

# COMMON CAUSE

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SPECIAL ISSUE

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**CORRUPTION CORRODING OUR DEMOCRACY**

**JUDICIARY IN THE DOCK**

**Importance of these subjects is self-evident**

Executive Committee of COMMON CAUSE

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## CORRUPTION IS CORRODING OUR DEMOCRACY

The stigma of corruption of our country stinks. It is spoiling the image of our democratic functioning. This country, of vast heritage of culture and history, is besmirched by being rated among the most corrupt countries of the world. This rating is done by the known organization Transparency International. According to the latest rating done by this organization India's position has gone down to 90 from previous position 72 among the countries surveyed this time. This is a matter of great shame for our country.

This ugly manifestation of corruption prevails everywhere. One meets it at every stage in day to day life. There is petty corruption where small bribes become normal routine for, say, getting railway ticket, or getting out of traffic violation, or getting out-of-turn favour. In financial term this petty corruption is flea-bite, compared to the corruption at higher levels which involves massive amounts and kickbacks taking place on every occasion where administrative policies are modified to suit vested interests. Bribes inevitably involve black money. Estimates are that as much as 40 percent of India's economy involves black money transactions. Private companies of our country are reported to have paid more than Rs. 32,000 crores, equivalent to 1.25 percent of India's GDP, to Government officials last year as bribes for securing Government contracts. This is among the findings which formed the basis of the latest rating of corruption perception Index by Transparency International.

Our democracy is being thereby alleged to be based on corruption. We are looked upon as corrupt Society. The malaise of corruption in our society operates at all levels, political, bureaucratic, business and day to day life. It is generally alleged, and correctly believed, that bigger chunk of black money is involved in elections : Elections to Central Legislature, to State Legislatures and even Municipal elections. At the bureaucratic level it operates for favours of various sorts in the administrative areas. In business the licence-raj system is one part, and the other part is connected with securing favours from bureaucratic level and from political masters.

Involving all these levels, over the last many years there were quite a number of scams involving massive amounts of money. Bofors scam of Rs. 65 crores is now old story; Fodder Scam of huge amount involving the Chief Minister of Bihar, when he had to go behind the bars, he placed his wife on the seat of Chief Minister where she is still operating and he has now become Railway Minister of the Central Government; nobody knows how the whole Fodder scam case is now progressing. There was scam of purchase of medicines in Uttar Pradesh, involving bogus purchases of medicines worth Rs. 63 crores; Securities Scam involving a high level dealer in securities, who had secured huge amounts of loans from banks against securities which were apparently fraudulent and which involved many crores of rupees; Telecom Scam which involved a Minister of the Central Government; Stamp Paper Scam involving fake stamp papers of over Rs. 2200 crores; scam of NPAs (Non-Performing Assets of Banks) which was a scam of momentous proportions, allegedly involving about Rs. 80,000 crores, perpetrated through banks by indiscriminate sanction of loans and advances to the industry and business; petrol pumps scam involving allotment of large number of petrol pumps in various parts of the country to the relatives and personalities of political functionaries, and some other scams.

Unfortunately, over last 3-4 decades our democracy has become increasingly dependant on practices of corruption. Black money has become the essential ingredient of political elections. Candidates have to spend money, for setting up huge pandals for attracting crowds, arranging transport for attracting them to the meetings. Political parties have to collect money for meeting various requirements connected with election of candidates. Money is collected through all sorts of sources, and inevitably it is black money. No wonder that as much as 40 percent of GDP (Gross National Product) is used as black money, mostly for politics and processes connected with politics. There have been demands that political parties must maintain accounts and the accounts should be accessible for scrutiny and audit. This demand was secured from the Supreme Court by COMMON CAUSE through a Writ Petition; orders were issued, but compliance with these orders has not been evident, there have been suggestions that elections should be based on

allocation of funds by the Government for parties and their individual candidates. This has been discussed and debated, but it has not, in the present circumstances of multiplicity of parties and requirements of individual candidates, been found possible or acceptable. Limits have been placed by the Government on expenditure which can be incurred on election to an Assembly and election to the Parliament, but these limits have never been properly enforced.

Bureaucratic corruption is considerably linked to the present atmosphere wherein political executive, the Minister Incharge of the Department, is himself not above corruption and is in fact ready to jump in for securing funds from the people, directly or through the Bureaucrats. There are undoubtedly exceptions where bureaucrats are not in any way involved in corruption. There are numerous functionaries for maintaining and enhancing the reputation of our country. They set the example, for their colleagues as well as for their subordinates and they deserve all the praise and support that the functioning of bureaucracy can give them. Among the bureaucrats, however, at various levels, including the highest as well as the subordinates there are black sheep. They siphon off funds, through dubious means and from clients and tenderers, and amounts thus secured are sometimes huge, running into many crores of rupees.

Business is business for making money, through their products or services. Normally their operations should remain above board. But it has to be realized that where the businessman is faced with the situation that he can make money or secure an order only by payment of bribe he will even inevitably resort to these means. If the system of political, executive and bureaucratic operations can ensure that no businessman will be allowed to resort to foul means, there will be much less chances of bribery and corruption.

One cannot help feeling that in India a person would have inclination to even bribe God for securing a special benefit. Businessman, Contractor or Builder involved in big construction, all hold out promises to God with special offerings, for seeking the favour of success for their ventures.

Taking all these facts into consideration, one has to devise ways and means for curbing corruption to the maximum possible. Following are the measures which have already been talked about or initiated. It will be desirable to determine what means need to be adopted to meet the requirement of enforcement of the contemplated measures.

In political arena, as stated above, the major cause of corruption is the requirement of black money for election purposes, besides, of course, resort to corruption by political masters when they assume power. For eliminating corruption in elections there is no alternative to the allocation of election funds to selected candidates by their political parties. For this purpose there is primary need of making provision of funds which can be allocated to individual political parties by the business community and those who have the capacity to afford, and that funds allocated to political parties will be exempt from income tax payable by donors. There is certainly no reason why this provision should not be enforced. While enforcing this provision it must also be imposed as positive responsibility on political parties that they must maintain accounts and that accounts should be subjected to annual audit and report thereof published. Direction to this effect was issued by the Supreme Court on submission of a Writ Petition by COMMON CAUSE, as mentioned earlier, but it is unfortunate that on subsequent enquiries from political parties whether they were maintaining accounts, most of them preferred to remain silent, which means that they were not complying with this requirement. If political parties continue to collect funds through processes of black money, if they choose not to maintain accounts, there can be no curbing of corruption and our country will continue to be disgraced by the fact of our being deemed as one of the most corrupt countries of the world.

Black money is negative aspect of Indian politics. Law breakers become law makers. This is other important matter which needs to be tackled. The minimum requirement for ensuring that law makers are able to promote corruption-free Government is that law makers are not themselves the law breakers. It is necessary that steps must be taken to ensure that the law breakers and criminal elements do not become



law makers. There is need to amend the Electoral Law, particularly Representation of People's Act, to ensure that the law breakers do not become law makers.

To attain these objectives following steps need to be taken :

- (1) No political party must be permitted to contest the elections unless it has got its latest Annual Accounts duly audited by an Auditor prescribed or notified by the Election Commission, Comptroller & Auditor General or the Supreme Court.
- (2) No political party must be permitted to contest elections unless it has cleared its income tax dues and has got the requisite Certificate from the Income Tax authorities.
- (3) Complaint regarding scope of corrupt practices during elections should be looked into by the Election Commission even before the date of polling.
- (4) Explanation I below section 77 of the Representation of People's Act should be deleted. This explanation states that any expenditure incurred or authorized in connection with the election of candidate by a political party or by any other Association or Body of persons or by any individual (other than the candidate or his election agent) shall not be deemed to be expenditure in connection with election incurred.
- (5) Another requirement is to incorporate the provision that a person who has been accused of an offence involving moral turpitude or any other criminal offence will not be permitted to contest the election. The Election Commission can identify these offences. In particular, the provision should ensure that any person against whom a charge-sheet has been framed, in respect of an offence involving moral turpitude or criminal offence, should be debarred from contesting election. Election commission should identify the offences. The critical test for applying the ban on the candidate contesting the election should be that the concerned judicial authority, including Magistrate etc., would have examined the FIRs and the date and material to the stage of framing charge-sheet.

### **OTHER IMPORTANT REQUIREMENTS :**

- I. Very important consideration is that there should be law which would punish the person involved in corruption. It is unfortunate that in our country corruption today has become a low risk and high profit business activity. The Law Commission in its 167<sup>th</sup> Report has suggested the enactment of Corrupt Public Servants (Forfeiture of Property) Act. The Bill for enactment of this Act has been pending in the Government from 4-2-1999. With the enactment of this Act the corrupt public servants will no longer be able to take advantage of the present legal process to escape punishment. The main provisions of this Act include : (i) It shall not be lawful for any person to hold illegally acquired property either by himself or through any other person on his behalf; (ii) where any person holds illegally acquired property such property shall be liable for forfeiture by the Central Government; (iii) Person holding any illegally acquired property, on conviction by a criminal court, be also liable to punishment with imprisonment which should not be less than seven years and which may extend to fourteen years. There are other provisions in this Act which strengthen the action which can be taken against a public servant involved in corruption.
- II. In addition to passing fresh legislation like Corrupt Public Servants (Forfeiture of Property) Act, it is necessary to ensure that the existing laws are effectively implemented which relate to checking of corruption. As an example, the Benami Transaction Prohibition Act was passed in 1988, enabling confiscation of Benami property. Under section 8 of this Act the Government has to prescribe rules

under which confiscation could take place. This is reported not to have yet been done. Prompt action on implementation of such laws will greatly help in checking corruption.

- III. Another important fact is that no attempt has been made to strictly avoid politicising the bureaucracy. The simple instrument by which political executive has found that the bureaucracy can be made to dance to its tune is the instrument of transfers and postings. It is fundamentally important in this context that at least the important and sensitive posts must be insulated by making it impossible for political executive to interfere in the matter of their transfers and postings. For instance, the CBI and the Enforcement Directorate must be insulated from influences. This objective was sought to be achieved by making the Central Vigilance Commissioner (CVC) a statutory body and making CVC to supervise the activities of CBI. There should be provision for minimum tenure of two years for the officials and it should be provided that they cannot be transferred without consent of CVC.
- IV. It will in fact be worthwhile to identify all sensitive posts in Government and ensure that these posts will be filled up from the panel of names recommended by an objective and independent committee or by CVC's Committee of CBI and ED. These modifications will bring in certain amount of objectivity and relief from the present situation where corrupt elements literally resort to bribe for reaching the sensitive posts which they can exploit for enriching themselves through corruption.

### MEASURES FOR CURBING CORRUPTION :

Measures for reducing political corruption in India will need to consist of following elements. These need to be emphasized in a summary manner even at the risk of repetition :

- (i) Total freedom to individuals and corporate bodies to contribute to political parties without any upper limit, and the availability of benefits of tax deduction under the Income Tax Act.
- (ii) A candidate against whom the charge-sheet has been framed in the court in any criminal case involving moral turpitude should not be permitted to contest election.
- (iii) The Explanation I below section 77 of the Representation of People's Act should be deleted.
- (iv) No political party should be permitted to contest election unless their accounts are audited.
- (v) No candidate should be permitted to contest election unless he has got income tax clearance certificate.
- (vi) Allegations of corrupt practices must be enquired into urgently by the Election Commission without waiting for election to be held.
- (vii) Nexus between corrupt elements in politics and bureaucracy should be nipped in the bud by a system by which all posts will be filled up by a process of appointment based on panels recommended by neutral and objective committees. Once appointments are made, a person should not be transferred from the post for two-there years.
- (viii) Corrupt Public Servants (Forfeiture of Property) Act should be brought into force immediately for implementation.
- (ix) Benami Transaction Prohibition Act of 1988 should be implemented effectively; it has remained pending for twelve years.

While these actions are initiated for curbing corruption in the political area and in bureaucracy, there is vital need of also fighting corruption in business. Confederation of Indian Industry (CII), Federation of Indian Chambers of Commerce & Industry (FICCI) and ASSOCHAM were addressed by Central Vigilance Commissioner in this matter. Their response was positive. This requirement needs to be effectively pursued.

Besides these various responsibilities of political executive, bureaucracy, and business, there is great need of involving the common man in fighting corruption. Every office has been directed by issue of instructions from CVC that there should be a board saying "Do not pay bribes". If anybody demands bribe, complain to Central Vigilance Officer or the Central Vigilance Commissioner. Compliance with this direction will be obviously useful.

It will be worthwhile to take a broad perspective of the various spheres where corruption has permeated. These include the following, which, of course, is not an exhaustive list:

- (i) **PROJECTS** : Initiation of projects of various description varying from power projects to the projects dealing with city transport etc., is presently in the hands of politicians and bureaucrats in power, who may be unscrupulous and who may be involved in kickbacks affecting the interests of citizens; with continuous expansion of sizes of projects, the quantum of malpractices are expected to further increase.
- (ii) **CONTRACTS** : Long contracts of various descriptions at the levels of Centre, States and city are also in the hands of politicians and bureaucrats who may be unscrupulous and who would be using manipulations for utilizing opportunities to derive illegal gains.
- (iii) **PUBLIC SECTOR**: Reports of misuse of Public Sector units at the Central level as well as in the States, which are again in the hands of unscrupulous politicians and bureaucrats, have been widely prevalent. Large number of Public Sector Units, of the Centre and in the States, have been placed under the charge of politicians who are alleged to be siphoning off large scale funds from them for election purposes by their parties as well as for their personal gains.
- (iv) **BANKS** : Operations of banks, particularly of those which have been nationalised for the last few decades, as well as certain other banks, have come into scrutiny for manipulations of wrongful gains of the manipulators and share-brokers who have been passing on benefits to politicians and bureaucrats.
- (v) **TAXES** : In respect of all taxes, including particularly income tax of Central level, Sales Tax of State level, Property Tax and other Municipal taxes at local levels, there are invariably reports of evasion, sometimes large scale evasion which are often facilitated through manipulations with concerned authorities and which are built into the existing system such as provision relating to transaction concerning Real Estate of which the values have highly escalated.
- (vi) **CONSTRUCITON** : Wide spread corruption prevails in construction industry, including land acquisition and building industry. Highly escalated and continuously rising values of Real Estate property, particularly in the bigger cities, open up considerable scope for corruption which is facilitated through measures relating to preparation of development plans, building regulations including sanction of notified construction, supervision and issue of completion certificates.
- (vii) **CUSTOMS & EXCISE** : The areas of Customs & Excise have long been noted to be replete with all sorts of malpractices, evasions and manipulations wherein the concerned authorities collude with the manipulators.

- (viii) **TRANSPORT** : Area of transport has over the years become a very important source of corruption in its various aspects of functioning, including licensing of operations, authorization of Inter-State movement of vehicles, prescription of transport rules in cities, licensing of vehicles etc. All these spheres provide opportunities for manipulations in collusion with the concerned authorities, often also with politician in power. In operations relating to expansion and functioning of railway system too there have been reports of high level corruption.
- (ix) **CIVIC FACILITIES** : In all matters relating to provision of facilities such as electricity, telephones, gas connections etc., large scale evasions and corruption particularly at the level of operators are widely prevalent. These are facilitated in connivance with functionaries and include measures such as large scale threat of electricity disconnection, wrongful utilization of connections and gas supply connections, tampering with meters, and such like.
- (x) **TRANSFERS** : There have been allegations of corruption prevailing in the functioning of officials in certain posts which provide greater opportunities for corruption. There have been such reports in relation to posts such as Inspectors of Building Departments of Municipalities, electricity meter readers, telephone lines-men and practically in all spheres where subordinate officials come in contact with citizens and unscrupulous elements who manipulate evasion of charges and taxes; there have also been cases of manipulations resorted to in securing placement as incharge of certain Police Stations which are related to expectation of greater opportunities for commission for illegality and gratification.
- (xi) **JUDICIARY** : People all over have always placed great faith in the functioning of Judiciary, holding the belief that our judiciary is incorruptible excepting in rare instances at the lower levels. It is a matter of serious concern for citizens that allegations of corruption are now emerging more widely in relation to the functioning of these levels of judiciary and in some rare instances, these have started manifesting in the operation of even higher levels of judiciary.

These areas are only indicative of the malaise which has spread far and wide in all spheres of governance of the country including the operation of unscrupulous political masters and bureaucrats at the Central level as well as in the States, operatives in Public Sector Units, and in local bodies and organizations which in one way or the other come in contact with citizens. Important causes have apparently contributed largely to the malaise. One is that of financing elections in the processes of functioning of our democracy which inevitably involves the functioning of present system of our political parties and funds required by them for financing elections and matters connected therewith. The other reason is that over the decades no effort appears to have been effectively made for overhauling the numerous Statutes and their rules and regulations which affect life of citizens. There are legislations still in operation which were enacted even a century ago. There are also rules and regulations which are totally out of date in the present circumstances and which are utilizable by the corrupt operators for causing harassment and providing opportunities to derive advantages of wrongful actions.

For the purposes of detecting corruption and dealing with various problems certain organizations and institutions have been created in the country. These institutions and agencies were created for the purpose of checking corruption and wastage of public resources and for utilization of these resources to the best advantage of citizens.

I. **COMPTROLLER & AUDITOR GENERAL**: The institution of Comptroller & Auditor General (CAG), created under the Constitution, was envisaged to constitute a vital link in the process of shaping public

accountability, for ensuring that the people entrusted with public revenues remain answerable for physical, managerial and programme responsibilities conferred on them. CAG exercises these responsibilities through Audit Reports which are presented to the Parliament and are examined by its Public Accounts Committee. There are frequent complaints of wastage, fraud, costly delays, allegations of inefficiency, bureaucratic interference and corruption which are highlighted in the Reports brought out by CAG. There is, however, inescapable feeling that the facts brought out in these reports do not lead to any effective and timely action. Reports are commented upon by the Public Accounts Committee, Audit Paras contained in these reports inviting more paragraphs, these are sent again to the concerned Departments and Organisations, and they get submerged under exchange of correspondence, leading seldom to any positive action. On an average CAG issues 100 Reports every year. It has 15 Audit Offices dealing with Central Government and 31 offices dealing with States. In all there are about 100 offices including Accounting and Entitlement regulation functions. The staff strength is about 35, 000 persons on Audit side and 25,000 on Accounts and Entitlement side. Annual Budget is over Rs. 300 crores. General impression is that in spite of immense power of CAG, and despite the numerous staff and funds utilized for the purpose, there is continuing breakdown of accountability and wastage, and that fraud and misuse of public resources are not effectively checked.

CAG also oversees the accounts of Public Sector Units (PSUs) and highlights the cases of lapses including their implementation of loss-making orders. Instances have been brought out such as Bharat Electricals Limited (BEL) losing Rs. 52 crores on sale of shells for TV tubes. General Insurance Corporation (GIC) losing Rs. 330 crores in their investments. On occasions CAG Reports brought out instances of wastage and frauds of appalling proportions, but in spite of immense powers and constitutional status as well as independence conferred on CAG, it has not been possible to secure any satisfactory solutions to curbing corruption, misuse and frauds, and to control financial indiscipline. There are allegations that out of total expenditure of Central Government atleast Rs. 20,000 crores go down the drain every year due to corruption, besides involving inefficiency and apathy at various levels. It has been estimated that almost 10 percent of budgetary allocations actually reach unauthorized hands. Despite the power and efforts of CAG, corruption, fraud, misuse and mismanagement of public funds are generally reported to go unchecked and unabated. It has been voiced that the institution of CAG has been reduced to impotence and the role of Audit has been undermined by inept and corrupt executives. Thousands of Paras of misuse and abuse of Public funds are recorded every year by the Audit Staff of CAG and Accountant Generals of the States which owe allegiance to CAG, but these paras are brushed aside at various levels. The role of CAG Reports under the present system is believed to have been reduced merely to business of pinpointing instances of deficiency and inefficiency and misuse; it possesses no power to effectively pursue the instances leading to punitive action against the unscrupulous persons. Recommendations of CAG are not yielding any tangible results and there is now a feeling emerging that there is no reason why the Audit paras which disclose wrong doing should not be registered as FIRs and pursued for investigation by CBI (Central Bureau of Investigation) or Anti-Corruption Branch (ACB).

### **CENTRAL VIGILANCE COMMISSION (CVC):**

Central Vigilance Commission (CVC) is another organization which shoulders the responsibilities of exercising vigilance for avoiding misuse of authority and for curbing corruption. It was set up long ago in 1964, as a watchdog mechanism against corruption. It is an independent and neutral body to advise the Government in matters relating to corruption, misconduct, allegations relating to integrity and other



malpractices on the part of public servants under the control of Central Government, including Public Sector Undertakings and Banks. The machinery of vigilance has been set up also in Departments and Ministries as well as in Public Sector Undertakings and in some States, for facilitating and conducting enquiries. The commission has status of independence and autonomy. Its Annual Reports are placed before the Parliament. The observations, findings and recommendations of the commission are confined to the concerned Departments of the Government and PSUs. Legally, however, the Commission is only an advisory body. This fact inevitably handicaps its functioning including the main objective of curbing corruption. It is restricting its operations only to cases of defaults committed by Government Servants and that too limiting itself to the operation of senior Gazetted Officers. Although political appointees apparently come within its purview in their capacity as "Public Servants" CVC has never dealt with exposure of misdeeds of non-government servants or launched prosecution for any misdeeds of political figures. It has to depend upon CBI for conducting investigations in cases involving non-government servants or examination of unofficial documents. CVC in its turn is under obligation to submit all cases to the Home Ministry. The strength of staff of CVC is over 200. In one year it receives as many as 4000 / 5000 complaints including cases referred to it for advice. As an institution for checking corruption CVC has actually not come up to the expectations and does not appear to have felt itself competent to exercise authority to investigate cases of corruption relating to senior Bureaucrats or political figures. Its functioning gives the impression of its being only another branch of the Ministry of Home Affairs.

### **CENTRAL BUREAU OF INVESTIGATION (CBI) :**

Central Bureau of Investigation (CBI) is an institution which is charged directly with the responsibility of conducting and investigating organized crime and corruption. Its investigations cover all, including political figures as well as Government Servants, and its operations range over Departments and Organizations of the Government and Public Sector Units including Banks. It has staff of about 35000 persons including 650 investigating officials. Its operations cover the entire country. It has offices in all the States. It makes secret enquiries where any cases of crime or corruption are referred to it, collect all the relevant facts including information about assets disproportionate to the normal source of income. On the basis of its findings FIRs are registered and prosecutions are followed up. It has a branch specifically charged with the responsibility of investigating cases of corruption. There have been cases, though very rare, where political figures have been subjected to investigations by CBI, though there are quite a number of cases where it has initiated action against officials including senior Bureaucrats. It does operate under the handicap that it cannot initiate action against any official or political figure of State Government without permission of that Government which may not be easily forthcoming.

### **GRIEVANCES MACHINERY :**

There is a Department of Public Grievances in the Ministry of Personnel, Public Grievances & Pensions and there is also a Grievance Cell in the Cabinet Secretariat. Large number of grievances are addressed by the people to these, but the general impression is that these operate mostly as post offices for passing on to the concerned Organizations or Departments. Following up all these grievances seldom comes about. Similar position obtains in most of the States where too such machinery for receiving public grievances exists, but where, likewise, the impression prevails about their functioning as mere intermediaries for passing on the complaints to the concerned Departments.

## PREVENTION OF CORRUPTION ACT :

The Prevention of Corruption Act was enacted as long ago as 1947. It has no doubt been amended from time to time but there is a general feeling that it does not meet the present day requirements of effectively curbing and punishing corruption. Objects and Reasons forming part of this Act are indicative of its inadequate approach to the problems of curbing and punishing corruption. It at most serves to strengthen the provisions of Sections 161 and 165 of Indian Penal Code prescribing that offence under this Act will be deemed to be cognizable offence and laying down the criteria and circumstances for pursuing the prosecution of guilt of the person accused of the offence. There are instructions laid down in this Act regarding officers who are authorized to conduct investigations of corruption, and permission that the authorized officers have to take before they can enter upon any investigation. This act enables action to be taken against the "Government Servant" and the "Public Servant" for the purpose as defined in the Indian Penal Code, which includes also political functionary besides "Government Servant", but it is seldom that in actual practice this enactment is used for launching prosecutions against any political appointees and functionaries.

## IMPORTANT REQUIREMENTS

Against this entire background of the Departments and functionaries appointed for curbing corruption, one feels that there are certain important steps which need to be taken for achieving the objective of curbing corruption. One major step that was considered necessary and which has not hitherto been taken is that of the establishment of institution of LOKPAL which was conceived as long as in 1964 and was strongly supported by Administrative Reforms Commission in 1966. It was recommended that LOKPAL in the shape of Ombudsman will be established at the Centre and that similar arrangements would be made in the States by establishment of Lokayuktas, these persons to be equated respectably to the Chief Justice of India and Chief Justices of High Courts. Bills for the implementation of these recommendations, in particular for the establishment of Lokpal at the Centre, were prepared and introduced in the Parliament on five different occasions, in 1968, 1971, 1977, 1985 and 1989. It was conceived that the offices of Prime Minister and Central Ministers would also be brought within the purview of Lokpal whereas the Offices of Chief Ministers and Ministers of States would come under ambit of operation of Lokayuktas. Despite every possible effort it is unfortunate that till now no legislation has been enacted to implement recommendations of appointment of Lokpal in the last forty years. Lokayuktas have been established in certain States : these include Andhra Pradesh, Assam, Bihar, Gujarat, Himachal Pradesh, Karnataka, Madhya Pradesh, Maharashtra and Rajasthan. In some States Up-Lokayuktas have also been set up. In certain States Lokayuktas have been able to deal with allegations against corrupt senior political functionaries; in others the position is not clear.

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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.

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Maid : "What do you want, sir ?"  
Visitor : "I want to see your master."  
Maid : "What's your business, please?"  
Visitor : "There is a bill....."  
Maid : "Ah : He left yesterday for his village....."  
Visitor : "which I have to pay him....."  
Maid : "And he returned this morning."  
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## JUSTICE IN THE DOCK

"Justice delayed is justice denied". This is a known aphorism. Mr. Justice R. C. Lahoti, Chief Justice, Supreme Court of India, has expressed that while this aphorism holds good one has to hear the counter-voice that "Justice hurried is Justice buried".

Aphorism and its counter are both true but the incontrovertible fact is that cases in Courts of India get so jampacked that administration of justice very badly suffers. This is a position practically in all Courts of the country from the highest, the Supreme Court, to the Subordinate District Courts. Accumulation of cases in all these Courts has become so heavy that quick delivery of justice has become impracticable.

Let us look at the figures of accumulation of cases in the Courts. In the Subordinate Courts of the Districts of the country there are now as many as 2.8 crore cases. As one takes into account that in these nearly 3 crore cases individuals or families are involved on each side in each case, it means that almost about 10 crore people are in one way or the other involved in or connected with these cases. More exasperating is the fact that quite often a large number of these cases keep pending for years, and sometimes even decades. This is exemplified by the recent news paper report of a case which has been pending disposal for over 28 years. This is a case of alleged cheating. The case was registered in 1976, it was decided in Lower Court after 14 years and the Court ordered imprisonment and fine. The case went up in appeal to the Additional Session Judge in 1990 after 14 years and has been finally decided by the Additional Session Judge in 2004. It related to the accused person being charged to have taken money from the complainant for getting a shop allotted to him which was not done. Another recently reported case is of an old man who is stated to be now 107 years of age. He is involved in a criminal case for which he, along with three others, has been sentenced to imprisonment. Concerned authorities are hesitant to put him in jail; he has instead been put in a hospital where he is in a state of coma. This case was decided after many years.

Statistics of the pending cases in other Courts are also very heavy. In the Supreme Court itself there were recently 26,750 cases and in the High Courts of the country cases are as many as 31,88,000. It is estimated that there are at least vacancies for about 5,000 Judges in the Courts of the country, including High Courts and Subordinate Courts. The Courts are, therefore, not in a position to work at full strength. Keep in view the vast population of the country, and continuing influx of new cases, it is obvious that we need ten times the existing number of Judges to cope with the work load.

Amendments brought about in the Civil Procedure Code, by Amendment Acts of 1999 and 2002, have laid down the stringent time period for completion of pleadings in civil cases. The number of adjournments which can be granted by Courts in the proceedings has also been restricted. The amendment relating to restricting the adjournments is, however, being honoured more in breach than in observance. Adjournments inevitably cause delay.

Lawyers are blamed for using delaying methods, but it needs to be appreciated that no lawyer can succeed in taking adjournment if the Court refuses to grant it. On the average 50 to 60 cases are normally listed every day before a High Court Judge, practically in every High Court. It is obviously not possible for a Judge to seriously hear and finally decide more than 2 or 3 cases in a day. In the remaining cases only interim orders or directions are passed. In this way the cases continue to pile up in huge proportion.

Another problem is the availability of opportunities of Appeals, Revision Petitions, Special Leave Petitions, which inevitably pose serious hurdles in the final disposal of cases. The uncertainty of legal position on several issues also encourages filing of Appeals, Revisions and other Petitions. In spite of

these odds, Judiciary undoubtedly continue to discharge its functions to the best of its ability and competence; it undoubtedly stands as a last hope of Indian masses. The large number of cases pending in Courts, and large number of cases being instituted every day, are proof of people's increasing faith in the Courts.

People have faith that justice will be done, though belatedly. There is no doubt that Courts do not take any decisions without affording the parties an opportunity of hearing; and every decision by a Judge is accompanied by reasons which constitute a guarantee against arbitrariness in taking decisions.

Judiciary is undoubtedly also utilizing the spirit of innovations. New methodologies have on various occasions been innovated by the judiciary. Public Interest Litigation is a unique device, shedding the shackles of Locus Standi. Judiciary entertains grievances of public nature. Similar is the device of Letter Petition wherein all formalities of attaching various documents with presentation of a Petition to a Court are dispensed with if the grievance relates to enforcement of Fundamental Rights. There are delays in the judicial reforms. Judiciary itself is stated to be conservative and believes in being traditional but it needs to be emphasized that it is somewhat neglected area of those who are in governance.

Tribunalisation of the judicial system has not proved effective in preventing delays. With the exception of a few Tribunals Governments of States show that Tribunals do not dispose of cases quickly; moreover, decisions made by the Tribunals are invariably challenged in law courts. Persons presiding over Tribunals are often retired Judges and Government officials who find it hard to muster up effort and energy required for effective discharge of their functions.

Following measures for dealing with problems of delay in Courts are generally suggested : -

- i. Provisions of procedures or law relating to progress of cases must be strictly adhered to;
- ii. Vacancies in posts of judges should be filled up without delay;
- iii. Additional strength of judges should also be sanctioned and filled;
- iv. No judge should have more than 30 matters listed before him on any given day. Special Judges, with record of quick disposal of cases, should be entrusted with long-pending matters and no new matters should be listed before such Judges; the objective being to clear up the backlog;
- v. Monitoring mechanism needs to be developed for High Court Judges whereby a Supreme Court Judge should monitor the disposal of cases by a High Court; and groups of High Court Judges should monitor the progress of subordinate Court Judges;
- vi. Section 102 of Civil Procedure Code prescribed long ago that no second Appeal is maintainable against any decree where the subject matter of the original suit is for recovery of money not exceeding Rs25,000. This limit needs now to be raised to an appropriate level, consistent with the present day circumstances; and it should not be less than about Rs.3,00,000 which should be the pecuniary limit for cases filed before Civil Judges in Delhi. In most cases only first Appeal should be allowed; and nothing beyond that;
- vii. Tribunalisation needs to be curtailed. Tribunals should be constituted in respect of only those matters/ disputes which are highly technical; other matters should go before regular Courts. Special Courts may be assigned only specific subject matters. This is already the position in regard, for example, to company matters which go before designated "Company Court" within the High Court; MCD/ NDMC Appeals go before the designated "MCD/NDMC Courts" in the District Courts of Delhi;
- viii. Pre-summoning stage in criminal trials of complaint cases should be curtailed by accepting Affidavits in evidence on behalf of the complainant instead of calling for oral deposition by witnesses. This system is already being applied in simpler cases of cheques bouncing under Section 138 of Negotiable Instruments Act;

- ix. Judges need to be sensitized for depriving a person of his liberty merely on accusation. It is found that the period of detention undergone weighs heavily with the courts in deciding on whether to grant bail or not. This factor is actually not relevant. The period of detaining a person in jail as an undertrial is :
- (a) To prevent the person from committing a repeat offence;
  - (b) To prevent a person from tempering with evidence or intimidating witnesses; or
  - (c) In extreme cases to prevent a person from escaping. Unfortunately however, it is a common practice that the people are detained in jail for undertrial even when none of the aforesaid purposes is either applicable or is fulfilled. Detaining a person in prison as an undertrial is often used as measure of "punishment", which it is not meant to be. These principles need to be strictly applied.

For the broader objective of judicial reforms there is need of (a) long-term planning; (b) short-term planning; and (c) certain self-determination based on introspection which for implementation do not depend on any agency external to the judiciary. The steps that need to be taken are the following : (i) the number of judges has to be suitably increased. In a previous judgement the Supreme Court has expressed that the Central Government and State Governments should strive to secure at least five to six times increase in the number of Judges in a phased manner. (ii) Information Technology must be increasingly utilized in administering the justice system in the country. Court records need to be digitalised, e-filing, video conferencing and similar other methodologies can save lot of time and energy of those associated with the justice delivery system and can also avoid unnecessary movement of persons and paper from place to place. (iii) Alternate Dispute Resolution Systems need to be adopted and innovated. Lok Adalats have done a commendable job during the last four decades and lakhs of cases have been disposed through Lok Adalats. In international commerce, this procedure is catching up. (iv) Judges need to be trained to face new challenges. Continuing education, Refresher Courses and Orientation programmes should be devised to enhance the professional competence of Judges.

Taking into account the delays in Courts XIth Finance Commission of the Department of Justice had recommended the scheme for creation of 1734 Additional Courts in the country for disposal of long pending sessions and other cases. The scheme has since been sanctioned and an amount of over Rs 500 crores has been allocated as special problems and upgradation grant for judicial administration. This amount is to be spent over a period of five years. Fast track courts are primarily doing session cases pending for two years or more and the cases of undertrials in jails. At present there are about two lakh undertrials in jails on whose maintenance Governments are spending about Rs 400 crores per annum. About 18 percent of the undertrials are in jails for more than one year. Such cases are likely to be disposed of by the Fast Track Courts as a priority. The Scheme will effect substantial savings in expenditure on jails besides addressing a serious human rights problem. It will also expedite disposal of session and other cases which are pending for a long time. By now 1652 Fast Track Courts have been established, out of which 1370 Courts have already started functioning and they have disposed of 3,70,504 cases.

Another innovative effort has been in the shape of establishment of Family Courts under the Family Courts Act which was enacted to promote conciliation and securing speedy settlement of disputes regarding the marriages, family affairs and connected matters. Till a few years ago there were only 87 Family Courts. As a result of initiative of the Central Government 36 more Family Courts have been set up in certain states. For increasing the number of Family Courts the Central Government has started providing assistance to the States for construction of building and running of Family Courts in every district. Establishment of more Family Courts will lead to expeditious disposal of family related disputes. During the three years, viz., 1997 to 2000 Family Courts disposed of 91,619 cases out of which 27,793 ended in reconciliation of the family disputes.

## LOTTERY SCAM

A Lottery Scam seems to be operating in the country. OUTLOOK Weekly Magazine has exposed the existence of this 'Fraud' in an article in its issue "dated" 15<sup>th</sup> Nov. 2004. We have brought it to the notice of the Union Ministry of Home Affairs vide our letter dated 9<sup>th</sup> Nov. 2004 with the request that Govt. of India should take concrete steps to see how this serious malaise can be checked. A copy of the letter has also been sent to the Comptroller & Auditor General of India who is reported to have examined this matter in Karnatka during 2002-03. He has been requested to provide us any material which may have been collected by them.

Excerpts from the 'article' are reproduced below for the benefit of our readers:-

"For an industry worth Rs. 50,000 crore, with its tentacles spread across 13 states, the lottery trade doesn't attract as much attention as it should from law-enforcing agencies. Operating mostly out of the relatively inaccessible states of the Northeast, it is one of the least regulated businesses of the country. The Comptroller and Auditor General of India (CAG) has repeatedly pulled up these state run lotteries but business goes on as usual. And though you can't put a figure to the scam in the trade, just totting up figures the CAG has quoted over the last decade gives you an idea of the loss of thousands of crores to the exchequer. Going strictly by the law, only state governments can run lotteries. But with sole distributing and marketing agents, various governments have virtually handed over the business to private players. With no independent account of tickets sold or verification of prize-winners, illegalities like altering the prize-winning ticket number, pocketing prize money, sale of fake tickets, printing of excess tickets, under-reporting of profits or distribution of prizes to fictitious winners get reported officially all the time. Action is never taken.

There is no age or class barrier to the gambling urge. That hope of making millions sees some invest their life earnings and lose it all. Cases of suicides are not uncommon. And technology is making it only easier to get that ticket. One could opt for the online state-run lotteries, where you only have to go to a networked kiosk, pay up and get a receipt which will serve as your ticket. Or you can log on to the Net and buy a ticket there, a completely unregulated sector. So, even if Delhi has banned lottery, the Internet provides an alternative gambling route.

Much of the corruption in this trade would not have been possible were laws followed closely. Strictly speaking, tickets even for online lotteries have to be printed by the government, and the draw verified by it. Draws in fact have to be on a weekly basis and there shouldn't be any single-digit lotteries. But as the Kerala Government reported to the Centre in August, 2004, rules are violated with impunity. Single-digit lotteries are in place, operators print tickets, draws are conducted by distributors or their agents, "reducing the state government to the role of a mere witness". As many as 70 to 100 draws are held every day instead of a weekly draw, "converting retail outlets into gambling dens", the state government getting less than five per cent out of the sale proceeds instead of a 50-50 profit-sharing arrangement. The taxes secretary of the Kerala government had written to the Union home ministry in January 2004 spelling out the extent of the scam. "About 15 lakhs persons in the state participating in these lotteries are being cheated every day, since the safeguards prescribed by the Lotteries (Regulation Act) 1998 were flouted," he wrote.

Kerala and Punjab have periodically acted against lottery agents. But with thousands of crores at stake, lottery operators hire the best legal brains to keep their business running. This could be the only state-controlled business that has repeatedly been found dubious by the CAG. But the All India Federation of Lottery Trade and Allied Industries (AIFLTAI) in a representation to home minister Shivraj Patil on October 27 complained of harassment by state governments and sought amendment to the central law.

In fact, in a first-ever review of the online lottery business, the CAG's 2004 report indicted the Karnataka government. It revealed that the state government had no clue about the lottery business done under its authority, under its logo and imprint, with the signature of the head of finance department. In Manipur, according to the CAG, Rs. 1,662.79 crores representing government profit was retained by the distributors". In Meghalaya Lottery, the distributors "reaped an additional benefit of Rs. 127.10 crores by pricing each ticket in excess of the tendered rate". So, while dreams of plenty turn into nightmares of penury for many, these dream-peddlers remain perennially lucky, the law-makers firmly on their side".

## NOTICE OF ANNUAL GENERAL MEETING

To

All Members of COMMON CAUSE

The Annual General Meeting of COMMON CAUSE Society will be held in COMMON CAUSE HOUSE located at 5, Institutional Area, Nelson Mandela Road, Vasant Kunj, New Delhi-110070, on Saturday, the 4<sup>th</sup> December, 2004 at 11.00 A.M.

Agenda will be as follows :

- (1) Consideration of Annual Report and adoption of the Annual Accounts alongwith the Auditors' Report for the year 2003-2004.
- (2) Appointment of Auditors for the year 2004- 2005 .
- (3) Activities and programmes.
- (4) Elections.

It may kindly be noted that in accordance with Rule 15 of the Rules & Regulations of the Society if within half an hour of the scheduled time the quorum is not present, the meeting shall stand adjourned and will be held after half an hour, and members present in the adjourned meeting shall form the quorum of the meeting.

H.D Shourie  
Director  
COMMON CAUSE

## ANNUAL REPORT & AUDIT REPORT FOR THE YEAR 2003- 2004.

During the year under report COMMON CAUSE continued to pursue its activities and programmes for redressal of common and collective problems of the people and their amelioration by taking them up with the concerned authorities. COMMON CAUSE has continued to pursue its activities in making use of the instrument of Public Interest Litigation (PIL) by filing writ petitions in the Supreme Court , Delhi High Court and before National Consumer Disputes Redressal Commission. The present account is a comprehensive presentation of the writ petitions filed earlier which are still pending, and also of recently filed petitions in the Supreme Court and Delhi High court.

### CASES IN SUPREME COURT OF INDIA:

**MPs LOCAL AREA DEVELOPMENT FUND:** In this writ petition we have sought direction for scrapping the scheme due to the alleged misuse of funds as brought out by the Comptroller and Auditor General of India (CAG) in his Reports. We have also resisted the demand of MPs to enhance the fund from the present RS 2.0 crores to RS 3-4 crores .

**APPOINTMENT OF LOK PAL AND LOK AYUKTAS:** Writ petition relates to enactment of Lok Pal Bill, and ensuring appointment of all Lok Ayuktas and Up-Lok Ayuktas under the Legal Services Authorities Act. The writ petition continues pending. The petition has been listed 29 times. The Lok Pal Bill is reported to have now been finalized and referred to the Standing Committee of Parliament and may be placed before the Parliament shortly.

**NON- PERFORMING ASSETS (NPAs) :** THE Apex court has issued interim orders, and the Government has enacted legislation to help the Banks to ease realization of out standing loans. The Banks are claiming that the percentage of NPAs is coming down.

**RAILWAY ACCIDENTS :** Writ Petition was filed after the serious accidents at Khanna and Gaisal. The Writ Petition has inter alia stated that new lines are approved as populist measures, and the safety measures are ignored on the plea of non-availability of funds. During hearing of our writ petition the court observed that there was no use extending the lines for travelling without even securing the safety of the passengers who travel on the existing lines. The Govt. of India has since sanctioned a non- lapsing fund of RS 17,000 crores for safety measures. The petition was finally disposed of on 23. 1. 2004 after the Railways issued\filed a white paper. The court felt that the relief which could have been granted by their Lordships was substantially taken care of by the white paper.

**FAKE UNIVERSITIES AND BOGUS TEACHING INSTITUTIONS:** Proliferation of fake universities and bogus teaching institutions has become a menace, affecting the careers of a large number of aspiring young students. It is satisfying to note that the University Grants Commission (UGC) and All India Council for Technical Education have started taking some remedial measures by issuing suitable press notices warning the public about fake institutions, and advising the institutions \universities to upgrade their infrastructural facilities. UGC is reportedly working on enactment of a new Act having more teeth.

**CRIME AND VIOLENCE ON T.V. :** There is large dose of crime, violence and sex in some of the programmes being put forth by certain TV channels. Our Writ Petition is yet pending. The Ministry is claiming that steps are being taken to control depiction of too much crime, violence and sex in the TV programmes. The Ministry of Information & Broadcasting is also espousing self-regulations and introspection by various channels in regard to content of their programmes.

**LAWYERS' STRIKE :** The Apex Court has held that legal professionals had no right to go on strikes as these affect the Fundamental Rights of the Litigants. The court further observed that the weapon of strike does more harm than good, and our Petition along with a bunch of other petitions in the matter, was disposed of.

**SLAUGHTER HOUSES – POLLUTION :** This Petition related to environmental pollution due to unhygienic and filthy practices adopted in the Slaughter Houses at various places in the country. The Petition is pending.

**MAINTENANCE OF ACCOUNTS & SUBMISSION OF ANNUAL AUDIT REPORTS BY POLITICAL PARTIES :** This Writ Petition was decided by Supreme Court in 1999 and directions were issued to Governmental authorities. We have written to all recognized political parties and have again taken the matter to Court, for contempt proceedings and further necessary action because of continuing failure of most parties to comply with requirements of the law in the matter.

**RITUAL OF BURYING OF CHILDREN IN SOME VILLAGES OF TAMILNADU :** This ugly ritual of burying grown-up children, for short while, for propitiating some Gods and Goddesses, has been brought before the Court in a Writ Petition. As soon as the notice was issued, the Government of Tamilnadu promulgated an ordinance and converted it into a law, "The Tamil Nadu Prohibition of Rituals and Practice of Burying Alive of a Person Act, 2002". The law stipulates: "No person shall bury a person alive, allow himself to be buried alive, and no person" shall officiate or offer to officiate or perform or offer to perform or service, assist or participate" in a ritual in which a person is buried alive and retrieved.

**DELHI RENT ACT :** This Writ Petition was initially filed eight years ago in Delhi High Court for issue of directions to the government to issue notification implementing the Delhi Rent Act, 1995, which



was passed by the Parliament and assented to by the President of India. On disinclination of Delhi High Court to issue directions, a Writ Petition was filed in the Supreme Court of India. The Apex Court has, unfortunately, rejected our appeal recently. We have since filed Review Petition.

**LARGE SCALE ADVERTISEMENTS** : It is a common practice that advertisements of various sizes are inserted in newspapers and magazines projecting image of political parties/politicians at huge cost to the exchequer. We have sought directions of the Apex Court to stop this practice. The Hon'ble Court has since issued notices to the Respondents. We filed another application praying for preponing the hearing in view of the fact that huge amounts continued to be spent by the Government on political advertisements due to approaching general elections. The case is yet to be listed. Meanwhile, Election Commission has taken note of this practice and has advocated caution in the matter.

**FUNCTIONING OF SOME AIRPORTS** : Huge investments have been made in setting up some of the Airports as populist measure though these are economically unviable. Some of these airports are not functioning. However, nothing substantial is being done to upgrade infrastructural facilities and passenger amenities of world standards at Delhi, Mumbai airports etc. The Government is now planning to privatise some airports.

**AIDS CONTROL MEASURES** : Huge funds are allotted/received by the National Aids Control Organization (NACO) for educating people to control the spread of this disease, and for taking preventive measures. The funds are reportedly not being used properly. There is lack of effective monitoring system. The Apex Court has issued notices to the Respondents. In response the Union Ministry of Health has filed a comprehensive affidavit through NACO.

**JUMBO CABINET IN UTTAR PRADESH** : A jumbo cabinet was installed in U.P. after the fall of Mayawati Government. We sought limits to be imposed on the size of Cabinets, linked with the strength of legislatures. A Bill limiting the size of Cabinet to 15% of the strength of legislature, and automatic disqualification of a defector to hold any office, has now been passed by the Parliament; the Act has come into force w.e.f. July, 2004.

**EDUCATION OF POOR CHILDREN** : Though the education to children between the age of 3 to 14 has been made a Fundamental Right, steps to achieve the same have not been put in place. We have taken this matter to the Supreme Court.

**ROAD ACCIDENTS** : Fatalities in road accidents on Indian roads are reported to be about 80,000 annually. Lives are lost daily in road accidents, both on Highways and in cities. Some of the fatal accidents are due to delay in provision of prompt medical aid etc. We have sought co-ordinated approach from all concerned agencies, improvement of licensing procedure and proper training of drivers.

**TWO-CHILD NORM** : The Supreme Court of India had recently upheld the provision of two-child norm for Sarpanches in the Haryana Panchayati Raj Act. We have suggested in a Writ Petition to the Supreme Court that similar provision be incorporated in Panchayati Raj Acts of other States. We have also written to the Secretary General, Rajya Sabha requesting for placement before the Rajya Sabha the Bill to encourage two-child norm which has been pending for the last six years.

#### **CASES IN DELHI HIGH COURT**

**INFRASTRUCTURAL FACILITIES IN BURNS WARDS OF SAFDARJUNG HOSPITAL** : During the last hearing, the Delhi High Court had summoned Health Secretaries of the Union and Delhi State Govts. to explain why the amount allocated for upgrading Safdarjung Hospital's Burns Wards has not been spent. The Hon'ble Court also directed Government to inform it how the Burns Wards could be brought up to international standards.

**MENACE OF STRAY CATLE, DOGS AND MONKEYS :** The High Court of Delhi has issued series of directions, including relocation of illegal dairies, increase in number of vehicles engaged in impounding cattle and filing of quarterly progress reports with coordination among MCD/NDMC and DCP of the area. The MCD has since increased the fine for stray cattle from Rs. 1,400 to Rs. 5,000. During the last hearing on 15<sup>th</sup> April, 2004, the Delhi High Court directed private power companies to disconnect electricity supply to unauthorized dairies operating in the city. The Hon'ble Court also directed the police to assist these companies who complained that the dairies continue to steal electricity. The MCD Commissioner assured the court about solving the problem. The MCD undertook to start implementing the orders of the Court w.e.f. 27-5-2004. Whereas the impounded cows will be accommodated in Gowshalas, including those located in the States of Rajasthan and Madhya Pradesh, the buffaloes would be auctioned with the condition that these will not be resold in Delhi. The MCD says that it will remove 40 dairies per week. There are 2718 unauthorised dairies in Delhi. The MCD has to give an action plan for the purpose of removal of illegal dairies, and stray cattle to the High Court by 1st July, 2004. Following this, they have to submit a status report every 3 weeks to the Court.

**CONDITIOIN OF MORTUARIES :** Petition was filed for improvement of conditions in the Mortuaries. The Delhi High Court imposed a fine of Rs. 20,000 on the Union Govt. when its advocate did not appear on the date of hearing, and for its failure to implement the recommendations of the Committee appointed to improve the conditions of Mortuaries in Government hospitals in the city, the fine amount would be used by the city Government for renovation of the Mortuaries.

**HOARDINGS :** Petition has been filed against illegal placement of over-sized Advertisements and Cut-outs on bus-stops, electricity poles and other such places, it is yet pending.

**SALE OF SPURIOUS DRUGS :** On our Writ Petition, the Delhi High Court ordered the Mashelkar Committee which was constituted to look into the menace, to file a report. The petition is yet pending.

#### **OTHER IMPORTANT ACTIVITIES**

COMMON CAUSE continued to take up various issues of public interest through various channels.

We had filed a Writ Petition (2693 of 2002) in the High Court of Delhi seeking directions to Respondents (Municipal Corporation of Delhi and others) to take early decision for introduction of Unit Area Method (U.A.M.) for assessment of Property Tax which COMMON CAUSE had been advocating for a number of years. The Respondents had then filed an Affidavit stating inter alia that steps were being taken to remedy the defects (in the system) and to adopt the U.A.M. It is encouraging to state that the MCD has since implemented the U.A.M. w.e.f. 1-4-2004. They have also appointed a Hardships and Anomalies Committee to redress various grievances.

In January, 2004, we published a small booklet bringing out some of the achievements of our country, and suggesting overcoming of various deficiencies, shortcomings and inadequacies. The burning issues relating to corruption, criminalisation of politics, working of legislatures, political funding etc. were highlighted. The booklet was sent to all the Parliamentarians with the exhortation that the people repose their faith in politicians who, at the Centre and in the States, will pursue the task of taking the country forward and also to make positive efforts to enable the country to enter the era of communal harmony and to overcome the problems of casteism, of Scheduled Castes, Scheduled Tribes and inter-tribal conflicts.

**FINANCE & ACCOUNTS**

Audit Report on Accounts of COMMON CAUSE SOCIETY and COMMON CAUSE TRUST for the year ending 31<sup>st</sup> March, 2004, has been received; its main portions i.e. balance sheet and income & expenditure statement are attached.

It will be noticed that Corpus Fund of COMMON CAUSE SOCIETY stands at Rs. 41.00 lacs and Life Membership Fund at Rs. 9.12 lacs. The Building Fund of COMMON CAUSE TRUST is Rs. 83.00 lacs. There was a deficit of Rs. 2,26,110/- during the year in functioning of the SOCIETY; this deficit is lower than last year when it stood at Rs. 2,62,128/-. This is despite the fact that income has come down by Rs. 82,000/- on account of lower rates of interest. The total expenditure this year was lower by Rs. 89,314/- than last year. The TRUST yielded a surplus of Rs. 7,64,203/- Thus, overall we had a net surplus of Rs. 5,38,092/- A part of this surplus has been earmarked for computerization, opening website etc.

There has been a drop in the interest income of the SOCIETY on Fixed Deposits, particularly those kept with the Steel Authority of India Ltd. The SAIL has stopped renewing our Fixed Deposit Receipts, and is returning the investments on maturity. The rates of interest of Banks, in general, have also come down. Efforts are being made to find alternative permitted sources of investment which can yield higher income.

There is no significant change in the expenditure under various heads of accounts. The main items of expenditure are salaries, printing and stationery and water & electricity. The staff strength remains the same as last year. No remuneration is drawn by the Director. The expenditure on printing and stationery, and on postage for dispatch of our quarterly Journal to members, is reimbursed by the German Foundation FNST.

Through the gracious help of Goodearth Foundation we were able to construct COMMON CAUSE HOUSE in the Institutional Area, on Nelson Mandela Road, Vasant Kunj. From the Audit Report of COMMON CAUSE TRUST it will be noticed that two floors of the building which are on rent, fetch monthly rent of Rs. 1, 70,000/- The expenditure from TRUST A/c is towards Property Tax, sub-letting charges and ground rent paid to DDA.

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He builds computer systems. While he was installing a new computer, the customer said he'd like to have a password for security purposes. The computer expert suggested that rather than choosing something obvious like his birthday or wife's name that he pick something easy to remember.

Several months later the expert received a panicked call from the customer who had forgotten his password and was desperate to find it. The expert said he was sorry, but there was nothing he could do about it. "Call me when you remember it," he said. "I want to know what happened."

An hour latter the customer called back. "I remembered my password," said the sheepish voice on the phone. "It was idiot."

## AUDITORS REPORT

We have audited the attached Balance Sheet of Common Cause ('the Society') as at March, 31, 2004 and also the Income and Expenditure Account for the year ended on that date annexed thereto after incorporating the accounts of the Common Cause Trust ('the Trust'). These financial statements are the responsibility of the Management of the Society/the Trust. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in India. Those Standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

We report that :

- i. we have obtained all the information and explanations, which to the best of our knowledge and belief were necessary for the purpose of our audit;
- ii. in our opinion, proper books of account as required by law have been kept by the Society/the Trust so far as appears from our examination of those books;
- iii. the Balance Sheet and the Income and Expenditure Account dealt with by this report are in agreement with the books of account; and
- iv. it is the policy of the Society/the Trust to prepare its financial statements on the cash receipts and disbursements basis except interest on fixed deposits/bank deposits which is accrued every year. On this basis, revenue and the related assets are recognised when received rather than when earned, and expenses are recognised when paid rather than when the obligation is incurred. In our opinion and to the best of our information and according to the explanations given to us, the said accounts give a true and fair view in conformity with the accounting principles generally accepted in India.
  - a. in the case of the Balance Sheet, of the state of affairs of the Society/ the Trust as at March, 31, 2004; and
  - b. in the case of the Income and Expenditure Account, of the Deficit in the Society, and Surplus in the Trust for the year ended on that date.

For VKGN & Associates  
Chartered Accountants

Vijay Gupta  
Membership No. F81986

Place : New Delhi

Date : 31.07.2004

**COMMON CAUSE TRUST**

(Under Regulation 8 of the Rules &amp; Regulations of the COMMON CAUSE)

**Balance Sheet as at March 31, 2004**

Schedule	31.03.2004 Amount (Rs.)	Schedule	31.03.2004 Amount (Rs.)
<b>LIABILITIES</b>		<b>ASSETS</b>	
Capital & Corpus Fund Accounts A		Fixed Assets D	2,95,224
• Life Membership Subscription Fund	9,19,416	Investments E	
		• Fixed Deposits with SAIL (Including interest accrued)	15,52,252
• Corpus Fund	41,00,689	• Fixed Deposit with HDFC (Including interest accrued)	6,83,600
Foreign Contribution Fund B	5,210	• Fixed Deposit with Indian Bank (Including interest accrued)	16,60,024
Common Cause Trust C	4,41,593	Current Assets, Loans & Advances F	6,62,692
		Deficit :	
		As per Income & Expenditure Account	6,13,116
	<u>54,66,908</u>		<u>54,66,908</u>

Significant Accounting Policies &amp; Notes to Accounts : G

**Income and Expenditure Account for the year ended March 31, 2004**

	31.03.2004 Amount (Rs.)		31.03.2004 Amount (Rs.)
<b>INCOME</b>		<b>EXPENDITURE</b>	
Donations	1,05,502	Salary, Honorarium & other Allowances	3,74,010
Annual Membership	9,240	Printing & Stationery	1,88,154
Associate Membership	1,615	Water & Electricity Expenses (Net of Recoveries)	1,03,115
Interest Received		Telephone Expenses	20,059
• Savings Bank	4,165	Postage & Telegrams	61,281
• Fixed Deposit with SAIL	3,11,736	Legal Expenses	20,000
• Fixed Deposit with HDFC	47,409	Conveyance Expenses	31,331
• Fixed Deposit with Indian Bank	58,758	Meeting & Seminar	--
Amount transferred from :		Membership Charges	--
Foreign Contribution Fund Account	1,41,869	Bank Charges	1,240
		Books & Periodicals	2,468
		Repairs & Maintenance	22,370
		Miscellaneous Expenses	3,964
		Housekeeping & Staff Welfare	--
		Depreciation	60,875
		Auditor Remuneration: Audit Fee	12,960
		Donation Paid	3,900
		Advertisement Expenses	--
		News Paper & Magazine	677
	<u>6,80,294</u>		<u>9,06,404</u>
		Deficit - Excess of Expenditure over Income	2,26,110
		Deficit-Balance brought forward	3,87,006
			<u>6,13,116</u>

Significant Accounting Policies &amp; Notes to Accounts : Schedule G

Signed in terms of our report of even date  
For VKGN & Associates  
Chartered Accountants

For COMMON CAUSE

Vijay Gupta  
FCA-81986Govind Narain  
PresidentK. K. Jhingan  
TreasurerH.D. Shourie  
DirectorPlace : New Delhi  
Date : July 31-2004

**COMMON CAUSE TRUST**

(Under Regulation 8 of the Rules & Regulations of the COMMON CAUSE)

Schedule-C

**Balance Sheet as at March 31,2004**

	31.03.2004 Amount (Rs.)		31.03.2004 Amount (Rs.)
Schedule		Schedule	
<b>LIABILITIES</b>		<b>ASSETS</b>	
Building Fund Account (Funds received from Goodearth Foundation)	83,00,000	Fixed Assets C-1	54,20,917
Security Deposit (Rent) Advance rent	4,59,000	Investments	
Surplus / (Deficit): As per Income & Expenditure Account C-2	15,10,415	• Fixed deposit with HDFC Bank	31,59,769
		• Interest accrued thereon	69,073
		Balance with HDFC Bank A/c No. 0112020000044	5,88,863
		Logiciel Info Systems Pvt. Ltd.	6,885
		Deposit with Delhi Vidyut Board	1,44,500
		TDS on Rent recoverable	
		F.Y. 2002-03 24,990	
		F.Y. -2003-04 3,78,675	4,03,665
		TDS on Interest recoverable :	
		F.Y.-2002-03 15,130	
		F.Y. 2003-04 19,020	34,150
		Balance Transferred to Common Cause	4,41,593
	<u>1,02,69,415</u>		<u>1,02,69,415</u>

Schedule-C-2

**Income and Expenditure Account for the year ended March 31, 2004**

	31.03.2004 Amount (Rs.)		31.03.2004 Amount (Rs.)
		Schedule	
<b>INCOME</b>		<b>EXPENDITURE</b>	
Rent	18,36,000	Depreciation C-1	4,52,888
Interest on Fixed Deposit	1,91,484	Property Tax	4,89,971
Interest on Income Tax refund	--	Bank Charges	366
		Ground rent	29,356
		Subletting charges to DDA	2,90,700
		Stamp Duty on Lease Agreement	----
		Professional Charges to Auditors for Income Tax	----
	<u>20,27,484</u>		<u>12,63,281</u>
		Surplus/(Deficit)	7,64,203
		Surplus (Deficit)-Balance brought forward	7,46,212
		Surplus (Deficit)-Carried to Balance Sheet :	<u>15,10,415</u>

Signed in terms of our report of even date  
For VKGN & Associates  
Chartered Accountants

For COMMON CAUSE

Vijay Gupta  
FCA-81986

Govind Narain  
President

K. K. Jhingan  
Treasurer

H.D. Shourie  
Director

Place : New Delhi  
Date : July 31-2004

FROM  
GEETANJALI

*The night darkened. Our day's,  
works had been done. We thought  
that the last guest had arrived for the  
night and the doors in the village were  
all shut. Only some said the king was  
to come. We laughed and said  
'No, it cannot be!'*

*It seemed there were knocks at the door  
and we said it was nothing but the wind.  
We put out the lamps and lay down  
to sleep. Only some said, 'It is the  
messenger!' We laughed and said  
'No, it must be the wind!'*

*There came a sound in the dead of  
the night. We sleepily thought it was the  
distant thunder. The earth shook, the  
walls rocked, and it troubled us in our  
sleep. Only some said it was the sound  
of wheels. We said in a drowsy murmur,  
'No, it must be the rumbling of clouds!'*

*The night was still dark when the drum  
sounded. The voice came 'Wake up!  
delay not!' We pressed our hands on our  
hearts and shuddered with fear.  
Some said, 'Lo, there is the king's flag!'  
We stood up on our feet and cried  
'There is no time for delay!'*

*The king has come -but where are lights,  
where are wreaths? Where is the throne to  
seat him? Oh, shame!  
Oh utter shame! Where is the hall,  
the decorations? Someone has said,  
'Vain is this cry! Greet him with empty  
hands, lead him into thy rooms all bare!'*

*Open the doors, let the conch-shells be  
sounded! In the depths of the night has  
come the king of our dark, dreary house.  
The thunder roars in the sky. The darkness  
shudders with lighting. Bring out thy  
tattered piece of mat and spread it in the  
courtyard. With the storm has come of a  
sudden our king of the fearful night".*

*Rabinder Nath Tagore*

## 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.**