**ANNUAL REPORT AND AUDIT REPORT FOR THE YEAR 2009-2010**

During the year under report, the Society endeavoured to advance the objectives set forth by its Founder-Director, Mr. H.D. Shourie, ventilate the common problems of the people and secure their resolution. The Society received full support in its initiatives from a network of like-minded civil society organizations.

In order to build a civil society consensus on the strategy for addressing the key issues in governance reforms, the Society organized a series of three seminars on governance reforms in collaboration with India International Centre. The theme of the first seminar, which was held on July 4, 2009, was ‘Making our Police Effective & People Friendly’. The first session, which focused on the effectiveness of the police, was chaired by Justice J.S. Verma, former Chief Justice of India & Chairman, National Human Rights Commission. The second session, which concentrated on imparting a service orientation to the police, was presided over by Shri N. Gopalaswami, former Union Home Secretary and Chief Election Commissioner of India.

The second seminar, held on October 24, 2009, took up the ‘Agenda for Administrative Reforms’. The working session on ‘Revamping of Delivery Systems’ was chaired by Prof. Y.K. Alagh, Chairman, Institute of Rural Marketing, Anand & former Union Minister & Member, Planning Commission, and the session on ‘Refurbishing the Human Resource Pool & Enforcing Accountability’ by Shri B.K. Chaturvedi, Member, Planning Commission & former Cabinet Secretary.

The last offering in the series on January 30, 2010 was devoted to ‘Ethics in Governance’. Shri T.S. Krishnamurthy, former Chief Election Commissioner of India, presided over the seminar. The seminars were addressed by a galaxy of distinguished social activists, thinkers, academics and administrators, who engaged the participants in a stimulating discussion on the approach for addressing the core concerns in governance. The deliberations of the seminars have been covered in successive issues of the journal of the Society.

Common Cause vigorously pursued its police reforms agenda during the period under review and was instrumental in resuscitating the report of the Police Act Drafting Committee (PADC), which had been shelved by the Ministry of Home Affairs. The Right to Information Act proved to be a handy instrument for monitoring the process of decision making in the Ministry of Home Affairs and Delhi Administration. The Society impressed upon the Ministry the importance of setting an example for the states by reforming the police laws applicable to the Union Territories and played a leading role in the creation of a common platform for stakeholder participation in the process of revision of the Delhi Police Act to incorporate the Supreme Court directions on Police Reforms and the key provisions of the Model Police Act, 2006, drafted by the PADC.

Pursuant to the conclusions of the seminar on ‘Agenda for Administrative Reforms’, concerted efforts were made to mobilize support for bringing about greater transparency and accountability in respect of appointments to constitutional and statutory authorities, which have so far been sinecures or rewards to be given in recognition of past services and expectation of servility in future.

In line with the consensus arrived at in the seminar on ‘Ethics in Governance’, the Society sought to deepen its cooperation with like-minded civil society organizations to highlight the ethical dimension of the processes of governance and nudge the institutions of governance into conformity with the highest ethical standards.

In furtherance of its agenda of judicial accountability and reforms, the Society filed a PIL in the High Court of Delhi on the post-retirement activities of Supreme Court judges that violate the spirit of Article 127(4) of the Constitution, which prohibits retired Supreme Court judges from acting or pleading in any court or before any authority. The petition also sought a direction that retired Supreme Court and High Court judges appointed as chairmen/members of statutory commissions and commissions of inquiry should not take up the work of arbitration.

The Society also took up the issue of the inordinate delay in the pronouncement of judgment after completion of the hearing in a case. Information regarding the magnitude of the problem of reserved judgments was obtained from the High Court of Delhi and various consumer forums, but the Supreme Court refused to furnish any information on the ground that it related to matters *sub judice*. A second appeal under the RTI Act was filed before the Central Information Commission in this regard. A complaint was also made to the Commission in regard to the obstructive RTI rules framed by various High Courts to dilute and denature the provisions of the RTI Act.

In the area of political process reforms, the Society collaborated with the Public Interest Foundation on a PIL to be filed in the Supreme Court on fast-tracking of criminal cases against MPs and members of state legislatures.

The Society also took the initiative to urge the Election Commission to take cognizance of the recent trend of erecting, at public places and at state expense, statues of political functionaries and symbols linked to the ruling party. It was pointed out that in Uttar Pradesh, statues of the incumbent Chief Minister and of other political figures linked to the ruling party as well as images of elephant, its reserved election symbol, were being erected in public places. The Commission was requested to exercise its inherent powers to curb this practice and cancel the allotment of the reserved symbol of elephant to the Bahujan Samaj Party.

Common Cause continued to be in the forefront of the campaign for securing the basic rights of construction workers in Delhi. A PIL was filed in the Delhi High Court jointly by People’s Union for Democratic Rights, Nirman Mazdoor Panchayat Sangam and Common Cause to highlight the plight of construction workers in Delhi and secure compliance of the safety norms and other mandatory provisions of various labour welfare legislations. At the instance of the petitioners, the Court appointed a Monitoring Committee comprising two official members and two independent experts suggested by the petitioners to study the situation of construction workers and issue appropriate directions to the Delhi Building and Other Construction Workers Welfare Board. Volunteers of the petitioners assisted the Committee in its work. In its fact-finding report, the Monitoring Committee made scathing comments on the dereliction of duty by the agencies responsible for enforcement of labour laws and welfare of construction workers, and their ruthless exploitation by a labyrinth of contractors, sub-contractors and petty contractors.

The Society continued to support the efforts of Vanangana to promote communal harmony through its sporting and cultural activities and programmes for imparting vocational skills. The common feature of these initiatives is that they bring young women and men of diverse backgrounds to a common platform and promote understanding and co-operation among them.

Concerted efforts were made to refurbish the Society’s website [www.commoncauseindia.org](http://www.commoncauseindia.org) and acquire greater salience in the governance reforms space.

Common Cause suffered the loss of Gen. U. C. Dubey, trusted comrade-in-arms of Mr. Shourie and a distinguished member of the Governing Council since its inception. The Governing Council of the Society met four times during the year. In its meeting held on February 20, 2010, the Council reviewed the activities and programme of action of the Society and endorsed the Annual Report and Audit Report for the year 2008-09. The Annual General Meeting of the Society was held on March 6, 2010. The members took note of the deliberations of the Governing Council and endorsed the direction being imparted to the activities and programmes of the Society.

The Society made good use of the instrument of public interest litigation to seek appropriate relief from the Supreme Court of India/High Court of Delhi in public causes that require intervention by the courts. A number of important public issues was also pursued with the Government agencies/ministries concerned.

The present status of various writ petitions filed in the Supreme Court of India / High Court of Delhi is given below:

**SUPREME COURT OF INDIA**

1. **Appointment of Lokpal and Lokayuktas** : The Writ Petition (civil) No. 26 of 1995 relates to enactment of the Lok Pal Act and ensuring appointment of Lok Ayuktas and Up Lok Ayuktas under the Legal Services Authorities Act. The case was listed for final disposal on July 28, 2009, but was adjourned due to paucity of time.It was last listed on July 23, 2010.

2.  **MP Local Area Development Scheme (MPLADS):** In this Writ Petition (civil) No. 404 of 1999, we had sought directions for scrapping the Scheme on the ground that is unconstitutional and discriminatory and leads to a rampant misuse of funds, as brought out in the reports of the Comptroller & Auditor General of India. Arguments **were** heard by the Constitution Bench. In its judgmentdated May 6 2010 the Constitution Bench held that there were enough checks and balances in the Scheme and hence, interference in the matter was not warranted.

3. **Non–performing Assets**: COMMON CAUSE filed Writ Petition No. 291 of 1998 in the Supreme Court of India, highlighting the need for the Ministry of Finance and the Reserve Bank of India to undertake a thorough and comprehensive review of the existing regulations and procedures to curb the generation of non-performing assets (NPAs) and protect the custodians of public resources, viz., the banks and financial institutions, from the manipulations of unscrupulous borrowers and their accomplices. Detailed remedial measures were also suggested in our petition. A number of hearings was held. The Government of India enacted the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. It was claimed that NPAs had come down after effective enforcement of its provisions, and that since January 2005, a sum of Rs.6,376 crore was recovered by public sector banks. We suggested that the emphasis should be on a greater accountability of bank officials and also on the personal liability of the promoters enforced through a mandatory personal guarantee. COMMON CAUSE also suggested the setting up of an independent expert committee to advise the Court on the merits of the assertions and suggestions made in the affidavits of the parties.Disposing of the matter in its judgment dated August 18, 2010, the Supreme Court hoped that the Committee of Experts under the Chairmanship of Vepa Kamesam, Ex-Deputy Governor of Reserve Bank of India, which has been appointed by the government to advise on the functioning of the Serious Fraud Investigation Office (SFIO), will suggest effective measures, legislative or administrative, to ensure that bank frauds are prevented in future and the NPAs are kept to the minimum. The court was sanguine that the Committee will consider the suggestion to make the SFIO (or any similar body) a statutory authority having sufficient powers and having the required autonomy to be able to effectively deal with the problems of bank frauds and NPAs.

4. **Large scale Advertisements**: Self-congratulatory advertisements are routinely inserted in newspapers and magazines to bolster the image of political parties/ politicians at a huge cost to the exchequer. We sought the intervention of the Supreme Court by filing Writ Petition (civil) No.13 of 2003 to stop this practice. The Court issued notices to the respondents. We have prayed for an early hearing in view of the fact that huge amounts were being spent by the Government on political advertisements as the general elections were approaching. Meanwhile, the Election Commission deprecated this practice and issued a caution to the parties concerned. In this matter, rule has been issued and it is pending in the Supreme Court for final disposal. There is no further listing**.**

5. **Crime and Violence on T.V**.: Our Writ Petition (Civil) No. 387 of 2000 draws attention to the heavy dose of crime, violence and sex in many of the programmes being broadcast on the T.V. The Ministry of Information and Broadcasting has claimed that adequate steps are being taken to control excessive depiction of crime, violence and sex in T.V. programmes. While favouring self-regulation by T.V. channels in regard to the content of their programmes, the Ministry has, in the recent past, taken punitive action against some channels. On April 18, 2006, the Hon’ble Supreme Court directed the respondent Union of India to file a copy of the Broadcasting Regulatory Authority Bill a status report on consultations on the Bill within two weeks. The UOI has failed to comply with the directions. Thereafter, the matter came up for hearing on a few occasions, but the respondents have not yet complied with the said order. When the matter again came up for hearing on January 20, 2009, the Hon’ble Court granted two weeks further time as the last opportunity to the UOI to file the affidavit before the matter is listed for final hearing. The matter was last listed on July 21, 2009, but could not be heard.

6. **Tamil Nadu Reservation Act, 1994**: The *vires* of this Act, which was incorporated in the 9th Schedule of the Constitution through the Constitution 76th Amendment Act, have been challenged in the Writ Petition (Civil) No.238 of 1995. This writ petition was disposed of on July 13, 2010 with the observation that subsequent to the filing of the petition, Articles 15 and 16 of the Constitution had been amended vide Constitution 81st and 93rd Amendment Acts, which have been the subject matter of its decisions in M. Nagaraj & ors [2006 (8) SCC 212] and Ashok Kumar Thakur [2008 (6) SCC 1], in which it has been held that if a state wanted to exceed the fifty percent cap on reservations, it should base its decision on the quantifiable data. Since this exercise had not been done in the present case, the state was directed to place before the Tamil Nadu State Backward Classes Commission the quantifiable data, which is already available, and on the basis of such quantifiable data amongst other things, the Commission will decide the quantum of reservation. Under the circumstances, the Court did not express any opinion on the validity of the 1993 Act.

7. **HIV-AIDS**: Writ Petition (Civil) No. 61 of 2003 has been filed in the Supreme Court to bring to its notice the havoc that is being caused by the wide prevalence and continuing spread of the dreaded disease, HIV-AIDS. In this petition, it has been prayed that the Central and the State governments need to take urgent steps to weed out suspect and bogus NGOs, put in place a proper mechanism for monitoring the work of NGOs before disbursing funds to them, set up counselling and specialized treatment centres, enact an appropriate legislation for ensuring that no doctor or hospital refuses to treat an HIV positive patient, provide a subsidized treatment procedure and take other effective steps required for combatting the dreaded virus. The matter is listed for hearing on November 26, 2010.

8. **Living Will**: The issue of withdrawal of life support systems in the face of imminent death has been agitated in several High Courts. This matter was also taken to the Supreme Court, which has passed a comprehensive order covering all aspects of Section 306, Section 309 and the relevant articles of the Constitution. We have filed a Writ Petition (Civil) No. 215 of 2005 praying for enactment of a law on the lines of the Patient Autonomy and Self-determination Act of the USA, which sanctions the practice of executing a ‘living will’. The petition has been admitted and notices issued to the respondents. Meanwhile, the Indian Society of Critical Care Medicine, Mumbai filed an intervention application as the issues in the petition were of deep concern to critical care specialists and doctors. The intervention application has been allowed. This matter is still pending.

9. **Commercialization of Residential Properties**: COMMON CAUSE filed an Intervention Application (No.1 of 2006) in W.P (Civil) No. 266 of 2006, challenging the validity of the Delhi Laws (Special Provisions) Act, 2006, which allowed the commercial use of residential properties. The Hon’ble Court directed the amicus curiae to discuss the matter with the members of the Monitoring Committee constituted by the Court to implement its judgment dated February 16, 2006, the petitioners, as well as the Chief Executive of the interventionist. COMMON CAUSE eventually filed an additional affidavit giving specific suggestions regarding the removal of encroachments on government / public land, as well as unauthorized and illegal constructions. It was also urged that the steps initiated on the order of the superior Courts to bring the law-breakers, including builders and politicians, to book should not be allowed to slow down. This matter was listed for hearing on October 5, 2009 and has been further adjourned for ensuring compliance.

10. **Speedy justice**: Janhit Manch, COMMON CAUSE and a couple of other like-minded entities  jointly filed a comprehensive Writ Petition (civil) No.122/2008 in the Supreme Court in March 2008, offering a multi-pronged strategy to expedite the dispensation of justice and reverse the trend of a mounting backlog of Court cases.  The writ petition relied heavily on the Law Commission of India reports. The need to use alternate modes of disputes redressal, pre-litigation measures and plea bargaining was also stressed in the petition.  After issuance of notice, the petitioners moved an application for impleading all the states, which was allowed. The Government of India was directed to file its affidavit in reply and also to apprise the Court of the progress of the Gram Nyayalayas Bill on the next date of hearing. The case was subsequently tagged with the matter relating to judicial service. The matter came up for hearing on November 19, 2010. As some of the states had not yet filed their affidavits in terms of order dated January 12, 2010, the Court granted four weeks’ further time to them by way of last opportunity to comply with the said order. The Union of India was also directed to file its affidavit within four weeks. The matter has been listed for December 16, 2010.

**HIGH COURT OF DELHI:**

**1. Commercialization of Residential Properties**: We had filed an intervention application No. 587/2006 in Writ Petition No. 1397/2001, praying for the appointment of an independent committee to assess whether the demolition of properties converted to unauthorized commercial use are complete, selective, or motivated. The writ petition and all connected applications have been disposed of in terms of the court order dated 29.08.2002. The Court is, however, continuing to monitor the compliance of its orders.

**2. Working Condition of Teachers in Private Schools in Delhi**: Although our Writ Petition (No. 16779 of 2006) has been disposed of by order dated 9.5.2007, the case of victimization of a school teacher, Mrs. Sangeeta Srivastava, by the management of Arun Modern Public Senior Secondary School, Brijpuri, Delhi, was actively pursued in the High Court under its Contempt jurisdiction in CCP No. 630 of 2008 filed by Common Cause. Concerned over the undue delay on the part of the Directorate of Education in completing the inquiry, the Court ordered the Directorate on October 13, 2009 to complete the inquiry within two weeks. On completion of the inquiry, the Directorate ordered the reinstatement of the complainant. As the school did not comply with the order of the Directorate, the Court directed that the school be made a party to the proceedings. In the hearing on December 3, 2009, the school appeared and filed its reply alleging that the complainant teacher had abandoned her services. This was contested by Common Cause. The High Court directed the Directorate of Education to record the teacher’s statement and give a report to the Court. The matter was finally disposed of on April 28, 2010 when the High Court ordered the Directorate of Education to take action against the errant school expeditiously.

**3. Plight of Construction Workers employed in Commonwealth Games 2010 projects**: Common Cause is an active member of the civil society coalition ‘Commonwealth Games: Citizens for Workers, Women & Children’, which has been striving to ameliorate the condition of construction workers in Delhi. As a measure of last resort, Common Cause joined hands with Peoples Union for Democratic Rights and Nirman Mazdoor Panchayat Sangam to file a PIL in the High Court of Delhi [Writ Petition (civil) 524 of 2010] for securing the long-denied rights of construction workers of Delhi. The Court constituted a high level Monitoring Committee to report on the averments made in the petition. The report submitted by the Monitoring Committee brought out the stark reality of the situation of the hapless construction workers toiling on various projects related to the high-profile Commonwealth Games. In order after order, the High Court directed the respondents to ensure that the provisions of various labour laws were complied with and the construction workers duly registered to enable them to receive the benefits under various welfare schemes.

In its last order dated November 10, 2010, the High Court issued elaborate instructions for preparation of an exhaustive list of all workers, who had worked on Commonwealth Games projects, registration of eligible construction workers, revamp of the office of the Labour Commissioner, prompt payment of compensation to accident victims and their families and proper accounting of the levy and recovery of the cess. The matter is now listed for January 19, 2011.

4. [**Judicial**](http://commoncause.in/Recent_PILs/hc4.php) **Accountability beyond Retirement**: Common Cause has sought to enlarge the concept of judicial accountability by questioning the prevalent practice of retired Supreme Court judges tendering legal opinions which are produced in various forums of adjudication to influence their judgment. The lucrative chamber practice among retired Supreme Court judges is contrary to the letter and spirit of Article 124(7) of the Constitution, which forbids them to “plead or act in any court or before any authority within the territory of India”. Through a narrow and self-serving interpretation, former Supreme Court judges have construed the expression “plead or act” to operate as a bar only on their appearance in courts. The contention of Common Cause is that the act of giving a written advice to be tendered in a court of law also comes within the mischief of Article 124(7). The PIL [WP (C) 866/2010] also seeks a ban on acceptance of arbitration work by retired judges of the Supreme Court and the High Courts, while serving as chairpersons or members of government appointed commissions or tribunals.

The matter came up before Chief Justice A.P. Shah, just before his retirement. He directed the Union Government to respond to the PIL. As no response was forthcoming, a bench comprising Acting Chief Justice Madan B. Lokur and Justice Mukta Gupta directed the Union Law Ministry on March 10, 2010 to file an affidavit stating its position on the issues raised in the PIL. No affidavit has yet been filed by the respondent. The matter is listed for November 24, 2010.

**Finance & Accounts:**

The Audit Report on the Annual Accounts of COMMON CAUSE SOCIETY and COMMON CAUSE TRUST for the year ending March 31, 2010 has been received. The Governing Council has accorded its approval to the Annual Accounts and the Audit Report on September 15, 2010. Briefly, the overall expenditure during the year was Rs.40.30 lakh against Rs. 34.60 lakh last year; the income was Rs. 43.56 lakh against Rs.39.08 lakh during the previous year. Thus, there was an overall surplus of Rs. 3.26 lakh during the year against Rs. 4.48 lakh last year. Overall, the financial results are quite satisfactory.

(Due to space constraint, copy of the balance sheet and profit & loss statement will be provided at the time of AGM)

**AUDITORS REPORT**

We have audited the attached Balance Sheet of Common Cause (‘the Society’) as at March 31, 2010 and the Income and Expenditure Account for the year ended on that date annexed thereto. These financial statements are the responsibility of the Management of the Society. 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:

1. We have obtained all the information and explanations, which to the best of our knowledge and belief were necessary for the purposes of our audit;
2. In our opinion, proper books of account as required by law have been kept by the Society so far as appears from our examination of those books;
3. The Balance Sheet and the Income and Expenditure Account dealt with by this report are in agreement with the books of account; and
4. 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:
5. In the case of the Balance Sheet, of the state of affairs of the Society as at March 31, 2010; and
6. In the case of the Income and Expenditure Account, of the Surplus in the Society for the year ended on that date.

For VKGN & Associates

Chartered Accountants

Firm Registration No.: 012897N

Vijay Gupta

Membership No: 081986

Place: New Delhi

Date: September 15, 2010