic ways, including even small acts such as payment of electricity bills, water bills, securing passports/visas, payment of fees for admission in schools, getting electricity connections etc.

While we can certainly be proud of our functioning democracy, there is no doubt that our democracy is considerably based on corruption. Every political party needs funds, for purposes of elections, and every political party normally has to depend on collecting money in cash, most of it in black money, which is in fact the oxygen for corruption. Political corruption leads to the vicious cycle of business corruption, bureaucratic corruption and criminalisation of politics.

In the context of this survey a recent report in the well known Indian magazine "INDIA TODAY" has highlighted the "Smoking Guns" of graft and corruption which, over the years, have manifested themselves prominently before the people and in which the administrative and judicial system, have not been able to achieve any positive results in the long years. Particulars of these "Smoking Guns" constitute a matter of great disgust and shame.

The magazine has listed 14 major swindles of the past 15 years, involving total of Rs. 22,376 crores, 221 cases and 149 charge-sheets. Particulars of these are given below :

1. BOFORS GUN : Rs. 64 Cr. Case filed on 22-01-1990; Charge-sheet filed on 22-10-1999; Convictions : None as yet; Recoveries : Nil
2. HDW SUBMARINE : Rs. 32.55 Cr. Case filed on 05-03-1990; Charge-sheet filed : The CBI has asked for permission to close the case. Convictions : None as yet;
3. AIRBUS : Rs. 120 Cr. Case filed on 23-03-1990; Charge-sheet : Not filed as yet; Convictions : None as yet; Recoveries : Nil.
4. STOCK MARKET : Rs. 4,100 Cr. Cases filed : 72, between 1992 and 1997. Charge-sheets filed : 47. Convictions : Four; Recoveries : Nil.
5. INDIAN BANK : Rs. 762.92 Cr. Cases filed : 45 since 1992; Charge-sheets filed : 27; Convictions : None yet. Recoveries : Nil, Government have pumped in Rs. 2,675 crore to revive bank.
6. HOUSING : Rs. 65 Cr. Cases filed : 11 in March and April, 1996; Charge-sheets filed : Three; Convictions : Four junior officials in two cases; Recoveries : Nil.
7. FODDER (BIHAR) : Rs. 950 Cr. Cases filed : 64 since March 1996; Charge-sheets filed : 63; Convictions : One (three officials); Recoveries : Nil.
8. PETROL PUMPS : Cases filed : 15 between November, 1996 and 1997; Charge-sheets : None as yet; Convictions : None; Recoveries : Nil.
9. UREA : Rs. 133 Cr. Case filed on 28.05.1996; Charge-sheet filed on 26-12-1997; Convictions : None yet; Recoveries : Nil.

10. BHANSALI FRAUD (CRB) : Rs. 1,031 Cr. Case filed : 20-05-1997; Charge-sheet filed : 02-09-1997; Convictions : None. Recoveries : Nil.
11. TELECOM : Rs. 1,200 Cr. Case filed : Four since August 1996; Charge-sheets filed : Four; Conviction : One - all the accused have gone in appeal. Recoveries : Rs. 5.36 crore seized.
12. ANOTHER FRAUD (KAYPEE) : Rs. 3,218 Cr. Cases filed : Three in March and May 2001; Charge-sheets filed : Two; Convictions : None yet; Recoveries : Nil.
13. UTI : Rs. 9,500Cr. plus; Case filed : One in July 2001; Charge-sheet : Not filed as yet. Recoveries : Nil. Since then the government has sanctioned Rs. 6,,000 crore bailout.
14. SWINDLING OF INVESTORS (HOME TRADE) : Rs. 1,200 Cr. Case filed : 10-05-2002; Charge sheet : Not yet filed. Convictions : None; Recoveries : Nil.

A miserly business man who was away from his house, sent his wife a cheque for a million kisses. The wife sent back the reply which read : "Dear John : Thanks for the birthday cheque. The milkman cashed it this morning."

...

It seems that when good Lord was making the world, he called Man aside and bestowed upon him twenty years of normal sex life. Man thought that was too little, but the Creator refused to budge.

The Lord called the monkey next and gave him also twenty years of good life. 'But I don't need twenty years, ten years is plenty,' the monkey said. Man spoke up, 'May I have the other ten years?' The monkey agreed.

Then the Lord called the lion and also gave him twenty years. The lion said ten would be enough, so again Man spoke up, 'May I have your other ten years?' The lion agreed.

Next came the donkey with the same result, giving ten of his twenty years to the Man.

This explains how Man has twenty years of normal sex life, ten years of monkeying around, ten years of lioning about, and ten years of making an ass of himself.

...

For their first anniversary, a man bought his young wife a cell phone. She was thrilled and listened eagerly as he explained all its features. The next day she was out shopping when the phone rang.

"Hey, darling", her husband said. "How do you like your new phone?"

"Oh, I just love it!" she gushed. "It's so cute and small - and your voice sounds so clear. But there's just one thing I don't understand.

"What's that?"

"How did you know I was at the Sari shop?"

...

The new bride was anything but a tidy housewife. She seemed never tired of cleaning until one evening her husband came rushing to the house, entered the hall and cried somewhat dismayed: "Darling", he shouted, "where's the dust on this table? I had a telephone number written on it."

...

A small post office in a Mid-east desert town returned a letter to the sender with the remark :

"Addressee dead over a year. Left no forwarding address."

...

A Government clerk sat at the table after breakfast one morning, engrossed in his newspaper for over an hour. Finally he asked for another cup of coffee. "Coffee!" echoed his wife. "But look at the time. Aren't you going to the office today?"

"Office?" exclaimed the startled man. "Heaven! I thought I was at the office."

...

BIG-SIZED GOVERNMENT ADVERTISEMENTS IN NEWSPAPERS

Readers of newspapers all over the country will have observed that during the last many months there has been, and continues to be, a surfeit of big-sized advertisements in newspapers, projecting the image of politicians and their political parties under the garb of putting across information about their achievements in governance or conveying information about the date of inauguration of a new road, laying foundation stone of some building, opening a new railway line or relating to Polio Vaccinations, etc.. These are often full-page, half-page advertisements and sometimes quarter-page display. The cost of each advertisement is very heavy, running into many lakhs of rupees. We have considered it necessary to highlight this matter by filing a writ Petition in the Supreme Court, laying before them a number of advertisements displayed during the period of only about one week in three newspapers of Delhi. The Supreme Court has issued notice to the Government. Further progress of Writ Petition will be watched with interest.

Basic part of the writ Petition is reproduced below :

IN THE SUPREME COURT OF INDIA, CIVIL EXTRAORDINARY JURISDICTION, WRIT PETITION (CIVIL) NO. 13 OF 2003.

In the matter of :

COMMON CAUSE
(A Registered Society)
A-31, West End,
New Delhi - 110021
through its Director
Shri H. D Shourie.

... PETITIONER.

Versus

Union of India,
Ministry of Information and Broadcasting,
Shastri Bhawan,
New Delhi - 11001
through its Secretary.

PETITION UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF A WRIT IN THE NATURE OF CERTIORARI AND/OR MANDAMUS AND/OR ANY OTHER DIRECTION, DIRECTING THE UNION OF INDIA IN THE MINISTRY OF INFORMATION AND BROADCASTING TO DETERMINE THE STEPS THAT CAN BE TAKEN TO CHECK PROFLIGACY IN THE PLACEMENT OF BIG-SIZED ADVERTISEMENTS IN THE NEWSPAPERS FOR PROJECTING THE IMAGE OF POLITICIANS AND OF POLITICAL PARTIES, WHICH IS BEING EXTENSIVELY DONE BY DIFFERENT MINISTRIES OF THE GOVERNMENT OF INDIA AND ALSO BY THE STATE GOVERNMENTS, INVOLVING HUGE AMOUNTS OF GOVERNMENTAL EXPENSES OF THE CENTRAL GOVERNMENT AND THE STATE GOVERNMENTS, WHICH CAN BE UTILISED TO GREATER ADVANTAGE FOR IMPROVEMENT OF LIVING CONDITIONS OF THE PEOPLE, IN THE CONTEXT OF THEIR FUNDAMENTAL RIGHTS GUARANTEED UNDER ARTICLE 21 OF THE CONSTITUTION OF INDIA.

To

Hon'ble The Chief Justice of India and His Lordship's Companion Justices of the Hon'ble Supreme Court of India.

The Humble Petition of the Petitioner abovenamed, MOST RESPECTFULLY SHEWETH :

1. That the Petitioner is a Society duly registered under the Societies Registration Act, 1860, and is engaged in taking up various common problems of the people for securing redressal thereof. The Petitioner society has also brought to Court various constitutional problems. The Petitioner has an established locus standi in its capacity as a bonafide public interest organisation for taking up matters of general public importance. The Petitioner is submitting the present public interest Petition for consideration of the Hon'ble Court.
2. That the Petitioner strongly feels that increasingly during the recent years the tendency has grown among politicians, at the Centre as well as in the States, to project through large-scale advertisements in newspapers various tasks undertaken by their Ministries and their governmental functioning in general, obviously for projecting the image of politicians and political parties. This tendency has grown to such an extent that almost every few days there are such large-scale (full-page, half-page and quarter-page) advertisements in various important newspapers. The Petitioner has ascertained that cost of these big advertisements ranges upto about Rs 6 lakhs to 8 lakhs for each full-page advertisement (in black and white) in newspapers of wide circulation, and corresponding cost for half-page and quarter-page advertisements.
3. Annexures A to K are photo-copies of the full-page, three-quarter-page, half-page and quarter-page advertisements which appeared during one week of November, 2002, in three English newspapers of Delhi, namely, Hindustan Times, Times of India and Indian Express. On the top of each of these Annexures, Petitioner has furnished details of number of times the advertisement, along with its sizes, has appeared in this one week.
4. That advertisements, with photographs of the Ministers of the concerned Ministries generally appear along with the photograph of the Prime Minister or Chief Minister or of some important political personality. All sorts of occasions are utilised for making these projections through advertisements. These occasions range from laying the foundation-stone of some project, opening of the road or bridge, opening a railway line to some new station etc.
5. That the Petitioner submits that such full-page, three-quarter-page, half-page and quarter-page advertisements appear quite frequently and are projected through various newspapers. Taking a very conservative estimate that there may be about 500 newspapers and magazines published in the country in respective languages, and that the cost of advertisement is also about Rs. 2. 00 lakhs for full-page (black and white printing), it can be assumed that aggregate cost of advertisements in newspapers and magazines, incurred by the Central Government and State Governments, will not be less than about Rs. 2000 crores a year. Details of the relevant calculations have been given on page 2 of the Synopsis of this Petition and are not being repeated for avoidance of burdening the Petition. This expenditure, in the context of conditions of inadequacies and poverty in our country is obviously irksome to people who feel about matters of such nature. Copy of the Article placed at Annexure "L" which appeared in the OUTLOOK magazine of Delhi (dated 18-11-2002) is an example of such expression of feeling.
6. That the Petitioner does recognise that political leaders have to resort to such projections for raising their image as well as the image of their parties. The problem that emerges from consideration of this matter is whether the concerned politicians can devise suitable alternatives through which the objective of projecting their image may be satisfactorily fulfilled and yet the expenditure of present high-level may not have to be incurred. The Petitioner does not consider it necessary to emphasize that in the conditions of inadequacy prevailing in the country it would be desirable that every effort should be made to utilise government funds to the maximum extent in the interest of meeting the multifarious essential requirements of the people.
7. That the Petitioner considers that it would be unavailing for him to communicate these views to any governmental authority, at the Centre or in the States. They are not likely to be thus persuaded to abstain

- from placing such costly advertisements in newspapers. Therefore, the Petitioner has considered it appropriate to bring this matter before the Hon'ble Court with the prayer that in the interest of the people the Hon'ble Court may kindly consider what directions can be given to the Central Government through the Respondent for examining this problem and to also communicate it to the State Governments, for determining the measures that need to be taken to utilise alternative means, including Doordarshan and TV and appropriate smaller-sized government notices, for projecting the important events instead of doing this through such large-sized expensive advertisements, so that Government funds may not get misutilised and frittered away when these are very much required for meeting the other urgent requirements of the people and of governmental functioning.
8. That the above grounds are being submitted without prejudice to one another and the Petitioner craves leave to add to or to amend the above.
 9. That the present Petition is being submitted bonafide and in general public interest.
 10. That no other Writ Petition or Proceeding has been initiated by the Petitioner in any High Court or the Supreme Court of India on the subject matter of the present Petition.
 11. That the Petitioner has no alternative equally efficacious remedy in law for the cause of action being agitated herein.

PRAYERS

In the above premises, it is prayed that this Hon'ble court may be pleased :

- (i) to issue a writ, direction or order or in the nature of mandamus and/or any other writ, direction or order directing the Respondent, Secretary, Government of India, Ministry of Information and Broadcasting, after securing the requisite approval of the Central Government, to communicate to the Ministries and Departments of the Central Government and also to the Chief Secretaries of all State Governments, that it is inappropriate to issue big-sized advertisements of the above mentioned nature in newspapers, for commemorating any personality or event, or for purposes of nature of foundation-laying or initiation of a project, and that suitable alternative methods should be adopted for informing the people about the projected events and to extend invitations to them for securing their presence at the projected event such as foundation-laying ceremony, opening of a new road or bridge or railway line or other important facility for the benefit of the people, thereby avoiding the heavy expenditure which is being presently incurred by placement of advertisements in newspapers.
- (ii) to pass such other and further orders as may be deemed necessary and proper on the facts and in the circumstances of the case.

FOR WHICH ACT OF KINDNESS, THE PETITIONER SHALL, AS IN DUTY BOUND, EVER PRAY.

Petitioner

(H.D. Shourie)
Director, COMMON CAUSE.

Place : New Delhi
Dated :

CONSUMER PROTECTION ACT

Substantial amendments have been made in the Consumer Protection Act. This Legislation has undoubtedly been of great importance from the view-point of consumers to get their grievances redressed in relation to supply of any goods or performance of any service, for which payment is made and in relation to which deficiency has been found in the goods or service. Many hundreds of thousands of cases have been decided by District Consumer Forums, State Commissions and National Commission established under the Act, providing large-scale benefits to the people in general, because everybody is a "consumer" in one way or the other, in purchasing any goods or paying for any service. The original Act was passed in 1986. It was amended in 1993. Further important amendments have now been made in this Act by the Amendment Act of 2002. The amendments make heavy reading, but for facilitating the task of readers we attach information about the changes in a tabulated form indicating the changes made in respect of provisions of the Act. In essence the following changes are of obvious interest for general readers :

- (i) Provision has been made for setting up Consumer Protection Councils also at the State and District levels, on the lines of Central Consumer Protection Council. These provide platforms for exchange of views and for discussion between representatives of consumers and functionaries of the government in relation to the respective provisions of the Act.
- (ii) Powers of the District Consumer Forums and State Commissions, as well as of the National Commission, have been further enlarged in relation to the size of problems which can now be dealt with by them, original limits were only Re. 1 lakh, Rs. 5 Lakh and above Rs. 20 lakh, respectively, for the District Forums, State Commissions and the National Commission. These limits were increased in 1993, and have now been further increased, respectively, to Rs. 20 lakh for District Forums, Rs. 1 crore for State Commissions, authorising the National Commission to deal with cases where the amount involved is more than Re 1 crore.

A very welcome provision has been made in the Amendment Act that any appeal submitted against the decision should be disposed of within a period of 90 days. Another welcome provision incorporated in the Amendment Act is that State Commissions as well as National Commission can operate at any place, respectively, in the State or in the country. One provision incorporated in the Amendment in relation to entertainment of appeals appears to be somewhat unpalatable that the Appellant must first deposit 50% of the amount involved in the decision, or Rs. 25,000/- in the case of appeals before State Commissions, Rs. 35,000/- in case of appeal before the National Commission.

There will undoubtedly be some people who are not happy about some of the provisions made in the Amendments, but considered over-all, these amendments had become necessary with the operation of C.P. Act for more than 15 years since the enactment of original Act in 1986. One can hope that the amendments will further help to expedite processes of operation of this important enactment, which has been of such large benefit to consumers in general.

Husband : What is this small parcel for, dear?

Wife : A bottle of hair tonic.

Husband : Thanks, dear.

Wife : It's for your typist. Her hair shows up badly on your coat!

...

"Why do you always insist on talking about the weather to your barber ?"

"You wouldn't have me talk about anything as exciting as politics to a man who is handling a razor, would you ?"

...

AMENDMENTS AT A GLANCE THE CONSUMER PROTECTION (AMENDMENT) ACT, 2002

| Subject-matter | Position before amendment | Position after amendment |
|--|--|--|
| Complaint (Sec 2(b)) | No provision for legal heir or representative of consumer | In case of death of consumer his legal heir or representative can file complaint |
| Complaint (Sec. 2(c)(i)) | Complaint against unfair trade practice made only against trader | Complaint can also be made against service provider |
| Service (Sec. 2(o)) | Service includes the provision of facilities in connection with specified categories | Service includes, but not limited to the provision in connection with specified categories |
| Spurious goods and services (Sec. 2(oo)) | No provision | Spurious goods and services includes goods and services claimed to be genuine but not actually so. |
| Central Consumer Protection Council (Sec. 4) | Provision includes "Central Government <i>may</i> establish the Central Consumer Protection Council" | Provision includes the Central Government <i>shall</i> establish the Central Consumer Protection Council". |
| State Consumer Protection Council (Sec. 7) | Provision includes "State Government <i>may</i> establish the Consumer Protection Council" | Provision includes "State Government <i>shall</i> establish the Consumer Protection Council" |
| Member of Council (Sec. 7) | No provision for number of members of State Council | Provision made for maximum 10 members to be nominated by Central Government. |
| District Consumer Protection Council (Sec. 8A and 8B) | No provision for District Consumer Protection Council | State Government shall establish District Consumer Protection Council for every district |
| Eligibility of members (Sec. 10, 16; 20) | Eligibility of member for District Forum, State Commission and National Commission existed | Eligibility conditions changed |

| Subject-matter | Position before amendment | Position after amendment |
|---|---|---|
| Jurisdiction of District Forum (Sec. 11) | Upto Rs. 5,00,000 (Five lacs) | Upto Rs. 20,00,000 (Twenty lacs) |
| Appeal (Sec. 15) | No deposit required as a Pre-condition for filing an appeal | Appeal only if the appellant deposits 50% of the amount or Rs. 25,000 whichever is less |
| Jurisdiction of State Commission (Sec. 17) | Rs. 5,00,000 to Rs. 20,00,000 (Five lacs to twenty lacs) | Rs. 20,00,000 to Rs. 1,00,00,000 (Twenty lacs to one crore) |
| Transfer of cases from one District Forum to another (Sec. 17A) | No provision | State Commission can transfer |
| Circuit Court (Sec. 17B) | No provision | State Commission can also function in places other than State Capitals |
| Appeal to National Commission (Sec. 19) | No deposit required as a pre-condition for filing an appeal | Appeal only if the appellant deposits 50% of amount or Rs. 35,000 whichever is less |
| Hearing of Appeal (Sec. 19A) | No provision for hearing of appeal | Appeal shall be disposed of within 90 days from date of admission |
| Jurisdiction of National Commission (Sec. 21) | Above Rs. 20,00,000 (twenty lacs) | Above Rs. 1,00,00,000 (one crore) |
| Transfer of cases (Sec. 22B) | No provision | Complaint can be transferred from one District Forum to another |
| Circuit Benches (Sec. 22C) | No provision | National Commission can also function at other places |
| Appeal (Sec. 23) | No condition for the deposit of amount | Appeal only if the appellant deposits 50% of value or Rs. 50,000 wherever is less |
| Appeal against orders for penalty (Sec 27A) | No provision | Provisions made for appeal against order u/s 27 |
| Service of notice (Sec. 28A) | No provision | Provisions made for service of notice |

MAKING YOUR WILL

We had some years ago published a write-up on how to write a WILL. This is obviously a very important matter. Everybody has to make sure that he/she, whoever is owner of the property, should make a WILL so that heirs do not have to face any hassles which are often caused in the absence of WILL. There was great demand for the Pamphlet published by us on the subject. Material for it was prepared by Mr. Narendra Ahuja, Management Consultant (C-2/2262, Vasant Kunj, New Delhi - 110070). He has been kind enough to rewrite the material, incorporating in it all the essential requirements. We are publishing the DRAFT WILL in this issue of the periodical; readers can make photo-copies of it for their use and for supplying it to their friends and relatives. Certain matters relating to making of WILL are obviously important. These have been added after the DRAFT WILL so that readers could get fully acquainted with issues relating to this important matter.

DRAFT WILL

1. This is the last will of me son / daughter / wife of
agedyears, resident of made on this
day of
2. I hereby revoke all former wills made by me.
3. I am executing this last will and testament of mine voluntarily and without any compulsion or pressure from any source or person and in sound health and disposing state of mind.
4. I own the following movable properties which are all my self-acquired properties built or acquired out of my own earning and income without any assistance of any ancestral estate and have absolute power of disposal of the same.

(Give details of all the immovable properties - houses, plot, land etc. - and moveable properties, including insurance policies, Provident Fund, deposits in banks, National Saving Certificates, shares, debentures etc. listing them seriatim).
5. I hereby bequeath all my movables and immovables as described above to my wife, (or to my son (or anyone else) fully and absolutely.
6. I also declare that whatever nominations have been made by me, whether for dues due to me or my estate from Provident Fund, pension fund, Gratuity, benefits of Superannuation, pension and Personal Accident Policy receivable from with whom I am presently employed, Post Office Savings Bank Accounts, Cumulative Time Deposit Account, Public Provident Fund, Life and Accident Insurance policies have been so done by me only for the sake of convenience and for the sole purpose of facilitating prompt collection of all amounts due to me without any intention of conferring any beneficial interest upon such nominee/nominees and that the person or persons so nominated by me has or have no right nor shall they have any title, claim, charge or interest in the same and they shall hand over and deliver to legal heirs/beneficiaries all amounts collected by or paid to them. I declare and direct that all such assets, funds and properties as aforesaid, shall form part of my estate and shall be dealt with accordingly.
7. I give and bequeath all my furniture, fixtures, fittings, carpets, paintings, pictures, drawing and other household goods, effects and things and all other articles of personal, domestic or household use or decoration, consumption lying in Flat No. to my wife/son absolutely.

8. I also bequeath all my money and other property movable and immovable whatsoever and wheresoever, not otherwise disposed of by this will to my wife (or son , or anyone else).

In witness whereof, I, the said have put my signature to each sheet of this my will, contained in this sheet and in the preceding one (two/three sheets of paper on the day and the year mentioned above, i.e. theday of.....

Date :

(Signature of person making the WILL) (TEASTATOR).

Signed by the above-named signatory in our presence at the same time and each of us has in the presence of the signatory signed his name hereafter as the attesting witnesses.

1. Name son of
Residential Address

2. Name son of
Residential Address

(Modification can be made where necessary)

MATTERS TO KEEP IN VIEW WHILE MAKING THE WILL

In order to be valid, a WILL must comply with the following conditions;

- (i) it must not have been obtained by fraud or coercion.
- (ii) The WILL must be signed by the testator i.e., one who is making WILL. If the testator is not able to sign, he may place some mark such as his thumb impression. In the alternative, any person may sign at the request of testator on his behalf in his presence.
- (iii) The WILL must be attested by two witnesses. Each witness must sign in the presence of the testator and give his residential address also.

THE WORDING OF THE WILL SHOULD BE CLEAR :

The wording of the WILL should be clear and leave no ambiguity regarding property in the WILL.

WHO CAN BE A WITNESS:

Any person can be a witness. The witness need not know the contents of the WILL - he is merely a witness to the signature. A beneficiary under a WILL must not be witness. The age of witness should be kept in mind. Hostile and greedy witness should be avoided.

CAN A WILL BE CHANGED:

A WILL can be revoked or changed at any time by the testator by executing another WILL. It must be specially noted in the new WILL that all the previous WILLS are revoked. This intention must be made clear. All WILLS made before marriage become invalid after marriage. Hence a new WILL must be written after marriage. In any case a WILL should be periodically reviewed and updated to reflect changing circumstances and preferences.

TO WHOM CAN ONE WILL ONE'S ASSETS :

There is nothing to prevent a person from leaving his property to a complete stranger, even to the exclusion of his own kith and kin. One of the important circumstances which raises suspicion is where testator ignores his near relatives such as wife and children.

A person can make a WILL of his own property only.

WHAT SAFEGUARDS CAN ONE MAKE AGAINST TAMPERING OF A WILL :

First option is for the testator to register the WILL with the Registrar under the Registration Act during his lifetime. The testator himself can appear before the Registrar, and if the Registrar records evidence of this fact, the WILL can easily be proved in Court subsequently if this is necessary. Secondly its contents should be kept secret and a copy can be kept in Bank Locker and in a closed envelope with a Trusted Friend.

Registration, however, is not necessary but highly desirable and prudent. Municipal Corporations, Banks, Companies, Mutual Funds generally ask for registered WILL. No stamp duty is required, For WILL registration charge in Sub Registrar's Office is only a small amount.

The WILL should be kept in a safe place and its location should be known.

WHAT HAPPENS IF THERE IS NO WILL :

If a person dies without making a WILL the property goes by what is called intestate succession. This means that the law steps into the place of testator and depending on the community to which the deceased belonged, the property is divided between his relatives as defined by law.

PROBLEM RE: NOMINEE

The general assumption is that a nominee for National Savings Certificate (NSC), Life Policies, Fixed Deposits, Mutual Funds, Provident Fund is the legal heir for the proceeds for which he or she was nominated.

To remove any ambiguity, it is advisable that nominee in immoveable and moveable property and beneficiary in the WILL should be same person because in the absence of a WILL the property would not, as a matter of course, go to the spouse as mistakenly believed. Nomination is a process to facilitate smooth, easy and quick withdrawal of the deceased person's investment. However, due to misinformation it is assumed that the nominee is also, by default, the beneficiary.

WHERE PROPERTY IS IN JOINT NAMES.

Some people avoid making a WILL because they are under the impression that if a property is in joint names, on the death of the first named person, the survivor will automatically as a matter of course inherit the property by law. This is a wrong notion.

Joint names have little meaning until and unless both of them have paid from their own resources for the purchase of property. Even after such payment, the person ought to WILL his/ her portion to the surviving spouse. Otherwise that portion of the property goes to legal heirs of person creating more problems for survivor. Assets can only be inherited by WILL, or if there is no WILL by the law of intestate succession. For mutation purposes, authorities like Municipal Corporation, DDA, Government Agencies insist for registered WILL.

WHERE A NAME IS NOTED AS A BENEFICIARY FOR PROVIDENT FUNDS, GRATUITY, LIFE INSURANCE POLICY :

It is also wrong to believe that because one has nominated one's wife or children as beneficiaries under an Insurance Policy, for one's Provident Fund or Gratuity, there is no need to make a WILL in respect of these amounts. A nominee under an Insurance Policy, Provident Fund, Gratuity receives the money only on behalf of the legal heir as a trustee would. If the intention is that the nominee should inherit the money, it is best to provide for same clearly in the WILL. In the case of Provident Fund and Gratuity also, it is best to mention the names of the nominees in the WILL to make sure that they receive as beneficiaries themselves.

CAUTION :

Do not give away assets in your lifetime. Remember you need to fend for yourself in old age.

THE GIFT HOW ONE ACT OF KINDNESS CHANGED A LIFE

MONTY HALL

Since I was once a very successful TV star, it's not surprising that not a day goes by without someone recognizing me on the street. "Hey, Monty!" a stranger will invariably yell at me. While I appreciate the recognition, I some-times wish that I were known more for what I do today—charity work.

I make more than 50 charity appearances a year and must have raised nearly a billion dollars for worthwhile causes.

Countless times I have seen that if you cast your bread upon the waters, it will come back a hundredfold. But there is one story in particular that, for me, illustrates the point. To this day it can still move me to tears.

On a crisp spring day in 1942, Max Freed, the owner of a Canadian shirt-making company, was returning to his factory with a bundle of orders tucked neatly beneath his arm. Business was good and Max, although only 30, was carving out a niche as a successful businessman.

As he walked to his office, he noticed a young man across the street on his hands and knees, scrubbing the front steps of a store. The boy looked familiar. Freed crossed the street and asked him, "What are you doing here?"

The 20-year-old answered: "I work for this store. My boss told me to scrub these steps."

"What's your name?" asked Freed. The young man told him.

"Is your father my butcher?" Yes, the youth replied.

Freed went to his office and phoned the butcher. "I just saw your son washing the steps of the company across the street from mine. He seems like an intelligent young man—is that the kind of work he's chosen to do?"

"He wants to go back to college," the soft-spoken butcher told him, "but I can't afford to send him."

He explained that his son had worked for two years after graduating from high school, saving for college. But after a year and a half at university, his money had run out. Business was poor, and even though the butcher's wife had two jobs, the family barely scraped by. The boy's weekly salary of nine dollars helped out tremendously.

"Tell your son to see me tomorrow," Freed told the butcher.

The next night, after finishing his work as a delivery boy and cleaner, the wiry 20-year-old met Freed in his factory office.

"Do you want to go back to college?" Freed asked.

"More than anything!" the young man replied.

Freed looked him straight in the eye.

"I'll put you through college. Write down how much money you need and bring it back to me—tuition, books, everything."

A smile broadened across the boy's face; he could not believe this was happening. Where had this

guardian angel come from?

The next day when the young man showed Freed his figures, the shirtmaker looked them over and said: "Don't you want something for yourself? Don't you eat lunch or get the occasional haircut? You'll also need some new clothes. Add all that in."

Before handing over a cheque, Freed told the young man, "There are several conditions I insist upon."

The boy sat silently, eyes wide with expectation.

"First, you must tell no one where this money came from." The boy nodded. "Second, you must maintain top grades, I'm not sending you to college to be a playboy.

"Third, this is a loan. You have to pay me back every penny when you can afford to. And lastly, you must promise to do this for some- one else in your lifetime."

"Thank, you, Mr. Freed," the 20-year-old replied. "I won't disappoint you."

Each month he visited Freed to report on his progress. At university, he earned high grades, was near the top of his class and was elected president of the student body.

Over three years, Max Freed lent the butcher's son \$990. The young graduate began repaying the debt as soon as he landed his first job after college. He sent Freed \$100 the first year, \$100 the next and the rest the third year after he graduated.

Throughout his life, he never forgot the day he'd been given the opportunity he needed to succeed. He also remembered the vow he'd made to do the same for someone else and has since helped several young people through college.

There was one promise the boy made to Max Freed that he couldn't keep. For nearly 30 years, he told no one the identity of his mysterious benefactor. But he finally decided to tell his story because he felt it would inspire others to help someone, and because he felt that Max Freed deserved the recognition despite wanting to be anonymous.

I often tell this story. It reminds me that no matter what we do in life, no matter how high we climb the ladder of success, we will ultimately be remembered for how we helped others less fortunate than ourselves. There's another reason I love telling this story: I am the butcher's son.

(Reproduced from Reader's Digest, June, 2002)

A man is driving down a country road, when he spots a farmer standing in the middle of a huge field of grass. He pulls the car over to the side of the road and notices that the farmer is just standing there, doing nothing, looking at nothing.

The man gets out of the car, walks all the way out to the farmer and asks him, "Ah ! excuse me mister, but what are you doing?"

The farmer replies. "I'm trying to win a Nobel Prize."

How? asks the man, puzzled.

"Well, I heard they give the Nobel Prize to people who are outstanding in their field."

...

Five surgeons are discussing who makes the best patients on the operating table. The first surgeon says, "I like to see accountants on my operating table, because when you open them up, everything inside is numbered." The second responds, "Yeah, but you should try electricians! Everything inside them is colour-coded." The third surgeon says, "No, I really think librarians are the best, everything inside them is in alphabetical order." The fourth surgeon chimes in, "You know, I like construction workers, these guys always understand when you have a few parts left over at the end, and when the job takes longer than you said it would." But the fifth surgeon shuts them all up when he observes, "You are all wrong. Politicians are the easiest to operate on. There's no guts, no heart, and no spine, and the head and butt are interchangeable."

...

PANCHAYATI RAJ

HANDS THAT SWEEP THE STREET CAN ALSO CLEANSE THE SOCIETY

As you pass by Durga Devi while she is sweeping the street, you may not care to give her a second look but as soon as you are told that she is Sarpanch of the village, your eyes are bound to be fixed upon her. What makes Durga Devi extraordinary is that she has refused to give up her family profession even after she was elected Sarpanch of Sarbari village in Rajasthan's Sikar district. No, this is not a publicity stunt; there are valid reasons for her decision to continue as a sweeper. Firstly, her honesty prevents her from indulging in practices which are usually adopted by persons occupying similar positions to make fast bucks. Secondly, she believes in dignity of labour and sees nothing wrong in doing the job of a sweeper. After all, someone has to do it. Thirdly, sweeping is the only means of livelihood available for her and her family. It is, therefore, not without reason that Durga Devi is everybody's favourite in her village. Womenfolk look towards her as a source of inspiration and men admire her for her dedication and selflessness. Even though she belongs to Mehtar community (Bhangi), whose place is at the bottom of the society, other people have no problem working with her. 'She has support of the whole village because she is capable,' says Sisaram Chaudhary, gram panchayat secretary. 'She is a fast learner and took no time in familiarising herself with the functioning of the panchayat,' asserts Chandra Devi, a fellow member of the village panchayat.

Durga Devi is a very organised person. She knows how to synchronise her household chores, her profession and her duties as Sarpanch. In the morning she cleans her own house, then she sets out to sweep the streets and that being done she goes to the panchayat office to discharge her responsibilities as head of the panchayat. She is well versed with the difficulties faced by the low-caste people. However, her positive attitude never allows her to give up the hope that everything would be fine for the likes of them if sincere efforts are made. Durga is lucky to have a very amicable husband in Kheeva Ram. He helps her family in all possible ways. He mentions with bitterness that untouchability still persists in the village and separate cups are kept at the tea shops for members of their community, but concurs with his wife that the age-old practice will not go in a day.

Durga Devi is the first woman Sarpanch of her village. For this, she is thankful to the reservation policy of the government — without which a woman and that from a Mehtar could not even dream of working with male members of higher castes in an elected body.

Obviously, Sarpanchship has not gone to her head. She believes in silent work. Also, she is full of praise for other women Sarpanches who are working undeterred amid problems like male dominance, stereotyped thinking, exploitation, harassment, lack of experience, rule-by proxy, etc. Being illiterate, Durga is fully aware of the value of education. She never forgets to emphasise the importance of sending children to the school, either in the panchayat meetings or during conversation with her village people—which shows that the task of cleansing the society is uppermost in her mind.

(Written by Natasha Vyas in Panchayati Raj Update)

A woman's husband had been slipping in and out of a coma for several months, yet she had stayed by his bedside every day. One day, when he came to, he motioned her to come nearer. He whispered, eyes full of tears; "You know what? You have been with me all through the bad times. When I got fired, you were there. When my business failed, you were there. When I got shot, you were by my side. When our house burnt down, you were there. When my health started falling, you were by my side. You know what?"

"What dear ?, " she gently asked.

"I think you are bad luck," he said.

...

"I want a divorce from my husband, the sweet little thing said matter-of-factly.

"On what grounds?" her attorney inquired.

"I think he's been unfaithful to me", she replied.

"And what makes you think he's been unfaithful ?" asked the lawyer.

"Well", the little one cooed, I don't think he's the father of my child."

...

UNIVERSE, MAN AND GOD

The universe comprises mass (matter) and energy—noting else. Both are inter-convertible. The amount of mass and energy has always been and always will be the same; it can neither be created nor destroyed and has been there all the time. This is what the law of conservation of mass-energy propounds.

Mark it - not 'created' by the will of God but existing in timelessness - *Swayambhoo* - selfborn and self-adjusting, *Prakriti* (Nature) mentioned in the Gita (13.19). represents the inert mass, and *Purusha* (*Brahman*) is the alert energy present in every atom.

With billions upon billions of galaxies in the limitless universe, there are bound to be many more planets like earth, inhabited by beings possibly more intelligent than man. Yet man believes that he is terribly important in the eyes of God, and begins imagining out of sheer presumptuousness, that God has 'chosen' him and him alone for bestowing His favours.

The Wheel of Time - *Kaalachakra* - moves on unrelentingly, inexorably—sans sentiments, sans emotions. No intent or volition is involved. Man is but a helpless cog in the giant machine. Calamities like droughts and deluge, quakes and volcanic eruptions, etc. take a heavy toll of human, plant and animal life. Mercy, justice, benevolence and other attributes are the subjective perception of the human mind, and have no relevance in the context of the universe.

But, amidst theories, dogmas, and postulates, comes with child-like simplicity, the skeptic uncertainty about the origin of the universe and omniscience of "whoever is there in heaven". These words are from the poem known as 'Nasadiya Suktam' in the Rigveda written some 3000 years ago—one of the hymns runs: "Whence this universe has arisen - perhaps it formed itself, or perhaps it did not. The one who looks down on It, in the highest heaven, only he knows, or perhaps he too does not know (X.129.7). The poem carries no supplication to God. no praise, no prayer or panegyrics. Honest dis-belief is succinctly expressed with an almost agnostic touch. Prav, what do we say to that?

Yet, man sets about conceiving of the character of a Supreme Being and postulating about His attributes, even though one can only see a millionth part of the divine scheme. Why not, then, shed the dogmas and keep our mind's window wide open to allow myriad thoughts coming from all directions? The earth is less than a millionth part of a grain of sand in comparison to the universe; man in turn is an Infinitisemally tiny speck. Strutting with false pride on the puny earth is futile and fruitless.

Our imagination fails when we think of God of the stupendous cosmos. We unduly worry ourselves about His form, His likes and dislikes. Let us instead shed our vanity and bend ourselves to the task of knowing man, loving him, extending solace and succour to those in need and spreading warmth and goodwill all round. To quote Alexander Pope:

*"Know then thyself, presume not God to scan;
The proper study of Mankind is Man."*
And in the words of the Urdu poet Ahmed Nadeem Qasmi:

*"Aadmi ka Khuda tak pahunchna ghalat,
Addmi se abhi aadmi door hain.
Aadmi aadmi ko samajhne laga
To Khuda khud zornin par utar ayega.
Addmi ka Khuda tak pahunchna to kya
Aadmi hi khudai pe chcha jayega."*

Which means : There is no question of man reaching God as long as he distances himself from another man. God Himself will descend on earth if man starts befriending others. Instead of seeking God, man himself will prevail upon divinity.

In essence, service to mankind is the true service to God. Man's purpose on earth is best served this way.

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

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

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

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.