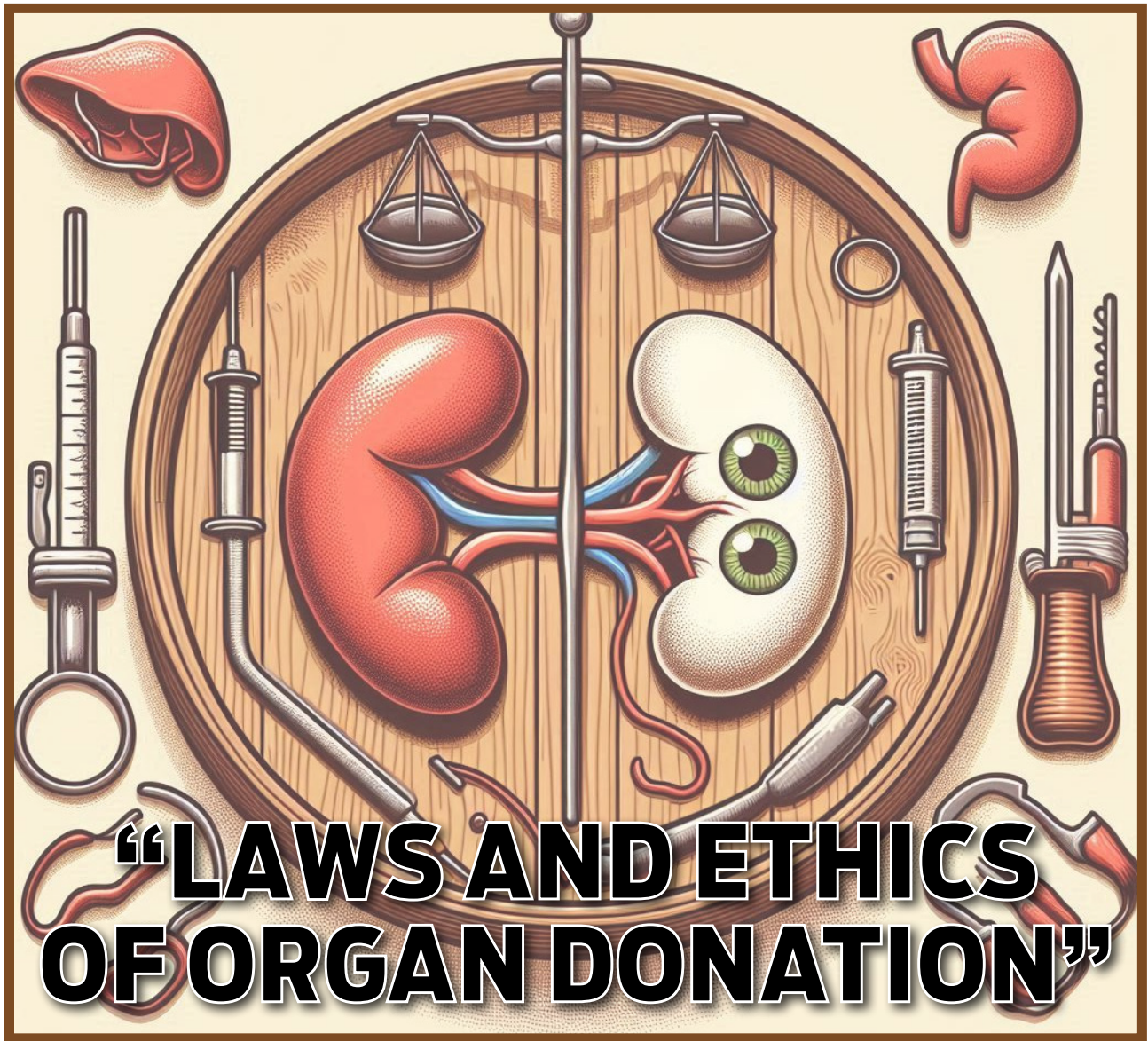


# COMMON CAUSE

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# ORGAN TRANSPLANT AS COMMON GOOD

## Can the Pursuit of a New Life be at Others' Expense?

The purpose of technology is to improve lives. From AI to robotics and from blockchain to organ transplant, technology is making lives cosier and healthier by the day. It keeps us connected with our loved ones, wherever on earth they may be and brings the universe to our fingertips. Perhaps we are in the middle of another industrial revolution without realising it. A big challenge for society today is to catch up with the social, legal and ethical consequences of such an upheaval.

In the past issues of your journal, we have tried to unravel technology in simple, jargon-free language. We have dedicated cover stories to diverse tech issues such as surveillance, privacy, data protection, digital divides and GM foods. The idea has always been to analyse if and how technology can be harnessed by all sections of society fairly and equitably. Whether it is the use of genetics or nuclear power, the social and environmental costs of every new technology prod us to shape new regulatory frameworks in the wider public interest.

It is in this spirit that we discuss challenges arising out of organ transplants in this issue of your journal. At first, it seems to be a simple procedure of replacing a damaged or failing human organ with a healthy one taken from a consenting donor. Still, it has huge implications for things beyond healthcare like redefining life and death. And that is why the idea of artificially prolonging life poses a myriad of moral and legal challenges for us.

The ethical equation may change tomorrow with the use of animal or artificial organs or even cloned human parts but today a lax legal framework is undoing the positive side of this life-changing intervention. There is a money-spinning 'market' for shady networks of agents, suppliers, middlemen, and traffickers. The business thrives on unscrupulous doctors and hospitals eager to strike a deal and law enforcers willing to look the other way, all for a price. Their job is made easier by the poverty and susceptibility of our people. It is a double tragedy that a poor 'donor' suffers the most for a fraction of the proceeds while the racketeers make a fortune.

Hence, the need for just and reasonable laws that are firm and enforceable. It is a matter of moral correctness: Our pursuit of a good life cannot be at the expense of others.

It is not our case to suggest that nothing has been done so far. The point, however, is that our policymakers tend to respond to tragedies and scandals rather than trying to overcome impending crises. India's first law on organ transplants came three decades ago in 1994 after a shocking kidney racket was busted in Bangalore. It took us two more decades to amend the law in 2014 and many more years to update the corresponding rules. We have neither made pre-emptive laws nor followed the global standards or benchmarks for donors, recipients or hospitals, as argued in the following pages.

The articles in this issue cover organ rackets across India, questions of ethics, our existing legal framework and the global best practices. While we uphold the power of technology, we are mindful that it can backfire without sensible laws and their realistic enforcement. What do you think? Please let us know at [feedback@commoncauseindia@gmail.com](mailto:feedback@commoncauseindia@gmail.com)

Happy New Year to you and yours,

**Vipul Mudgal**  
Editor

# ORGAN TRANSPLANTATION IN INDIA

## A Lifeline Amid Ethical Challenges

Rishikesh Kumar\*

“When life takes a tragic turn, it can still offer hope,” said the father of Vaidehi Bhau Tanavde, a 12-year-old girl who was declared brain-dead following a rare auto-immune illness. In the face of unimaginable loss, her family made the courageous decision to donate her organs, giving four people in Mumbai a second chance at life.

Vaidehi’s story is one of rare courage and compassion in a country where organ donation rates remain alarmingly low. Despite a population of over 1.4 billion, the number of organ donors annually falls short of the demand by a staggering margin. Over 500,000 people require organ transplants each year, but less than 15,000 donations take place.

Organ donation is a powerful way to save lives, but in India many people are unsure about how it works or what it takes to become a donor. In this article, we’ll explore the basics of organ donation in India—how it works, who can donate, and what the process looks like for everyday people.

We’ll also look at some important questions: Are organ donations fair and equal? How do money, cultural beliefs, or religion affect people’s decisions to donate?

We will examine these questions through ethical lenses, providing a deeper understanding of the challenges and opportunities in organ donation and why it’s a cause worth engaging with and supporting.

### Understanding Organ Donation

The process of organ transplantation involves the surgical removal of a healthy organ from a donor and its transplantation into the body of a recipient suffering from organ failure. For many, this procedure is a life-saving intervention, offering a second chance at life when all other medical options have been exhausted. Without such transplants, patients with end-stage organ failure often face a bleak prognosis.

“ ***Organ donation in India is governed by the Transplantation of Human Organs and Tissues Act of 1994, which ensures that anyone, regardless of age, caste, religion, or community, can choose to donate their organs*** ”

Tissue donation, while less publicised, is equally impactful. It can significantly improve the quality of life for recipients, restoring vital functions and offering a path to recovery.

Organ donation, at its core, is an altruistic act. For an individual, it involves pledging during their lifetime that their organs can be used after their death to save lives. This selfless decision has the potential to transform despair into hope, allowing patients with failing organs to lead healthy, productive lives.

By bridging the gap between a healthy donor and a patient in need, organ transplantation underscores the profound impact of human kindness and medical science. It is a powerful way to leave a lasting legacy—offering life, even in death.

### Eligibility in India

Organ donation in India is governed by the Transplantation of Human Organs and Tissues Act of 1994, which ensures that anyone, regardless of age, caste, religion, or community, can choose to donate their organs. While people above 18 years are generally preferred, the key factor for eligibility is the donor’s overall health, not just their age.

\*Rishikesh is Advocacy Consultant at Common Cause

## Medical Ethics and Bioethics

Medical ethics is the set of moral principles that guide the practice of medicine. It ensures that doctors and other healthcare professionals provide fair, respectful and principled care, regardless of a person's gender, religion or race. Key principles of medical ethics include respect for autonomy (allowing patients to make informed decisions about their care), justice (fair treatment and equal access to resources), and compassion (acting in the patient's best interest). In organ donation, medical ethics plays a crucial role in ensuring fairness in the allocation of scarce resources like organs, while also respecting the donor's and recipient's choices and dignity.

Bioethics, on the other hand, is a broader field that examines moral principles in all areas of life sciences, including medicine, biotechnology, politics and law. It goes beyond the clinical focus of medical ethics and includes the societal, cultural and philosophical dimensions of healthcare. For example, bioethics helps us consider how cultural beliefs, socioeconomic conditions and even advancements in science affect organ donation decisions.

While medical ethics provides a framework for fair and patient-centred care, bioethics encourages us to address the larger systemic and societal

“ *While medical ethics provides a framework for fair and patient-centred care, bioethics encourages us to address the larger systemic and societal barriers to organ donation.* ”

barriers to organ donation. Both perspectives are essential to understanding and improving the process. Whether you choose to view organ donation through the precise lens of medical ethics or the broader approach of bioethics, the goal remains the same—to create a system that respects human dignity and fosters equitable access to life-saving care.

### Types of Organ Donation

**Living Organ Donation:** Living organ donation is a remarkable medical practice where a healthy organ is transplanted from a living donor to a patient suffering from end-stage organ failure. This form of donation is most commonly seen in cases of kidney or liver failure, where timely transplantation can mean the difference between life and death.

For example, in liver donation, a portion of the donor's liver is surgically removed and transplanted into the recipient. What makes this unique is the liver's ability to regenerate

itself, allowing both the donor's and recipient's livers to grow back to their normal size over time. Similarly, kidney donation involves the removal of one kidney, enabling the donor to continue leading a healthy and active life with the remaining kidney.

Living donors are typically close family members, such as parents, siblings, or children, though they can also be distant relatives or close friends. The selflessness of living donors highlights the profound human capacity for generosity and compassion, offering a lifeline to patients whose organs have failed.

There are three main types of living organ donation:

- **Directed Donation:** The donor chooses the recipient, often a close family member such as a spouse, parent, child, sibling, or grandparent. This is the most common type of living donation.
- **Non-Directed Donation:** The donor has no personal connection to the recipient and donates purely for altruistic reasons. The recipient is selected based on medical compatibility.
- **Paired Donation (Kidney Swap):** This involves two donor-recipient pairs who exchange kidneys when the original donor-recipient match is incompatible. This innovative approach ensures both recipients receive compatible kidneys.

Living donors are eligible to donate the following organs:

- One of their kidneys
- A portion of the pancreas
- Part of the liver.

**Deceased Donors:** A deceased donor has the potential to save multiple lives by donating six essential organs: kidneys, liver, heart, lungs, pancreas, and intestine. While organs like the uterus can also be transplanted, they are not considered life-saving. Organ donation can only proceed after the donor is declared legally dead and the family provides their consent.

In India, brainstem death is legally recognised as a form of death, enabling the donation of vital organs. In such cases, up to 37 organs and tissues, including the six life-saving organs, can be donated. After natural cardiac death, tissues such as corneas, bones, skin, and blood vessels can also be donated, offering hope and healing to many.

## How to be a Donor

By filling out an online pledge form through Organ India, you can take the first step toward saving lives and receive a donor card, complete with a unique government registration number

from the National Organ and Tissue Transplant Organisation. Here's how you can get started in just a few easy steps:

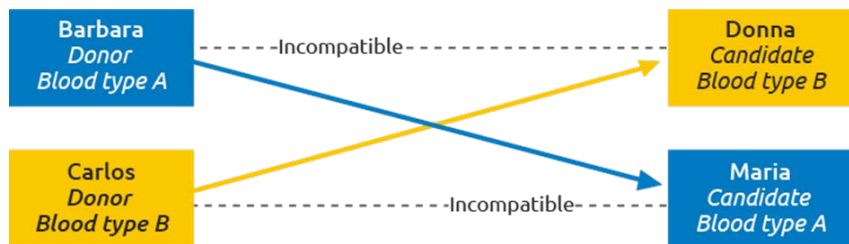
- **Online Pledge Form:** To start, visit the Organ India website at <https://bit.ly/4eTBDxr>
- Fill out the online pledge form, which allows you to officially declare your intent to donate your organs. After completing the form, you'll receive a donor card with a unique government registration number from the National Organ and Tissue Transplant Organisation (NOTTO).
- Once you've registered, your pledge is automatically recorded with NOTTO, the national body responsible for organ donation. This ensures that your decision to donate is officially recognised and can be referred to when needed.
- While registering is a crucial step, it's equally important to talk to your family about your decision to donate your organs. In India, even if you have pledged to donate, the consent of your next of kin is necessary after your passing. Having this conversation ensures your family is aware of and supports your wishes.

## Ethics, Biology and Human Values

A number of questions encourages us to think deeply about the connection between ethics, biology, and human values.

- Is healthcare merely a profit-driven business model, or should it prioritise the essential medical services needed by patients?
- Should healthcare operate purely as a professional service, devoid of any moral responsibility or focus on patient welfare?
- Does an individual in need of an organ to survive have a moral right to claim the organ of another person?
- Is it legally justifiable to treat human organs as commodities, selling them to wealthy individuals instead of prioritising the poor and needy? Isn't the life of a poor person just as valuable as that of a wealthy one?
- How should healthcare resources like human organs, which are necessarily limited, be made available?
- As members of society, what responsibilities do healthcare professionals have toward the common good and public interest?

By looking at these questions through a bioethical lens, we can find perspectives that help shape fair policies, responsible practices and thoughtful individual decisions, all while respecting the



dignity of everyone involved.

Organ transplantation is a life-saving medical advancement that demands a careful balance of moral, social and legal considerations. At its core is the principle that human beings are not commodities; decisions about organ donation and transplantation must respect human dignity and equity.

## Equity and Access

A key concern is whether organ transplantation ensures fair access for all, regardless of socio-economic status. The reality often favours the wealthy, as transplantation is costly and policies may prioritise those with better resources. Vulnerable groups, such as women, minorities, the elderly, and the disabled, remain under-represented in receiving transplants, highlighting systemic inequities.

The phenomenon of 'transplant tourism' exacerbates disparities, where patients from wealthier nations procure organs from poorer regions, sometimes through unethical means, including trafficking and coercion. Such practices call for stringent enforcement of laws to protect vulnerable populations.

## Culture and Religion

Cultural and religious beliefs significantly shape attitudes toward organ donation. While some religions view donation as a noble act, others resist due to

differing views on brain death or the sanctity of the body. These beliefs influence both individual decisions and national transplant policies, requiring sensitive engagement and education.

## Trust and Consent

Trust is essential in organ transplantation but is often strained in large, impersonal healthcare systems. Some patients fear carrying donor cards, suspecting it might compromise their care. Informed consent, rooted in clear and compassionate communication, is critical to rebuilding trust and ensuring ethical practices.

## Distributive Justice

The principle of distributive justice demands fairness in organ allocation, but no universal standard exists. Should priority be given to those most likely to survive, those most socially valuable, or through random

allocation? Balancing these criteria remains a challenge.

## A Human Approach

Organ transplantation must prioritise equity, ensuring that rich and poor, men and women, and diverse cultural groups are treated fairly. Legal and ethical systems must safeguard human dignity, combat organ trafficking and foster trust. Only by addressing disparities and respecting cultural diversity can transplantation truly reflect justice and compassion.

*“To the world, you might be one person, but to one person, you might be the world.”* These words remind us how powerful a single act of kindness can be. By pledging to become an organ donor, you have the chance to save lives and give someone a future they thought they'd lost. Every day, thousands of people wait for organ transplants, clinging to hope. You could be the reason their story continues.

## Charting New Paths

Organ donation is no longer just about saving lives—it's also about improving the quality of life through groundbreaking transplants like those of the face, hands, uterus, etc. This quiet revolution calls for a fresh perspective on the ethical questions surrounding organ donation. As technology advances and we achieve state-of-the-art medical breakthroughs, it's important to ask, are we ensuring humanity,

“ ***A key concern is whether organ transplantation ensures fair access for all, regardless of socio-economic status. The reality often favours the wealthy, as transplantation is costly and policies may prioritise those with better resources.*** ”

equality, compassion, freedom of choice, and a level playing field for everyone?

In a diverse country like India, where cultural, religious, and socioeconomic factors play a

significant role, these questions become even more critical.

Organ donation has the power to transform lives, but for it to truly benefit society, it must be guided by principles that respect every individual and promote

fairness and dignity for all. It's up to each of us to understand these issues, make informed decisions, and support a system that balances innovation with ethical responsibility.

## FAQs on organ donation in India

### Is organ donation safe?

Yes, organ donation is safe when conducted through authorised hospitals and under legal and ethical guidelines. The process is strictly regulated to ensure the donor's safety (in the case of living donations) and to respect the deceased donor's body.

### What law governs organ donation in India?

The Transplantation of Human Organs and Tissues Act (THOTA), 1994, regulates organ donation and transplantation in India. It aims to prevent organ trafficking and ensure ethical practices in organ donation.

### Who can donate their organs?

**Living donors:** Healthy individuals above 18 years can donate organs like a kidney or a part of their liver to a relative or someone they are emotionally connected with.

**Deceased donors:** Anyone can donate their organs after brain death, provided they or their family consent to the donation.

### Whom should I contact to donate organs in India?

- The National Organ and Tissue Transplant Organisation (NOTTO) for guidance and registration.
- Authorised hospitals with organ transplantation facilities.
- State-level organisations like ROTTO (Regional Organ and Tissue Transplant Organisation) or SOTTO (State Organ and Tissue Transplant Organisation).

### Can I pledge to donate my organs?

Yes, you can pledge to donate by registering with NOTTO or local organ donation programs. Keep your family informed of your decision, as their consent is crucial at the time of donation.

For any questions or support related to organ donation, you can contact the national toll-free helpline at 1800-11-4770, available 24x7.

Regional centers (ROTTOs) in Mumbai, Kolkata, Chandigarh, Chennai, and Guwahati ensure support across all major regions of India.

To learn more or to register for organ donation, visit the official websites: [www.notto.abdm.gov.in](http://www.notto.abdm.gov.in)



# VICTIMS, MEDICAL PROFESSIONALS AND RACKETEERS

## The Human Cost of Organ Trafficking

Vinson Prakash\*

*"We had no funds for food after the Tsunami. We took a loan of Rs 100,000 for living expenses and to pay for the marriage of my oldest daughter. The money lender's abuse to us was intolerable."*

*"My main problem is severe poverty, not having our own land, own home and no money for my children's education. All this made me to go for this act. I never wanted my wife to donate but everyone is having money from this, so [I thought] why can't I?"*

These are some testimonies given by victims of organ trade rackets that prey on India's most vulnerable and financially disadvantaged population<sup>1</sup>. India's organ market is plagued by a scarcity of organs and low donation rates. India's deceased organ donation rate stands at 0.52 organs donated per million population, compared to the donation rate of other countries like the US at 39, Spain at 37.9, and Croatia at 24.5 per million, respectively<sup>2</sup>. Despite the fact that 1.8 lakh people experience renal (kidney system) failure every year, only 6,000 transplants are performed throughout the nation<sup>3</sup>. The same trend is followed for other organs such as

the liver, where 10-15 per cent of the 2 lakh patients who die from liver failure annually can be saved; and out of 50,000 people who suffer from heart failures annually, only 10 or 15 receive the required transplant<sup>4</sup>.

The significant gap between the supply and demand of organs, coupled with a significant proportion of the country's population living below the poverty line, has made India one of the most thriving markets in the world for illicit organ trade and illegal organ transplantations. A kidney is sold for about Rs 70 lakh to Rs 1 crore depending on the urgency of the transplant, according to a top Uttar Pradesh police official. However, neither the donor nor the sale of the organ (from a deceased person) can earn more than Rs 3 lakh<sup>5</sup>.

### Historical Overview

How did India become a thriving market for illicit organ trade and illegal organ transplants? In the 1970s, renal transplantation in India became a successful endeavour. The following decade witnessed mastering of surgical techniques and the production of immuno-suppressant drugs that achieved better survival rates in transplant recipients. Pioneering transplant procedures, along

with an unlimited source of poor donors, brought potential buyers of organs to India from several parts of the world, in so far that India became the 'hub' of organ trade in the 1980s. In the early 1990s, residents of Gulf states such as Kuwait, Saudi Arabia, Bahrain, Oman, and the UAE

**“ Majority of studies on organ trade state poverty as the primary factor contributing towards organ sale. A World Bank report of 2024 states that approximately 129 million Indians are living in extreme poverty, earning less than Rs181 per day. ”**

frequently travelled to India to obtain a kidney<sup>7</sup>.

This unscrupulous trade persisted unregulated for over three decades, up until the passing of the Transplant of Human Organs (THO) Act in 1994. This however pushed the organ trade underground, making it a much more lucrative business, owing to the shortening of supply and

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its illegality. Racketeers exploited Section 9(3) of the Act, which permitted an unrelated person to donate an organ out of affection or attachment<sup>8</sup>. Donors were presented as people affectionate towards the recipient, making it business as usual. The THOA was later criticised for its limitations and especially its inability to curb the illegal organ trade.

## India's Illicit Organ Trade

The majority of studies on organ trade state poverty as the primary factor contributing towards organ sale. A report released by the World Bank in 2024 states that approximately 129 million Indians—almost 10 per cent of the country's population--are living in extreme poverty, earning less than \$2.15 (Rs181) per day. Organs have thereby become a commodity, where people living in extreme poverty see it as a form of trade that may ameliorate them from their current living conditions.

Kidney transplants are one of the most common living-donor organ procedures, and the kidney is the most sought-after organ in the black market. Given that human beings can lead an active and healthy life with just one functioning kidney, selling the other one is perceived as a viable option. But, as studies consistently find, the sale of a kidney almost never helps the donor overcome poverty. On the contrary, it at times pushes them further into extreme poverty as

“ ***There needs to be a course of action that alleviates people from extreme poverty, imposes much harsher penalties on doctors who abet illegal transplantations, and improves the country's organ donation rate.*** ”

their physical capabilities are constrained, compromising their ability to generate an income.

Human trafficking for organ removal (HTOR) is a facet of the illicit organ trade and the victims of HTOR are predominately people living in extreme poverty. *The Declaration of Istanbul on Organ Trafficking and Transplant Tourism*, derived from a UN protocol, defines HTOR as “the recruitment, transportation, transfer, harbouring, or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability, or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of the removal of organs.” By definition, even if persons living in extreme poverty consent to the removal of an organ for commercial purposes, they are

trafficked as they are defrauded, coerced (owing to their financial circumstances), and their position of vulnerability has been exploited by racketeers.

The Coalition for Organ Failure Solutions has thus far identified victims of HTOR in four areas of India. These include Erode and Chennai in Tamil Nadu, and villages/small town centres in West Bengal and Karnataka. In all these regions, extreme poverty was the factor that drove HTOR.

In Erode, the transition from handloom to electric loom created a significant employment gap that was effectively exploited by racketeers. In Chennai, the victims of HTOR are largely part of communities on the coast who lost their homes, belongings and livelihoods as a result of the Tsunami of December, 2004. Villivakkam, an area in Chennai which was affected by the Tsunami, was dubbed ‘Kidneyvakkam’ since most of the residents there sold their kidneys to sustain themselves<sup>9</sup>.

In West Bengal, particularly in the city of Raiganj and villages (Bajbindol, Balia, Jalipara) of the Uttar Dinajpur province, brokers are mostly individuals who have donated their own kidney and are now recruiting individuals for a kidney sale in Mumbai. In Karnataka, all the victims from the Mandya District, Mysore, Mangalore, Ulsoor and Udupi were farmers<sup>10</sup>.

Apart from the racketeers,

medical professionals greatly abet the illicit organ trade. In 2016, 14 people were detained in Mumbai for engaging in illegal organ transplants. Out of these 14, five of them were medical professionals detained by the Maharashtra Directorate of Health Services after the discovery of discrepancies with kidney transplants carried out in their medical facility<sup>11</sup>.

Similarly, earlier this year, on July 9, 2024, a surgeon was among the seven arrested for operating an international organ trafficking racket in Delhi<sup>12</sup>. This collusion of medical professionals is detrimental towards the trust people have in the healthcare system and the lack of trust is cited as one of the reasons for the slow evolution of the deceased donation programme in the country.

The network and organisation of organ transplant rackets in India vary on a case-by-case basis. Some of the variations found through media reports are: the racket using a broker who was victimised by them to recruit more individuals from the broker's hometown for kidney removal; the racket uses a quasi-medical professional such as a transplant coordinator in different hospitals where they identify patients in need of a kidney and then arrange for a commercial transplant<sup>13</sup>; or, the racket lures individuals from impoverished countries and transports them across borders using forged documents for

kidney removal<sup>14</sup>.

## The Way Ahead

Possible solutions to curb the illicit organ trade, recommended by literature on the subject, are either to implement the Iranian model of having a government-regulated organ sale market; or, the state of Wisconsin's (USA) model of giving organ donors tax breaks and medical allowances<sup>15</sup>. Both of these solutions are however not viable for the Indian context. In India, the primary problem is extreme poverty leading to organ sale.

Considering the Iranian model, the current exploitation of the poor will be exacerbated since this model cements the narrative that an organ can be used as a commodity to relieve a person's debt. This can result in significant adverse effects on the poor people enrolling in this program, especially since the enrolment would be in enormous numbers from this proportion of the population. The elements of

“ ***To increase the country's organ donation rate, a variation of the 'presumed consent' practice for organ donation can be implemented across the nation to encourage the donation of organs from the deceased.*** ”

coercion, exigent need for money, or lack of agency do not disappear under this model.

There needs to be a course of action that alleviates people from extreme poverty, imposes much harsher penalties on doctors who abet illegal transplantations, and improves the country's organ donation rate. Rather than conceptualising illicit organ trade as a criminal issue, it should be conceptualised as a social issue.

## Education Helps

After almost three decades, The National Education Policy 2020 is a step in the right direction in improving access to education for people from vulnerable social and financial backgrounds via the Gender Inclusion Fund and Special Education Zones. The impact of the implementation are yet to be seen since the policy is currently being implemented in “language and spirit” across India.

Obtaining a loan to meet living expenses is virtually impossible for people living in poverty. Most of them turn to local money lenders who charge exorbitant interest rates and quick repayment timelines that are impossible to fulfil. New schemes must be introduced for people living in extreme poverty, wherein they receive financial aid such as child maintenance allowances, housing assistance, medical allowances, and tax relief to meet their basic necessities, protect their fundamental *Right Against*

*Exploitation*, and maintain their universal right to life, liberty, security, and standard of living.

Further, much harsher penalties must be imposed on medical professionals for abetting an illegal organ transplantation. These could include an extended prison sentence, an increased fine, removal of name for a period longer than three years from the register of the State Medical Council, and both permanent removal from the register and revocation of their educational qualifications (including degrees, diplomas, and certifications) for a subsequent offence, including barring them from taking up medical education in any other institution. Harsher penalties will deter medical professionals from engaging in illegal organ transplants and subsequently reduce such transplants since the racketeers will have a very limited supply of unscrupulous medical professionals to perform the transplant.

## Increasing the Organ Donation Rate

To increase the country's organ donation rate, a variation of the 'presumed consent' practice for organ donation can be implemented across the nation to encourage the donation of organs from the deceased. 'Presumed consent' works on the principle that the deceased person has consented to having their organs donated, unless a document states otherwise.

Brazil has an impressive organ donation count among developing countries, has managed to substantially reduce organ shortage, and increase the number of transplants done annually<sup>16</sup>. Its 'presumed consent' law is primarily responsible for bringing about a commendable organ donation count. Following in Brazil's footsteps, India too can implement a provision in the THOA that allows hospitals to harvest a deceased person's organs, unless opted-out by family members or if disapproved by the deceased prior to death.

A crime-fighting approach is simply not sufficient to curb and eliminate the illicit organ trade in India. There need to be legislative changes that ameliorate people from extreme poverty through access to quality education, financial assistance, and healthcare. A revival of THOA is needed with new amendments that can strike at the heart of the problem, including proper oversight of the Appropriate Authority to prevent abuse of Section 9(3) of THOA. India still has a long way to go before it can become a country where organs are not perceived as commodities, and a crackdown on illicit organ trade can truly be achieved.

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# ORGAN DONATION: THE LEGAL FRAMEWORK

## Bridging the Demand and Supply Gap

Swapna Jha\*

The significant demand-supply gap in organ donation in India presents a critical healthcare challenge, as over 200,000 individuals require transplants annually, yet only a fraction receive the organs they need. The disparity is particularly glaring for kidney transplants, where about 180,000 patients are on waiting lists, but only 17,000-18,000 surgeries take place each year. Similar shortages exist for other organs, such as the liver, heart and cornea.

This imbalance is exacerbated by several barriers. Low awareness about organ donation, pervasive misconceptions and cultural or religious hesitations contribute to a limited donor pool. Many lack information about the process and impact of organ donation. Fears or myths also often discourage potential donors and their families. Additionally, societal norms and superstitions can impede acceptance of the idea.

Addressing these issues requires sustained efforts to educate the public, dispel myths and encourage organ donation. Public awareness campaigns, educational initiatives in schools and communities and collaborations with religious and community leaders can help foster a supportive environment.

Moreover, streamlining processes for donor registration and enhancing medical infrastructure for transplants are crucial to bridging the demand-supply gap and saving more lives. This article discusses the legislation, loopholes therein and suggestions for battling low supply in India.

### The Relevant Laws

The law on organ donation in India is primarily governed by the Transplantation of Human Organs and Tissues Act, 1994, as amended in 2014 (THOA), read with the Transplantation of Human Organs and Tissues Rules, 2014 (Rules).

THOA came into force in 1995, after a major racket in illegal kidney trade was uncovered in Bangalore. The law was intended “to provide for the regulation of removal, storage and

transplantation of human organs for therapeutic purposes and for the prevention of commercial dealings in human organs.” It legally recognised the concept of brain-stem death (BSD), thus opening the way for a program of organ transplants from cadavers. It explicitly illegalised commerce in human organs, thus making kidney-for-cash transactions a criminal offence.

### Under THOA, the source of the organ may be:

- Near relative donor (mother, father, son, daughter, brother, sister, spouse);
- A donor who can donate out of affection and attachment or for any other special reason and that too with the approval of the authorisation committee.
- Deceased donor, especially after BSD—for example, a victim of road traffic accident—where the brain stem is dead and person cannot breathe on his own but can be maintained through ventilator, oxygen, fluids, etc. to keep the heart and other organs working and functional.
- Other type of deceased donor could be a one after cardiac death.

Despite a facilitatory law, organ donation from deceased

“ *Since BSD is only recognized for organ donations, doctors cannot legally remove life support of a BSD patient unless the patient’s organs can be removed for transplantation under the Act* ”

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persons continues to be very poor. In India there is a need to promote deceased organ donation as donation from living persons alone cannot take care of the organ requirement of the country.

Recognition of BSD as death is recognised as a legal in India only under THOA. If implemented properly, it has the potential to revolutionise the concept of organ donation as after BSD almost 37 different organs and tissues can be donated, including vital organs such as kidneys, heart, liver and lungs.

## The BSD Conundrum

While THOA recognises BSD as actual death for the purpose of organ donation, legislations like the Registration of Births and Deaths Act, 1969 (RBD Act) and Indian Penal Code, 1860 (IPC)/Bhartiya Nyay Samhita (BNS) do not recognise BSD. The RBD Act defines 'death' as "*permanent disappearance of all evidence of life*", while the IPC/BNS defines it as "*death of a human being, unless the contrary appears from the context*". Both being negative definitions, exclude BSD, where despite the fact that the patient will never regain consciousness, the body and heart can be artificially oxygenated with a ventilator.

This legislative vacuum causes significant problems for doctors. Since BSD is only recognised for organ donations, doctors cannot legally remove life support of a

“ ***The current stress on donation after circulatory death to increase the organ pool requires that we define how long doctors should wait before they can safely proceed to organ donation.*** ”

BSD patient unless the patient's organs can be removed for transplantation under the Act. This results in a contentious situation where if a family is informed that the patient is "dead", but they refuse consent for organ donation and want the body be handed over, their request to remove life support must be refused.

On the one hand, removing life support could result in legal consequences for the doctor (including charges of criminal negligence/ murder) since there is no legal sanction under the RBD Act to withdraw life support for a BSD patient, on the other hand, there is an ethical obligation to contribute scarce medical resources (like ventilators and intensive care unit wards) towards patients who have a chance to recover.

To address this issue, it would help to adopt a uniform definition of 'death' across legislations, which includes both the circulatory and neurological criteria. This would involve the inclusion of BSD in the RBD

Act, IPC/BNS and other relevant legislations. Uniform legislation on death will require mentioning brain death as a form of death in the Registration of Births and Deaths Act and this will need to be included in the certificate too.

The current stress on donation after circulatory death to increase the organ pool also requires that we in India define how long doctors should wait after asystole has occurred--before they can safely proceed to organ donation. In the UK this 'no touch time' is defined as 5 minutes while in some other countries it is 10 and even 20 minutes in the case of Italy. When legislating the definition of death, a consensus is required from medical professionals about the 'no touch time' for organ donation and it needs to be included in the law too for safely proceeding to organ donation.

To summarise, while the framework for organ transplantation in India addresses BSD and prohibits the commercialisation of organs, it faces challenges in implementation and public awareness. Strengthening these areas could enhance the effectiveness of the existing legal framework.

## The Main Challenges

Several key factors contribute to the crisis concerning organ donation in India:

**Social Stigma:** Many potential

donors and their families are unaware of organ donation processes, or are deterred by cultural and religious beliefs. Myths and misconceptions further reduce the willingness to donate.

**Legislative Framework:** While the Transplantation of Human Organs and Tissues Act, 1994 (amended in 2014) and the related rules provide the legal framework, ambiguities and inefficiencies persist. For example:

- The Act mandates a stringent process for organ donation, especially in cases of brain death, but the lack of clear guidelines for enforcement creates inconsistencies.
- The definition and certification of brain death remain contentious, and training for medical professionals in this area is limited.

**Inefficient Regulation:**

Regulatory agencies, both at the national and state levels, face challenges such as:

- Limited coordination between hospitals and organ retrieval centers.
- Delays in organ allocation due to bureaucratic procedures.
- Inadequate monitoring of compliance with the law.

**Insufficient Infrastructure:**

Many regions lack necessary healthcare infrastructure, such as transplant facilities and organ retrieval organisations. This results in organs being wasted

due to logistical inefficiencies.

**Ethical Concerns:** Despite the Act's provisions to curb organ trafficking, black market activities persist due to weak enforcement mechanisms. This undermines public trust in the system.

**Role of Family Consent:** Even after an individual registers as an organ donor, family's refusal at the time of death often overrides this consent, further reducing the number of donations.

**Potential Solutions**

Addressing these challenges holistically requires concerted efforts from policymakers, healthcare providers and society at large. Some of the measures could be:

**Awareness Campaigns:**

The government and non-governmental organisations should collaborate to educate the public about the importance of organ donation, debunk myths and promote voluntary registration.

**Streamlining Legal Processes:**

Clarifying legislative ambiguities, ensuring uniform application of the law, and simplifying procedures can encourage more donations.

**Strengthening Healthcare:**

Investing in hospitals, organ banks and retrieval centres, particularly in rural areas, can improve access and reduce wastage.

**Training and Capacity Building:**

Medical professionals should be trained to handle brain death certification, donor management and organ retrieval more effectively.

**Digitisation and Transparency:**

A centralised, digital registry and allocation system can improve coordination and foster trust in the fairness of organ distribution.

**Promoting Ethical Practices:**

Strict enforcement against trafficking and corruption is essential to protect donors and recipients and restore confidence in the system.

**Need for Data Privacy**

There is a need for a robust law to ensure protection of the data privacy of organ donors and recipients as medical history and records are shared. There is a need for transparency and ethical practices in the handling of personal data related to organ transplants. Deceased donor details, such as name and identifiable information, should not be published in the media<sup>1</sup>.

**Government Initiatives**

National network division of National Organ and Tissue Transplant Organisation<sup>2</sup> (NOTTO) functions as the apex centre for activities of coordination and networking for procurement and distribution of organs and tissues and registry of organs and tissue donation and transplantation in the country. These activities are undertaken to facilitate organ

transplantation in the safest way in the shortest possible time and to collect data and develop and publish a national registry. Similarly, Regional Organ and Tissue Transplant Organisation and State Organ and Tissue Transplant Organisation have been set up to:

- Lay down policy guidelines and protocols for various functions.
- Network with similar regional and state level organisations.
- Compile and publish all registry data from states and regions.
- Create awareness, promotion of deceased organ donation and transplantation activities.
- Co-ordinate the process from procurement of organs and tissues to transplantation when organ is allocated outside region.
- Disseminate information to all concerned organisations, hospitals and individuals.
- Monitor transplantation activities in the regions and states and maintain a data bank for it.
- Assist the states in data management, organ transplant surveillance and organ transplant and organ donor registry.
- Provide consultancy support on the legal and non-legal aspects of donation and transplantation
- Coordinate and organise trainings for various cadre of workers.

## Present Scenario

Although critical care and number of ventilators have improved in our country post-covid, still BSD declaration is low due to lack of sensitisation among the doctors. Telangana, Tamil Nadu, Karnataka, Gujarat and Maharashtra have reported highest number of deceased organ donors.<sup>3</sup> Delhi-NCR, Tamil Nadu, Kerala, Maharashtra, and West Bengal are prominent regions with a high number of living donors.

Tamil Nadu offers free transplants for various organs, including heart, lung, liver and kidneys, under the Chief Minister's Comprehensive Health Insurance Scheme<sup>4</sup>. There is a need to study the executive orders passed by these states and the same could be replicated by other states.

## Suggestions

Centers of Excellence should be set up by the government to increase the involvement of public hospitals in transplantation as they are the only ray of hope for poor people. Sustained media campaigns should be undertaken to bridge the awareness gap. To increase the organ donation rate, NOTTO should come forward to involve religious gurus and leaders for awareness and sensitisation of general public and to increase the involvement of their communities.

NOTTO, ROTTO and SOTTO's SWAP donation through

information, education and communication activities is bound to reduce the demand-supply gap. One nation-one advisory is a step forward for SWAP transplantation along with state and central registry. User friendly software for digitalised application and document verification (linked with Aadhar) can be helpful in streamlining and fastening the SWAP transplant<sup>5</sup>.

Mandatory counselling about all replacement therapies should be given to the patients so that they can take informed decision before registering in the deceased organ donors list. While many of these objectives are in the schemes of the government, timely and effective implementation is the only way forward.

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# GLOBAL ORGAN DONATION PRACTICES

## Lessons from the World Leaders

Rishikesh Kumar\*

You're battling a severe illness and the only chance of survival is an organ transplant. Days turn into weeks as you wait, your hope dimming with each passing moment. Then, one night, a celestial figure appears in your dreams, offering you a miraculous choice:

*"I will grant you a new citizenship in any country of your choice—where organ donation systems are the best in the world. Choose wisely, for your life depends on it."*

Would you pick Spain, the gold standard in organ donation? Or the United States, with its advanced technology and robust transplant networks? Maybe Singapore, with its cutting-edge policies and exceptional efficiency? Or would you stay in India, betting on the potential for reform?

Every eight minutes, someone in India dies awaiting an organ transplant, a silent crisis arising out of systemic inefficiencies and societal hesitations. Meanwhile, countries like Spain and Singapore lead a quiet revolution, achieving remarkable success in organ donations. How do their laws and practices differ? What lessons can India

draw to save more lives?

This article explores global best practices in organ transplantation, compares them with India's framework, and charts a roadmap for reform. Much like the Bhore Committee envisioned a transformative healthcare model, it's time for India to reimagine its organ transplant ecosystem—where every life is given a fighting chance.

### Spain: A Global Leader

Spain's organ donation and transplantation system is recognised worldwide as a model of excellence.

In May 2024, Spain led a significant resolution at the World Health Assembly to enhance the availability, ethical access, and oversight of organ transplantation globally. Spain's unparalleled success in the field is marked by the world's highest deceased donor rate of 49.4 per million population in 2023.

### Components of Spain's success

**A Strong Legislative Framework:** Spain's success in organ donation is underpinned by a robust legal framework established in 1979. The law ensures equitable

allocation and transparency in organ distribution across the nation. Regular updates to the legislation have broadened donor criteria, now allowing the use of organs from individuals over 80 years old and non-standard risk donors. Spain excels in donation after circulatory death, an area often underutilised elsewhere, which constitutes 45 per cent of all donation activities in the country<sup>1</sup>.

**The Soft Opt-Out System:** Spain operates a 'soft opt-out' system, where all citizens are considered donors by default unless their families decide otherwise. This nuanced approach balances efficiency with sensitivity, earning public trust. Eight out of 10 families in Spain consent to organ donation—a figure significantly higher than countries like the United Kingdom, where only six in 10 families agree under a similar system. Spain's example underscores that an opt-out policy alone is insufficient; it must be accompanied by cultural trust and institutional support.

**Clinical Leadership:** The role of hospital transplant coordinators—typically doctors from intensive care units—is pivotal to Spain's transplantation

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success. These professionals identify potential donors, support grieving families, and manage complex logistics. Regional coordinators and the National Transplant Organisation (ONT) offer further guidance, ensuring smooth operations nationwide. Their training in family counselling and psychological support fosters empathetic communication, critical during such sensitive discussions.

**The Role of ONT:** Founded in 1989, the ONT has been instrumental in doubling Spain's deceased donor rate in less than a decade. It oversees logistics, monitors ethical organ allocation, and leads public education initiatives. By collaborating with the media and sharing positive stories of organ donation, the ONT has significantly influenced public attitudes. Its transparency and emphasis on ethics have cemented public trust, a key factor in the program's success.

**Public Awareness and Cultural Acceptance:** Organ donation often raises deep ethical, cultural and religious questions. The ONT addresses these challenges through transparent communication and awareness campaigns. People who discuss organ donation within their families are more likely to consent, and the ONT actively encourages such conversations. Patients' associations further amplify the ONT's message, building community trust and

“*Spain operates a ‘soft opt-out’ system, where all citizens are considered donors by default unless their families decide otherwise. This nuanced approach balances efficiency with sensitivity, earning public trust*”

promoting solidarity.

## The US Policy Framework

The United States' organ donation framework provides a robust example of how policies, laws and ethical considerations can work in tandem to create an effective organ transplantation system. Despite its reliance on an 'opt-in' model, the US has developed a nuanced system that ensures equitable organ allocation and ethical procurement, guided by federal laws, state-level adoption of model acts, and coordinated national oversight mechanisms.

## Uniform Anatomical Gift Act

The UAGA was first promulgated in 1968, provides the foundation for organ donation in the US. While not a federal law, its adoption across all states ensures consistency in regulations governing anatomical gifts. The

UAGA allows individuals aged 18 or older to donate organs through a donor registry, driver's license designation, or donor cards. Importantly, revisions in 1987 and 2006 clarified donor rights, explicitly stating that a decedent's documented decision to donate cannot be overridden by next of kin, thus strengthening first-person authorisation.

” The UAGA also delineates the hierarchy of relatives authorised to make decisions on organ donation in the absence of the decedent's express intent, simplifying processes and reducing conflicts. It prohibits the sale of organs, aligning with ethical mandates established by the National Organ Transplant Act (NOTA).<sup>2</sup>

**Equitable Allocation:** Enacted in 1984, NOTA established the framework for equitable allocation of organs and addressed the growing demand for transplantation. It prohibits the sale of human organs and mandates “reasonable compensation” for procurement services to prevent exploitation.

NOTA also authorised the creation of the Organ Procurement and Transplantation Network (OPTN) and the United Network for Organ Sharing (UNOS). These entities ensure national coordination of organ allocation, develop policies, maintain waitlists, and standardise medical urgency

criteria. Together, they aim to allocate organs to the sickest patients first while ensuring fair access across the US.

**The OPT Network:** The OPTN divides the US into 11 geographic regions, each managed by Organ Procurement Organisations (OPOs). These non-profit entities facilitate the recovery, preservation and transportation of organs, ensuring seamless logistics between donor hospitals and transplant centres.

A key feature of the US system is its data-driven allocation process, facilitated by OPTN's algorithms. These consider medical urgency, waitlist time and compatibility to rank candidates, ensuring the ethical distribution of organs.

**Research and Ethics:** The US approach balances innovation with ethics. While deceased donors are not considered 'human subjects' under the Common Rule or FDA regulations, research involving transplant recipients is rigorously monitored. Additionally, entities like the Scientific Registry of Transplant Recipients (SRTR) collect and analyse data to inform policy decisions, improve outcomes, and guide future research.

## The Singapore Story

Singapore's organ donation framework is governed by three primary laws, each addressing distinct aspects of the process

“ **A key feature of the US system is its data-driven allocation process, facilitated by OPTN's algorithms. These consider medical urgency, waitlist time and compatibility to rank candidates, ensuring the ethical distribution of organs** ”

to ensure clarity, fairness, and efficiency. Together, these laws create a robust and ethical system that maximises organ availability while safeguarding donor and recipient rights.<sup>3</sup>

**Human Organ Transplant Act:** The HOTA, introduced in 1987, forms the backbone of Singapore's organ donation system. It operates on an 'opt-out' basis, automatically enrolling all Singaporean citizens and permanent residents aged 21 and above who are of sound mind. HOTA stands out for its balance of mandatory consent and ethical safeguards, making it a vital tool in addressing organ shortages.

The key highlights of HOTA are

**Automatic Inclusion:** All eligible individuals are presumed to consent to donate their kidneys, liver, heart, and corneas upon death unless they explicitly opt

out.

**Priority for Donors:** Individuals who remain under HOTA receive higher priority on the transplant waiting list should they ever need an organ.

**Regulation of Living Donations:** HOTA prohibits the commercial trade of organs but allows regulated reimbursements for living donors to cover medical costs, income loss and insurance premiums. This ensures donors are not financially disadvantaged.

**Amendments for Inclusion:** Over the years, HOTA has been updated to expand its scope and refine its implementation, ensuring that more people benefit from transplants.

**The MTERA:** The HOTA focuses on life-saving organ transplants, MTERA caters to individuals who wish to contribute to medical advancements through their donations.

The key highlights of MTERA are

**Opt-In Scheme:** Unlike HOTA, individuals must voluntarily pledge to donate their organs, tissues, or even their entire body for research, education, or transplantation purposes.

**Flexibility in Choice:** Donors can specify which organs or tissues they wish to donate and for what purpose.

**Posthumous Donations:** Family members can authorise

organ donations for a deceased individual under MTERA if the person had not made a prior pledge.

MTERA broadens the scope of donation, ensuring that organs and tissues not covered by HOTA (e.g., lungs, skin, bones) can contribute to medical progress.

### Human Biomedical Research

**Act:** The HBRA governs the use of human tissues and organs for biomedical research, ensuring that ethical practices are maintained in the pursuit of scientific innovation.

The key highlights of HBRA are

#### Consent Framework:

Researchers must obtain explicit consent from donors or their families before using any organs or tissues.

**Ethical Oversight:** The act enforces strict guidelines to prevent exploitation or misuse of donated tissues.

HBRA complements HOTA and MTERA by ensuring that donations for research are handled responsibly and transparently.

### Why Singapore's Framework Excels

By combining these three laws, Singapore has created an all-encompassing system that addresses the needs of patients, respects donor rights, and promotes medical research. This integrated approach ensures

“*Singapore's organ donation framework is governed by three primary laws, each addressing distinct aspects of the process to ensure clarity, fairness, and efficiency*”

that organ donation operates within an ethical and regulated environment, making Singapore's policy a global benchmark.

### Lessons for India

India stands at a pivotal moment to create a transformative organ donation system that is inclusive, transparent, and tailored to its unique challenges. By learning from global leaders in organ donation, India can design a framework that addresses its diverse needs while inspiring trust and participation.

#### Global Models as Inspiration:

Spain's opt-out model has shown how trust, strong legal frameworks and cultural sensitivity can significantly boost organ donation rates. Singapore's integrated approach balances patient care, donor rights and medical research, while the US demonstrates the effectiveness of systems like the Organ Procurement and Transplantation Network (OPTN), which ensures fairness, transparency and prioritisation based on medical urgency.

### India's Progress and Potential:

Indian states are beginning to lead the way in organ donation and transplantation. Gujarat stands out as a beacon of progress. It offers:

- **Affordable and Accessible Transplants:** The state offers cardiac transplants in the public sector, a rare achievement, with government hospital services costing three times less than private facilities.
- **Pioneering Institutions:** The Institute of Kidney Diseases and Research Centre (IKDRC) has performed over 640 liver transplants from deceased donors—the highest by a government hospital in India. Meanwhile, the UN Mehta Institute of Cardiology & Research Centre has successfully conducted around 30 heart transplants.
- **Educational Leadership:** Gujarat established the Gujarat University of Transplantation Sciences (GUTS) in 2015, the world's first university dedicated to transplantation and allied sciences,

“*By learning from global leaders in organ donation, India can design a framework that addresses its diverse needs while inspiring trust and participation*”

emphasising research and training in this critical field.

Dr Pranjali Modi, Director of IKDRC and Vice-Chancellor of GUTS, has emphasised the importance of a national technology-driven program that seamlessly matches donors and recipients while addressing logistical challenges such as location.

### Key Focus Areas:

- Centralised and Accurate Databases: Developing robust state-level and national registries to streamline donor and recipient matching.
- Standardised Waitlist Criteria: Prioritizing the sickest patients to ensure fairness in organ allocation.
- Cost Recovery Models: Offering financial incentives or cost recovery for donors to address economic barriers and encourage participation.
- Public Awareness and Trust: Building trust through education campaigns and culturally sensitive outreach to dispel myths about organ donation.
- Leveraging Technology: Using AI and data analytics to enhance the efficiency and transparency of organ matching and allocation

## Your Voice Counts: Let's Discuss

Deceased organ donation can bridge the critical organ demand-supply gap and address ethical challenges. Brain-dead individuals, legally eligible donors, have the potential to save lives through timely organ donation.

The *Common Cause vs. Union of India* judgment (March 9, 2018) introduced the 'Living Will', allowing individuals to record their medical preferences in advance, ensuring their autonomy in end-of-life care decisions.

Could this framework be expanded to include organ donation registration? Integrating organ donation preferences into the 'Living Will' process would simplify registration and ensure that individuals' choices are respected.

We look forward to your thoughts on this proposal. The judgment link is attached for reference.

<https://www.commoncause.in/uploadimage/case/185640911Living%20Will%20Judgment.pdf>

processes.

By blending these insights with innovative approaches and the successes of states like Gujarat, the country can create a compassionate, equitable and world-class organ donation framework.

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# COMMON CAUSE ANNUAL REPORT 2024

As curtains are drawn on 2024, the Common Cause team is ready with yet another Status of Policing in India Report (SPIR), sixth in a row, on the use of force, violence and torture by the police. A first-of-its-kind report is based on surveys and interviews with serving police officers across the country. The report is in the final stage of design and printing and ready for release in early 2025. The flagship report is part of the organisation's sustained work on police reforms.

The year has seen many upheavals and upsets but it will be remembered for the landmark Supreme Court judgment in the Electoral Bonds matter in which Common Cause and the Association for Democratic Reforms were among the main petitioners. The long-awaited judgment came seven years after the PIL was filed in 2017 but it scrapped the Electoral Bonds Scheme as unconstitutional which was our main prayer. The court upheld our argument that the arbitrary scheme was legalising electoral corruption while undermining the ordinary voters' right to make informed choices. In the process, the two petitioners also filed and won an instant contempt of court case when the State Bank of India attempted to delay and obscure the information sought by the court. Our other prominent

PIL, on the domestic workers' rights and dignity, was disposed of with the liberty to file a new petition taking into account the developments of the last many years, mainly because the court had not issued notices to the authorities concerned. A new and revised petition is already in the works.

This year, the eponymous Common Cause journal has completed 42 years of continuous publication. Many new members have also joined the society. The team continued its advocacy around the rule of law and governance reforms organising and participating in related events throughout the year. As part of our engagement with students and young people, we helped in conceptualising and delivering a curriculum on the Rule of Law at Shiv Nadar University and another academic engagement is also being planned at Ashoka University in 2025. During the year, the Inclusive Media for Change project moved to Bharat Rural Livelihoods Foundation after the latter showed interest in running and upscaling its work in the future.

## **Advocacy and Research Initiatives:**

### **Police Reforms**

#### **a. Status of Policing in India**

### **Report (SPIR) 2024**

The latest Status of Policing in India Report (SPIR) on the use of force, violence and torture by the police while discharging their routine functions, is getting ready for release. Long interviews and elaborate surveys with police personnel have been conducted across the country in collaboration with the Lokniti network of the Centre for the Study of Developing Societies (CSDS), our long-term academic partners. The team has also analysed the existing official data and conducted in-depth interviews with key stakeholders of custodial violence including doctors and magistrates. Like all our earlier reports, this too is the first study of its kind in India to examine the nature and causal factors that contribute to police torture in India. While the earlier SPIRs have also tackled issues of police violence, the current report examines why violence is normalised in police practice, despite legal safeguards and institutional mechanisms.

The Status of Policing in India Report (SPIR) is a policy-oriented study of policing and law enforcement in India and it has become an important part of the organisation's portfolio of activities since 2018 when the first report came out on citizens' trust in the police and the levels

of their satisfaction with its working. With continued support from our philanthropic partner, the Lal Family Foundation, the work has already started on conceptualising yet another report to be released in 2026. Attempts are also being made to attract more funders for the organisation's programme on police reforms.

The team is also getting the SPIR studies translated into Hindi. So far, the translation work has been completed for the reports on citizens' trust and satisfaction in the police, a Study of Performances and Perceptions (SPIR 2018), and Policing in the COVID-19 Pandemic (SPIR 2020-21, Volume1). The translation is currently under review for quality.

### **b. India Justice Report 2024**

Common Cause continues to be a main collaborator in compiling and bringing out the India Justice Report (IJR) along with the Commonwealth Human Rights Initiative (CHRI), Centre for Social Justice, Daksha, TISS-Prayas, and Vidhi Centre for Legal Policy, under the chief editorship of Ms Maja Daruwala. The IJR uses official statistics from government sources to rank the capacity of the justice system in the Indian states based on quantitative measurements of budgets, human resources, infrastructure, workload and diversity across the four pillars of the justice system, i.e., police, prisons, judiciary, and legal aid.

Common Cause is contributing to data analysis and the essay for the next IJR which is also ready for release in 2025 concentrating on policing, its area of core competence.

## **IMPORTANT EVENTS**

### **Three Newly Introduced Criminal Laws, IIC-Annexe, 26 Feb, 2024**

Common Cause, in partnership with the Campaign for Judicial Accountability and Reforms, (CJAR) organised a panel discussion on 'Decoding the Three Criminal Laws' on 26th February 2024 at the India International Centre. The idea was to discuss and analyse the newly introduced laws whose stated purpose was to decolonise the Indian justice system and ensure timebound completion of trials. The main speakers at the well-attended conference were Justice Madan B Lokur, former judge of the Supreme Court of India, Prof. G Madan Gopal, former director of the National Judicial Academy, Ms. Vrinda Grover, senior advocate, Prof. Anup Surendranath, Professor at the National Law University, and Advocate Mr Sarim Naved. The discussion was moderated by activist and Governing Council member Ms Anjali Bhardwaj while the Director introduced the two main organisers, CJAR and Common Cause, to the audience.

### **"Gaps in Justice – Way Forward", New Delhi,**

### **February 26, 2024**

Common Cause was invited to make a presentation at a seminar on "Gaps in Justice- Way Forward" organised by Ujjawal Women's Association, New Delhi on February 26, 2024. The event was attended by the members of several of Delhi's well-known women's organisations. The event aimed at deepening the understanding of the gaps in India's justice system to evolve suitable interventions, especially on issues concerning women and their interactions with the police. The findings of the two data-based reports—SPIR and IJR—were presented by Ms Maja Daruwala, Chief Editor of India Justice Report, a collaborative venture of many civil society partners, Common Cause Director Dr Vipul Mudgal and his colleague Mr Udit Singh.

### **Court Administration and Management: Focus & Concerns, New Delhi, February 24, 2024**

Common Cause team participated in a well-attended seminar organised by the Campaign for Judicial Accountability and Reforms (CJAR), The Wire and the Live Law, on "Supreme Court Judicial Administration & Management Issues & Concerns..." at the Indian Society for International Law, New Delhi, on February 24, 2024. The seminar began with Common Cause Director, Dr Vipul Mudgal, paying tribute to Fali S Nariman, one of India's

best-known jurists of our times and a Senior Advocate at the Supreme Court, on behalf of the civil society organisations. The seminar brought together former judges of the Supreme Court and High Courts, academicians, activists, lawyers and students.

### **Money and Muscle Power in Indian Elections, March 10, 2024**

Common Cause participated in a conference organised by the Association for Democratic Reforms (ADR) and National Election Watch (NEW) at the India International Centre on March 10, 2024, on the theme “General Elections 2024: Issues, Challenges & Opportunities”. The programme was divided into two sessions, ‘Integrity & Inclusiveness of Indian Elections’ and ‘Money, Muscle, and Election in India’. Common Cause Director Dr Vipul Mudgal, who is also a trustee of ADR, chaired the second session and shared his views on the subject. The main speakers in the session were Justice Madan B Lokur, former judge of the Supreme Court of India, Ms Reena Gupta, State Secretary of Aam Adami Party, Mr Krishna Allavaru, Joint Secretary of the All-India Congress Committee and National in-charge of the Indian Youth Congress, and Dr Jeet Singh Mann, professor and director of Centre for Transparency and Accountability in Governance, at the National Law University, Delhi.

### **Survey to Grasp Post Covid Affects, January 21, 2024**

Common Cause Director Dr Vipul Mudgal participated in a brainstorming meeting with the members of the Responsible Coalition for Resilience Communities (RCRC) coalition. The members include Mr KP Krishnan, IAS (Retd), Ms. Wilma Wadhwa, Director, ASER Centre, Mr M R Madhavan, Director PRS, Dr. Sonalde Desai, University of Maryland and NCAER, Mr Ved Arya, Founder Director of the Budha Institute, noted economist Mr Vijay Shankar, among others

### **Letter to ECI on technology accountability and digital platforms to safeguard electoral Integrity April, 8th 2024, New Delhi**

Eleven civil society organisations, including Common Cause, wrote to the Election Commission of India (“ECI”) in a collaborative effort, highlighting the role of technology in affecting electoral processes and outcomes. The letter included an urgent appeal to the ECI to uphold the integrity of the elections and hold political parties, candidates, and digital platforms accountable to the voters. Some of the concerns highlighted in the letter were the unmonitored targeted online campaigns and surrogate advertisements used to influence voter perceptions, the use of emerging technologies such as deepfakes and the inadequacies of the voluntary code of conduct

signed by the digital platforms for self-regulation of political content. The signatories to the letter include the Internet Freedom Foundation, Article 21, Association for Democratic Reforms, Common Cause, Software Freedom Law Centre, India, along with six other civil society organisations.

### **Master Class on Evidence-Based Research to RCRC Faculty, New Delhi**

On 3rd May 2024, Responsible Coalition for Resilient Communities (RCRC), an NGO working among marginalised rural communities, invited Common Cause Director Dr Vipul Mudgal to take a session on research training of the organisation’s team working in the field. The idea of the session was to acquaint the NGO workers with the basic features of ground-based research. The topic of the session was “Treading the Path of Evidence-Based Research: The Journey So Far & Beyond.” The session was devoted to the romance of research and the fruits of data-based analysis for rational policymaking.

### **The State of Youth Representation: Panel Discussion, New Delhi, May 8, 2024**

On 8th May 2024, Ms Radhika Jha, Project Lead of the Rule of Law Programme, represented Common Cause at a well-attended online discussion on “State of Youth Representation:



Young Candidates in the 2024 Indian Election.” The panel was part of the Centre for Youth Policy’s “18 Dialogues for the 18th Lok Sabha”. It was a series of conversations on the pivotal role of youth in shaping the 2024 general elections. She spoke on the day-to-day issues youth face using empirical data from credible sources.

### **UGC Lecture on Policing & Human Rights, Jamia Millia Islamia, New Delhi, June 10, 2024**

On 10th June 2024, Dr Vipul Mudgal addressed a batch of young faculty members from different corners of the country and from multiple disciplines. The lecture was part of the 2-week refresher course in “Human Rights & Social Inclusion (Interdisciplinary). The event was organised by the Malviya Mission Teacher Training Centre, Jamia Millia Islamia, University under the aegis of the UGC. The well-attended lecture concluded with an animated round of questions and answers. Later, the participants answered questions based on the SPIR reports as part of their evaluation.

### **Unpacking India’s 2024 Lok Sabha Elections: Voter Sentiments and Future Trajectories**

On June 13th 2024, the Asian Democracy Network (ADN), a pan-Asia partnership of civil society organisations working to strengthen democracy, invited

Common Cause Director Dr Vipul Mudgal to a panel discussion on the outcomes of the recent Indian elections and their broader implications for democratisation in India and the wider region. Dr Kaustav Bandyopadhyay, Director of Participatory Research in Asia (PRIA), moderated the panel discussion. The other participants of the panel discussion were Ms Meena Menon, President of Working Peoples’ Coalition, Dr Niranjana Sahoo, Senior Fellow, of Observer Research Foundation, and senior journalist Ruhi Tiwari. The panel discussion focused attention on India’s democratic institutions and the role of the Election Commission of India in conducting free and fair elections. The participants noted that the results also reflect a mature electorate capable of nuanced decision-making even amidst polarised campaigns.

### **Brainstorming Discussion with DIG Cybercrimes, UP**

On April 9, 2024, a team of India Justice Report organised a discussion with Mr Pawan Kumar, DIG, Cybercrimes, Uttar Pradesh. The discussion was on the police capabilities pertaining to cybercrimes and the processes and infrastructure to deal with such crimes. The conversation helped arrive at indicators and data for further state-level analysis under the larger theme of cybercrime. Radhika Jha, project lead of Rule of Law, Common Cause, joined the discussion as one of the

organisers.

### **Press Conference on Shadow Advertisements**

On April 16, 2024, the Global Coalition for Tech Justice organised a press conference to ring the alarm bells about tech platforms’ failures to protect people and democratic processes during elections. The event included a discussion on the Indian elections and evidence collected by Eko, the London Story and India Civil Watch International on shadow advertising, disinformation and hate speech on Facebook in India and Meta’s failure to curb this. Radhika Jha from Common Cause participated in the event as a steering committee member of the coalition.

### **Memoirs of a Top Cop: Unforgettable Chapters**

On September 1, 2024, Common Cause and the Indian Police Foundation co-organised a book launch of Governing Council Member and former DGP of Assam and Uttar Pradesh, Mr Prakash Singh, at the India International Centre, New Delhi. Retired Supreme Court Judge, Justice Madan Lokur graced the event as the chief guest. Among a galaxy of speakers, Common Cause Director Dr Vipul Mudgal shared his views about the book and his association with Mr Singh, first as a journalist and later as part of Common Cause. The book is a candid account of Mr Singh’s memoirs as a top cop

and his experiences of tackling insurgency and striking a balance between law enforcement and the wishes of the elected political executive. It also throws light on his campaign for police reforms in India.

### **Twenty-Ninth Meeting of CHDC, BIS, New Delhi, Sep 13th, 2024**

Senior Legal Consultant, Swapna Jha, represented Common Cause at the 29<sup>th</sup> meeting of the Chemical Division Council (CHDC) of the Bureau of Indian Standards in hybrid mode on 13th Sep 2023. The meeting was focused on the standardisation in the field of chemicals and chemical products, paper stationary items, occupational health, safety, environmental management and protection, waste management and aspects of sustainability relevant to the environment and Chemical Hazards. Dr Sourav Pal, Professor & Head, Dept of Chemistry, Ashoka University, Sonipat chaired the meeting attended by members of the scientific community, civil society organisations and government authorities.

### **Online Consultation on Social Audits and Policing**

On July 13, 2024, a group of domain experts held an online consultation to discuss the potential for a social audit of the police in India. This was a follow-up to a larger discussion on revising and broadening the existing social audit standards.

Project Lead on Police Reforms, Radhika Jha represented Common Cause in the meeting attended by civil society organisations, academics and researchers. Some of the issues discussed were the possibility of adapting the Objectives and Minimum Principles of social audits to policing, existing provisions for auditing in legislations such as the Juvenile Justice Act, 2015, and learning from, as well as distinguishing the social audits from community policing models. The consultation was organised by the Social Accountability Forum for Action & Research.

### **Online Consultation on AI: Setting Priorities for the Global Coalition for Tech Justice”**

On July 11, 2024, the Global Coalition for Tech Justice organised an online meeting on the priority areas of concern around artificial intelligence, particularly during elections and in human rights spaces. Project Lead on Police Reforms at Common Cause, Radhika Jha, participated in the meeting as a Steering Committee representative. Among the topics discussed in the meeting were challenges arising out of the use of AI in elections and democracies, such as the use of AI to target human rights activists, journalists and civil society members, targeting of women and girls, the shortcomings of AI tools in countering online hate speech

and fake news, etc. Member organisations from various countries joined the meeting.

### **General Assembly Meeting of Global Coalition for Tech Justice,**

On July 25, 2024, the Global Coalition for Tech Justice convened a general assembly of over 150 member organisations and individuals. The discussion took stock of the efforts and impact made by the Coalition on ensuring tech justice and the impact of Big Tech on elections across the world, as well as a review of the issues focused on by the Coalition. Radhika Jha from Common Cause participated in the meeting as a member of the Steering Committee and talked about the learnings and activities of the Coalition and some avenues for going forward.

The GCTJ was created to solve the global equity crisis at the centre of tech accountability whereby Big Tech companies headquartered in the global north are very clearly negligent in deal with the impact of their platforms, products and technologies everywhere, with the most severe consequences falling on the global majority. The Coalition developed election briefings concerning the elections in Taiwan, Indonesia, South Africa, Mexico, and India. The coalition has been involved in building a global base of evidence around tech harms and policy failures and has been

developing globally impactful policy proposals. In collaboration with advertising agencies, they have held meetings with digital platforms in India and elsewhere to secure disclosures on elections.

### **Data for Justice: A Colloquium on Criminal Justice in India**

The India Justice Report team, in collaboration with Project 39A, National Law University, Delhi, organised a two-day colloquium on criminal justice in India on September 7-8, 2024. The panellists included former judges, economists, academicians and researchers, who spoke about the need for data in criminal justice, the challenges of dealing with official data, different ways of creating data and the future of data in criminal justice. The speakers included S Muralidhar, Former Chief Justice of Odisha High Court, Mahesh Vyas, Managing Director and CEO of the Centre for Monitoring Indian Economy and Karthik Muralidharan, Tata Chancellor's Professor of Economics, University of California, San Diego. Common Cause team of Udit Singh, Radhika Jha and Vipul Mudgal participated in the colloquium along with the other partners of the IJR.

### **Guest Lecture at NHRC Online Internship Program, Nov 18th, 2024, New Delhi**

The National Human Rights Commission invited Dr Vipul Mudgal, Director and Chief

Executive, of Common Cause for a guest lecture on "Media and Human Rights" at a short-term internship program. The well-attended session was followed by an animated round of questions and answers. A large number of students from different streams of law and various universities across India attended the online programme from the 18th to the 29th of November 2024.

### **Global Assembly of the World Movement for Democracy, Nov 20-23, 2024, Johannesburg**

Dr Vipul Mudgal attended the 12<sup>th</sup> Global Assembly of the World Movement for Democracy in Johannesburg, South Africa, at the invitation of the National Endowment for Democracy where he was a fellow of the International Forum for Democratic Studies in 2020. The first global assembly was held in New Delhi in 1999 when leaders of various disciplines like civil society, journalism, academia, labour and business came together. Two Nobel Peace Laureates were among a galaxy of speakers in various peer-learning sessions.

### **c. Seminars/Webinars and Conferences:**

#### **Global Democracy Conference 2024, May 20-22, 2024**

The Global Democracy Conference (GDC), organised by the Kellogg Institute for International Studies, is an

integral component of the broader University of Notre Dame Global Democracy Initiative designed to connect academic research and non-academic audiences. Ms Swapna Jha, senior legal consultant at Common Cause, attended the event.

### **NHRC Invites Common Cause to a Core Group Meeting on Criminal Justice System Reforms, April 23, 2024**

On 23rd April 2024, the National Human Rights Commission (NHRC) invited Common Cause to a core group meeting on Criminal Justice System Reforms in India. The meeting in hybrid mode was chaired by the NHRC India Chairperson, Justice Arun Mishra in the presence of NHRC members, experts, academicians, representatives of civil society organisations and senior officers of the Commission. Discussions included finding ways to address the delay in forensic reports, areas of improvement in the prosecution system, and the burking of offences. Common Cause director, Dr Vipul Mudgal presented the findings of the Status of Policing in India Report-2018 on the citizens' trust and satisfaction in the police and its implications for the criminal justice system. The consultation was organised by the Social Accountability Forum for Action & Research. He cited data to highlight areas of inefficiency and insensitivities of the police.

#### **d. Meetings with academics/faculties and experts: Run up to the current SPIR**

The Common Cause team reached out to various reputed national and international experts and academics in the field of criminology and policing for discussions around the ongoing SPIR and other research projects. Individual meetings were held with Prof Beatrice Jauregui from the University of Toronto, Prof Andrew Ferguson from Washington University, Prof Arvind Verma, from Pennsylvania University and Prof. Shishir Jha, Dr Kalindi Kokal and Prof Parthasarthy from the Ashok Desai Centre for Policy Studies, IIT Mumbai.

#### **Academic Curriculum on ‘Development and the Rule of Law in India’ at Shiv Nadar University – October-November 2024**

The Common Cause team comprising the Director Dr Vipul Mudgal, Mr Udit Singh, Radhika Jha, and Valay Singh of the India Justice Report (IJR) conducted an extensive and in-depth academic Course on ‘Development and the Rule of Law in India’ for the students of MA (Rural Management) at Shiv Nadar University, Uttar Pradesh, on **24<sup>th</sup> & 25<sup>th</sup> October and 27<sup>th</sup> & 28<sup>th</sup> November 2024**. This was the second in the series of lectures by Common Cause where its successive SPIR studies

and IJR formed the bedrock of an academic course. The Course was divided into 16 lectures delivered in four ninety-minute sessions devoted to the Indian Constitution and the Rule of Law; an introduction to policing in India; An introduction to India’s justice system; and a primer on Crime and Justice in Rural India, Prison System and Legal Aid.

The Course introduced the students of the MA (Rural Management) Program and several faculty members to the foundational legal framework of the country and a critical examination of the functioning of justice institutions. It aimed to build amongst the students an understanding of the roles, scopes and importance of the four pillars of the country’s justice system, i.e., policing, judiciary, prisons and legal aid and introduced them to concepts such as basic structure doctrine, fundamental rights, separation of powers and due process.

#### **Training and Development of Staff**

- a. Udit Singh, legal consultant at Common Cause, attended a quantitative research training workshop organized by the CSDS in Bangalore from 22-28 July 2024.
- b. Mohd Aasif, research executive at Common Cause, attended a three-day Online Workshop on Qualitative Methodology organised by Surya Kumar

Bhuyan School of Social Sciences, Krishna Kanta Handiqui State Open University in Collaboration with Indian Sociological Society from 4-6 Nov 2024. The workshop included an introduction to the various research skills such as literature review, research design, tools for textual analysis etc.

- c. Rishikesh Kumar, advocacy consultant at Common Cause, attended a Vedanta Delhi Half Marathon (VDHM) 2024 on fundraising opportunities for NGOs. It was organized by United Way Delhi. The event was aimed at enhancing skills of venturing new avenues of funding and support.

#### **Right to Information Applications**

Common Cause routinely files RTI with several authorities across the country to obtain information about its initiatives and various themes and subjects being studied by the team. Some of the recent RTI applications pertain to the following:

#### **a. RTI requests for the Status of Policing in India Report (SPIR)**

SPIR team of Common Cause filed two rounds of RTI applications to procure information regarding cases of Human Rights violations in the

context of policing in India about unlawful detention, death in police action and police custody illegal detention and custodial violence. On May 24, 2024, the team filed another RTI to inquire about the desegregation of the data on various heads that are clubbed in the commission's annual reports throughout its lifespan. The analysis of the data has been used in the current SPIR on custodial violence and torture. Another round of RTI applications was filed to the National Commission for Women (NCW) to procure information on complaints received on rape/ attempt to rape, sexual assault/ harassment, and illegal arrest etc.

### **b. RTI requests for a fresh PIL on securing the dignity of Domestic Workers**

Common Cause team filed several RTIs to the concerned authorities at the NHRC, NCW and the Department of Labour to seek information about the nature and number etc of official complaints against the exploitation or the working conditions of domestic workers. The information is to be used in the fresh PIL to be filed in the coming weeks.

### **c. RTI Requests Regarding the Voluntary Code of Conduct of Digital Platforms**

The Common Cause team has filed a bunch of nine RTI

applications to the Election Commission of India seeking information about the reported compliance with the voluntary code of conduct of the global digital platforms. This is part of our analysis of the possibilities of digital threats to the conduct of free and fair elections.

### **Common Cause Representations**

#### **a) Note on One Nation One Election Public Notice**

On January 15, 2024, Common Cause submitted its response to the proposal of the government to enable simultaneous elections in the country. The first election cycle for Lok Sabha and State Assemblies was held simultaneously post-independence in 1951-52 and was disrupted thereafter.

Common Cause in its representation said that the MCC merely prevents the ruling parties from misusing the executive power and it does not prevent routine policymaking or ongoing development work. On unnecessary expenditure, it asked if we wished to create the 'most effective' democracy or the 'least expensive' democracy. We also countered the claims that the engagement of the security forces for a prolonged period was a hassle or that the frequent elections disrupted road traffic or perpetuated caste, religion and communal issues.

#### **b) Comments on The Draft Broadcasting Services**

### **(Regulation) Bill 2023**

In January 2024, Common Cause submitted its comments on the Draft Broadcasting Services (Regulation) Bill 2023. Though the stated objective of the bill was to address the evolving landscape of the broadcasting industry, closer scrutiny revealed that its provisions could facilitate media censorship, and subjugate the freedom of expression and creative and artistic freedom in India. The text of the draft bill paved the ground for consistent monitoring and discouraging of ostensibly unfavourable (to the powers that be) relay of information, entertainment or artistic material while creating a chilling effect. The Indian broadcasting industry has emerged as one of the most dynamic and vibrant sectors in the country.

#### **c) Representation for Pedestrians' Rights**

On March 13, 2024, Common Cause made a representation to the authorities concerned to ensure a walkable pedestrian path for the citizens of Delhi. The representation highlighted the tragic deaths taking place in the country in general, and in the National Capital Territory (NCT) of Delhi in particular, due to the lack of proper facilities for pedestrians. It highlighted that Delhi not only has a high volume of pedestrian movement with 34% of all daily person trips being 'walk-only', but also these pedestrians are the most vulnerable category of

road users, mostly belonging to socially vulnerable and disadvantaged groups. Pedestrians have a fundamental right to life and liberty (Article 21) and a right to free movement (Article 19). Unfortunately, these rights are being denied to them owing to bad implementation of the policies protecting pedestrian rights, and the lack of accountability of the authorities implementing them.

The representation emphasised the constitutional and statutory duty when read in light of MPD 2021, IRC Guidelines and an authoritative Street Design Checklist which leaves no doubt in the mind that a Functional footpath is a non-negotiable requirement for all roads. It emphasized a continuous network of functional footpaths and pedestrian crossings from one point to another allowing people to walk safely.

## Public Interest Litigation

### Supreme Court Cases

#### Illegal Mining in Odisha:

On February 23, 2023, Common Cause filed an IA focussed on directing the Union of India and the State of Odisha to impose limits on the extraction of minerals and on constituting a committee of two or three independent experts to suggest and recommend such limits and submit its report in a time-bound matter. The IA also asked for an updated status report about the amount of penalty deposited by the lessees, including the

amount to be recovered, lease-wise details of the ore reserve, extraction permitted, the current status of the mining lease, total iron ore reserves and total permitted extraction in the State as directed in judgment dated August 2, 2017.

The IA also sought complete details of the work done for the benefit of the tribal community in the affected districts and other area development works. As it involved public money in such a large quantity, the IA pointed out that the Special Purpose Vehicle (SPV) must fall under the purview of the Comptroller and Auditor General of India and the audit accounts of the receipts and expenditure of the SPV must be provided to the Apex Court. The matter was taken up on February 27, 2023, where the Court directed the service of IA to the standing counsel for the Union of India. Subsequently, the matter was listed on March 17 and April 6, 2023, when the Court heard the IAs filed by the parties.

The matter was taken up several times between May and October 2023. The Court directed that the applicant mining company be granted three months to sell the iron ore in question, otherwise, the State was granted the liberty to do so. The Court directed that the amount so realized from the sale shall mandatorily be credited to the SPV in terms of the Court's order dated August 2, 2017. In the meantime, the Court granted the State the liberty to simultaneously begin the process

for conducting the auction of the Leasehold Area in accordance with law and also to proceed with the recovery of the dues.

On May 1, 2023, the Court noted that "from the perusal of the affidavit filed in response (Annexure A/1), it is clear that only a sum of Rs.305.32 Crores has been recovered in terms of compensation due from the defaulters. This is when the total amount of compensation is reckoned as 3308.35 Crores. It is clear that the balance amount excluding interest shown due is Rs.3003.03 Crores.

In its order of August 14, 2023, the Court's direction was as follows:

- “(i) The State Government shall take expeditious steps to pursue the recovery proceedings in accordance with law and shall take necessary steps by attaching the assets of the defaulting entities; and
- (ii) Hereafter, the terms and conditions of the tender shall expressly clarify that no tender shall be entertained at the behest of an entity against which outstanding is due or companies in which the same promoters are interested.”

Our counsel, Mr Prashant Bhushan, highlighted the need for imposing a cap on mining in the State of Odisha as has been imposed both in respect of the States of Karnataka and Goa.

In the note submitted by him, in the context of the State of Odisha, the data on the record indicated that the yearly mining permissions cover 58 leases with permissible excavation to the extent of 227.13 million tonnes and the total reserves were 4748.52 million tonnes. He pointed out that as a consequence of this, the reserves are liable to come to an end within twenty years.

The State of Odisha submitted that the estimate of iron ore reserves on the geologically explored strata at present is 9220 million tonnes and there is a likelihood of this increasing in future. Given this, the UoI was directed to contemplate if a cap on mining was required and to determine the modalities for it. The UoI was also directed to examine the basis on which a cap was imposed in Karnataka and Goa and file its affidavit within eight weeks. In its order dated October 6, 2023, the Court directed that the defects pointed out by the Office in the report under consideration may be cured within three weeks, failing which the application for modification of the Court's order dated February 27, 2023 shall stand dismissed. On December 4, 2023, in pursuance of the previous order dated August 14, 2023, an affidavit was filed by the Joint Secretary in the Ministry of Mines, Govt of India. Since several aspects such as sustainable development and inter-generational equity were involved, the Ministry

of Environment, Forests and Climate Change (MoEF&CC) was directed to file an affidavit based on its independent assessment within four weeks. The State of Odisha was directed to file an affidavit within four weeks elaborating on the steps which had been taken to:

- 1 Recover the outstanding dues;
- 2 Attach the assets of the defaulters.

The State of Odisha was directed to specifically clarify in its affidavit, the extent of the recoveries which had been made after August 14, 2023, as well as indicate a specific timeline for the proposed action and the recovery of the dues. The Additional Chief Secretary, Department of Mines of the Government of Odisha was also directed to file an affidavit within two weeks, after due verification.

The matter was heard on January 12, 2024 and subsequently on February 2, 2024, the Court ordered the applicants to place on the record copies of all the permissions which have been received, including environmental clearances within the following week and provide the same within three days to Mr A D N Rao, the learned Amicus Curiae.

The matter was subsequently listed on November 13, 14, 20, and 28, 2024, when the counsels for the State of Odisha were directed to file a further affidavit,

within three weeks, indicating the quantum of compensation etc. The matter is likely to be listed on January 21, 2025.

**Miscellaneous Application (M.A. No. 1756 of 2022) by the Union of India seeking modification of the Supreme Court order in the Common Cause petition challenging re-appointment of the**

**Director, ED:** The Union of India (Respondent No.1) filed a Miscellaneous Application in the Common Cause petition, WP(C) 1374 of 2020, challenging the re-appointment of the ED Director, for modifying the judgment dated September 8, 2021 of the Supreme Court. The modification application sought deletion of the following from the judgment:

*"We make it clear that no further extension shall be granted to the second respondent"*

The UoI claimed that based on the 5th proviso to Fundamental Rule 56(d) and Section 25(d) of the Central Vigilance Act, 2003 as well as various pending petitions challenging the extension of the incumbent ED Director's tenure, the above statement must be deleted from the judgment of the petition challenging the re-appointment of the ED Director.

This application was filed disguised as a Miscellaneous Application, instead of a review petition. Several precedents have established that the Supreme Court disapproves

the practice of filing such Miscellaneous Applications seeking “modification” or “recall” or “clarification” in an attempt to bypass Order XL of the Supreme Court Rules, 1966. In addition to this, the Supreme Court has also upheld that change in law or subsequent decisions by itself could not be grounds for review and such petitions shall be accordingly dismissed.

The matter was taken up on January 30, 2023, when the SC gave the Centre three weeks to respond to the petition filed by Dr. Jaya Thakur questioning the third extension given to the director of the Enforcement Directorate (ED), Sanjay Kumar Mishra, while also indicating that it will not entertain any review of its September 2021 judgment that directed against a further extension to Mishra based on the subsequent changes in the law. “Subsequent legislative change cannot be a ground to review our earlier order (passed on September 8, 2021),” said the bench of Justice BR Gavai and Vikram Nath.

The Solicitor General stated that the petitioner was extensively relying on the September 2021 judgment where the Centre moved an application seeking clarification/modification (MA) and requested for tagging these matters together. While refusing to entertain the MA, the Bench said, “We will not entertain such an application. It amounts to review of our order.” The Court ordered that WP 1106/2022, 456/2022, 204/2022 and MA be

tagged together and posted the matter for hearing on February 27, 2023. The Court heard the counsels on March 21 and 23 and April 20, 2023. The Court concluded the hearing on May 8, 2023, and the judgment was reserved.

On July 11, 2023, the SC disposed of the batch of writ petitions as well as the MA and ruled that the central government extending the tenure of the director of the Enforcement Directorate (ED) is invalid and directed Sanjay Kumar Mishra to vacate the office by July 31, 2023. The court however upheld the validity of amendments to the Central Vigilance Commission Act conferring power on the central government to extend the tenure of ED director.

### **Petition to restrain the use of public funds for political campaign advertisements:**

The Supreme Court in its judgment dated May 13, 2015, in Common Cause vs. UoI (2015) 7 SCC 1, had issued several guidelines aimed at regulating government advertisements to check the misuse of public funds by central and state governments. Despite the clear direction, states continued publishing advertisements, misusing public funds.

Common Cause filed a petition in 2022 to restrain the unnecessary use of public funds

on government advertisements, in ways that are completely mala fide and arbitrary and amount to a breach of trust, abuse of office, violation of the directions/guidelines issued by this court and violation of fundamental rights of citizens. Noticing the unnecessary expenditure on advertising campaigns outside the territory of their respective states with no benefit to the target audience or prime beneficiaries of that government’s achievements, policies and welfare measures, six specific issues were pointed out in the petition:

- Publication of advertisements by state governments outside the territorial limits of their respective states
- Publication of government advertisements in the form of ‘advertorials’
- Publication of government advertisements during/just before the elections
- Issues concerning the ‘Committee on Content Regulation of Government Advertisements’ (CCRGA)
- Publication of Photographs of functionaries on Government Advertisements
- Advertisements in the name of Awareness Campaigns

Notice was issued on September 26, 2022, by Justice DY Chandrachud and Justice Hima Kohli. Presently, the matter is pending before the Registrar. As only five states have filed their counter affidavit, on August 10, 2023, the respondents were



given four weeks to file their counter-affidavits after which the court of the Registrar refused accepting counter-affidavits. On November 6, 2023, the court of the Registrar ordered to list the matter for hearing before the bench after four weeks but it has not been listed. It is likely to be listed on December 20, 2024.

### **Petition Challenging Constitutional Validity of**

**Sedition:** Sedition, a colonial law, used to suppress dissent by the colonial British rulers, continues to be heavily abused by the law enforcement authorities against citizens for exercising their freedom of speech and expression.

Common Cause filed a petition in 2021, challenging the constitutional validity of sedition under Section 124A of the Indian Penal Code, 1860, as being violative of Articles 14, 19(1)(a), & 21 of the Constitution of India.

In *Kedar Nath Singh v State of Bihar*, the constitutionality of this section was tested and upheld. The offence of sedition was presumed to be complete if the activities tended to create public disorder or disturbance of law and order or public peace.

In its welcome order on May 11, 2022, the Supreme Court granted an interim stay on the use of the provision by governments. It suspended pending criminal trials and court proceedings under Section 124A (sedition) and allowed the Union of India to reconsider the

colonial law.

The matter was taken up on May 1, 2023, when the Attorney General for India, stated that, in pursuance of the order dated May 11, 2022, the Government has initiated the process of re-examining the provisions of Section 124A of the IPC 1860 and the consultations are at a substantially advanced stage. On September 12, 2023, the Supreme Court declined the request of the Attorney General and Solicitor General to defer considering whether a reference should be made to a larger bench, on the ground that Parliament is in the process of re-enacting the provisions of the Penal Code and the Bill has been placed before a Standing Committee.

The court appointed advocates Prasanna S and Pooja Dhar as nodal counsels to facilitate the compilation of case laws and other materials before the hearing.

On November 22, 2023, the Court directed the nodal counsel to prepare a common compilation of case law, documents and written submissions filed by the parties in terms of the Circular dated August 22, 2023, issued for regulating the course of submissions in larger bench cases. The parties were directed to file all submissions by December 31, 2023, with the nodal counsel. The nodal counsels were directed to prepare soft copies of the

common compilations duly indexed in terms of the above circular, e-file the same on or before January 9, 2024, and make it available to all parties. The Registry was directed to notify the date for the hearing of the reference in January 2024. Since then the matter has not been listed. The new legislation, *Bhartiya Nyaya Samhita* passed by the government has a more draconian provision than Section 124A of the Indian Penal Code, 1860.

Common Cause is planning to challenge the new provision in the BNS.

**Petition to Completely Ban Export of Iron Ore:** Common Cause filed a writ petition in April 2021, to completely ban the export of iron ore (whether in the form of pellets or otherwise). Alternatively, it sought the levy of export duty of 30% on the export of iron ore in all forms, including pellets (except pellets manufactured and exported by KIOCL, formerly known as Kudremukh Iron Ore Company Limited). The petition also prayed to initiate proceedings under Section 11 of the Foreign Trade (Development & Regulation) Act, 1992 and Section 135(1) of the Customs Act, 1962. It sought the levy of appropriate penalties as per law against mining companies exporting iron ore pellets in contravention of the provisions of India's export policy. By exporting iron ore pellets, they have been evading the chargeable duty.

The petition also prayed for a thorough and independent investigation into the role of public officials allowing such a loss to the exchequer. Notice was issued on September 24, 2021, directing the respondents to file their response within four weeks. The UOI filed its response on November 11, 2021, which was taken on record. The matter was taken up on February 18, 2022, when upon hearing the counsel, the Court ordered the matter to be listed on March 9, 2022, for final disposal. Further, the matter was listed on March 22, 2022.

However, on May 21, 2022, the government increased the export duty from 0% to 45% on iron ore pellets. Recently, the export duties on certain steel products and iron ore imposed in late May were removed and the duty on iron ore pellets was reduced to nil again. The matter was taken up on January 17, 2023, and after hearing the counsels, the Court directed the matter to be listed for March 29, 2023. On the said date the Court heard the IAs filed by the parties and directed the matter to be listed for May 9, 2023. The matter was taken up on May 9, 2023, by the bench of Justice Bopanna and Justice Dutta who recommended the matter to be listed on a non-miscellaneous day in the 3rd week of July 2023. On October 16, 2023, the matter was mentioned before the Court and was directed to be listed on November 7, 2023, when the Court heard the counsels and directed the matter to be

listed for January 23, 2024. The matter was listed on April 9, 2024, when the court directed to complete the pleadings. On July 30, 2024, exchange of pleadings was completed. The UOI submitted that the Writ Petitions are wholly misconceived as the matters pertain to the Export-Import Policy of the Union Government. Moreover, because of the time-to-time change of policy, there can be no Court intervention on the export policy of export of a particular commodity and whether it is to be freely exported or exported only on payment of customs duty. On September 3, 2024, the matter was adjourned due to the ill health of one of the petitioners. The matter was listed on November 29, 2024, but adjourned for three months due to ill health of the other petitioner Mr. ML Sharma.

**Petition challenging the electoral irregularities and to ensure free and fair elections and the rule of law (W.P. (C) 1382/2019)**

Common Cause, along with ADR filed a writ petition in 2019, to ensure free and fair elections; and the rule of law; and for the enforcement of fundamental rights guaranteed under Articles 14, 19 and 21 of the Constitution of India. The writ petition highlighted the dereliction of duty on the part of the Election Commission of India (ECI) in declaring election results (of the Lok Sabha and State Legislative Assemblies) through

Electronic Voting Machines (EVMs) based on accurate and indisputable data which is put in the public domain.

The petitioners sought a direction from the Hon'ble Court to the ECI to not announce any provisional and estimated election results before the actual and accurate reconciliation of data. A direction to the ECI was sought by the petitioners to evolve an efficient, transparent, rational and robust procedure/mechanism by creating a separate department/grievance cell.

On May 10, 2024, Common Cause and ADR filed an application seeking directions from the Supreme Court to the ECI to disclose authenticated records of voter turnout by uploading scanned legible copies of Form 17C Part-I (Account of Votes Recorded) of all polling stations after each phase of polling in the on-going 2024 Lok Sabha elections on its website and to provide in public domain a tabulation of the constituency and polling station wise figures of voter turnout in absolute numbers and in percentage. On May 17th, 2024, IA no 115592 was heard by CJI DY Chandrachud, Justice JB Pardiwala and Manoj Mishra. The Election Commission of India requested a fair opportunity to deal with the contents of the IA. The court granted a week to the ECI to file a response to the IA. The Application was ordered to be listed on 24th May 2024. On

May 24 2024, the application was heard by the bench of Justice Dipankar Datta and Satish Chandra Sharma. Upon hearing the matter, prima facie, the court was not inclined to grant any instant relief given the similarity of prayers in the main writ petition and the application under hearing. The matter was likely to be listed on July 12, 2024, but has since not been listed.

### **Petition seeking directions to implement the recommendations of the National Electric Mobility Mission Plan, 2020 (W.P. (C) 228/2019)**

Common Cause partnered with CPIL and Jindal Naturecure Institute to seek directions for the implementation of the recommendations of the National Electric Mobility Mission Plan, 2020, promulgated in 2012 by the Ministry of Heavy Industries (nodal agency for the automobile sector), and the recommendations of Zero Emission Vehicles: Towards a Policy Framework, promulgated in September of 2019 by the Niti Aayog to curb the problems of Climate Change, Air pollution, and cost of importing fossil fuels to India.

On March 5, 2019, the bench of CJI Ranjan Gogoi and Justice Sanjiv Khanna ordered the government to apprise it of the status of implementation of the FAME-India scheme. On January 17, 2020, the Ministry of Road Transport & Highways of

India through its Secretary, was impleaded as a respondent and a notice was issued to the ministry.

On February 19, 2020, the bench consisting of the CJI and Justices BR Gavai and Surya Kant discussed that the issue of the use of electric vehicles is connected to several other issues which are pending before the Court. The bench observed that issues about the source of power of public and private electric vehicles have a great impact on the environment of the whole country and all such issues must be discussed simultaneously. The court sought the assistance of authorities empowered with decision-making specifically on the following:

Procurement of electric vehicles; providing charging ports; feebate system, i.e., imposing a fee on vehicles with high emissions and providing a subsidy on electric vehicles; use of hydrogen vehicles; any other alternate means of power for vehicles; overall impact on import and environment.

On March 11, 2024, the matter was heard along with suo motu writ petition (c) no.4/2019 by the Coram of Justice Surya Kant and KV Vishwanathan. The respondents were granted four weeks to file the counter affidavit.

On May 6, 2024, upon hearing, the court granted four weeks to the respondents as requested. On July 22, 2024, upon hearing

the counsel the Court granted four weeks to Mr. Devashish Bharukha, learned Senior Counsel representing the UOI to file the counter affidavit, along with all the policy decisions taken by the UOI from time to time to promote electric vehicles. The court also impressed upon Mr Bharukha to inform the learned Attorney General for India to assist the court in the matter on the next date of hearing and posted the matter for September 23, 2024. The matter was listed for November 5, 2024, but could not be taken up. There are no further orders of listing.

### **Fair working conditions for domestic workers:**

Common Cause, the National Platform for Domestic Workers (NPDW), and Aruna Roy filed a writ petition in the Supreme Court seeking fair and humane working conditions for domestic workers. The petition prays to recognise domestic work as “service for pay,” establish guidelines for their human rights protection and direct the government of India to implement measures such as minimum wage notification, compulsory leaves, maternity benefits, collective bargaining, first response complaints authority, and socio-economic rights like pension and healthcare.

Admitted on November 22, 2018, the Supreme Court’s division bench on July 10, 2024, directed the petitioners

to withdraw the petition with the liberty to file a fresh one considering developments since 2018. A fresh petition is in the works.

**Contempt Petition against Lawyers Strike:** The contempt petition filed by Common Cause against the strike of lawyers in Delhi High Court and all district courts of Delhi on the issue of conflict over pecuniary jurisdiction has led to the submission of draft rules by the Bar Council of India (BCI).

On January 24, 2024, The BCI counsel had stated that the rules may be examined by the Court and the suggestion of the court, if any, shall be accepted by the BCI without any condition.

On February 6, 2024, arguments by the counsels were heard by the court. On February 9, 2024, the court appointed Justice S Muralidhar, as Amicus, to examine the rules in the context of the existing judgments and objections and to submit his report. On May 3, 2024, the matter is ordered to be listed on August 13, 2024.

On August 27, 2024, Dr. S. Muralidhar, learned Senior Counsel submitted that pursuant to his being appointed as Amicus Curiae by the Court, he had held a hybrid meeting with the Bar Council of India on April 29, 2024 and given suggestions which were also put in writing. Though the Bar Council of India had taken a stand that it would consider the suggestions in its

meeting, but no such meeting for considering the suggestions was convened. The counsel for the Bar Council of India requested that the Amicus Curiae should forward his formal report to it. The Court observed that considering the nature of the issues involved, such modalities were required for the reason that ultimately, the final suggestion/ report by the Amicus Curiae would be submitted to the Court after considering the suggestions given by the Bar Council of India. Accordingly, the Court requested the Bar Council of India to hold such a meeting within four weeks from the date of the hearing and provide its response to the Amicus Curiae who would then submit his final report to the Court within the next four weeks.

### **Petition challenging the introduction of Electoral Bonds by ADR and Common Cause:**

On February 15, 2024, the Court pronounced its judgment striking down the electoral bond scheme, holding it unconstitutional. The Bench held that the scheme violated the voters' right to information enshrined in Article 19(1)(a) of the Constitution. The Court also struck down the amendments made to the Income Tax Act and the Representation of the People Act, which enabled such anonymous political contributions. The court directed the State Bank of India and the Election Commission of India

to disclose all details associated with the sale and purchase of these bonds.

On April 23, 2024, The Supreme Court admitted a petition filed by Common Cause and the Centre for Public Interest Litigation seeking a special investigation team (SIT) probe into the electoral bonds scheme under Article 32 of the Constitution of India for enforcement of the right of the people under Article 14, 19 and 21. The PIL seeks direction for a court-monitored investigation by an SIT into the overwhelming instances of apparent quid pro quo between political parties, corporates and officials of investigation agencies, and other offences.

The petition also prays for the issuance of an appropriate writ, order or direction to the authorities to investigate the source of funding of shell companies and lossmaking companies to various political parties, as has been disclosed through the electoral bonds data; to recover the amounts from political parties as donated by companies to these parties as part of quid pro quo arrangements where these are found to be proceeds of crime; and for investigation into the violation of Section 182(1) of the Companies Act, 2013 by companies which donated to political parties through electoral bonds within 3 years of their incorporation and for penalty to be imposed on such companies in terms of Section 182(4) of Companies Act, 2013.

The petition was dismissed by the Court on August 2, 2024. The Court said that it would be “premature” and “inappropriate” to order an investigation under the monitoring of a retired judge when the remedies available under the ordinary law governing criminal law procedure have not been invoked. The bench observed in the order as follows:

“The purchase of electoral bonds and the donations made to the political parties were on the basis of a law enacted by the Parliament. The provisions of the statute have since been held to be unconstitutional. The issue to be decided is whether the underlying reasons for the donations to political parties should be subjected to a Court-monitored investigation under an SIT.

The petitions are founded on two assumptions: (1) There would be prima facie an element of quid pro quo where the date of the purchase of electoral bonds was in proximity to the award of a contract or a change in policy. (2) There is an involvement of certain officials of the investigating agencies as a consequence of which an investigation by a normal process of law would not be fair or independent.

We have highlighted the underlying premise of the submission to indicate that these are assumptions at the present stage and require the Court to embark upon a roving enquiry into the purchase of the electoral

bonds, the donations which were made to the political parties and the arrangements in the nature of quid pro quo...

At the present stage, absent recourse to remedies that are available under the law to pursue such grievances, it would be premature - because the intervention under Article 32 must be preceded by the invocation of the normal remedies under the law and contingent upon the failure of those remedies - and inappropriate -because the intervention by this Court at the present stage would postulate that the normal remedies which are available under the law are not efficacious- for this Court to issue such directions...

Likewise, reliefs such as the reopening of assessments pertain to specific statutory jurisdictions conferred upon authorities under the Income Tax Act and other statutory enactments. Issuing a direction of that nature at the present stage would amount to a conclusion on facts which would be inappropriate”

#### **Writ for Supreme Court directions on Police Reforms:**

The battle for police reforms has been going on for the last 26 years. The Supreme Court took 10 years to give a historic judgment in 2006, in the petition filed by Prakash Singh, Common Cause and NK Singh. Since then it has been a struggle to get the Court’s directions implemented. On July 3, 2018, responding to an interlocutory

application filed by the Ministry of Home Affairs regarding the appointment of acting Director General of Police (DGP) in the states, the Supreme Court gave a slew of directions to ensure that there were no distortions in such appointments. It laid down that the states shall send their proposals to the UPSC three months before the retirement of the incumbent DGP. The UPSC shall then prepare a panel of three officers so that the state can appoint one of them as DGP. In October 2022 and December 2022, the Court entertained applications filed by the State of Nagaland and the UPSC to finalise the names of DGP for the state. In January 2023, the matter was listed twice, when the Court decided on the IA filed by Nagaland on the appointment of DGP.

#### **Petition seeking cancellation of the entire allocation of coal blocks to private companies between 1993 and 2012 and a court-monitored investigation of the said allocation:**

On July 24, 2023, the Chief Justice Mr D Y Chandrachud, Justice JB Pardiwala and Justice Manoj Misra heard and allowed transfer of the seven investigating officers of ED in the normal course and disposed of the concerned IA. On August 14, 2023, the three-judge bench again heard the matter. The CBI placed on record a “Note on Administrative Issues” indicating the present status of the

investigation and prosecution in the coal block allocation cases. Pursuing this, permission was granted to relieve certain officials from their present charge. Previously, the Supreme Court had said that no officials who were investigating the coal block allocation cases could be moved out without its prior permission. The matter is likely to be listed on December 11, 2023. (This matter was heard several times, but not on Common Cause petition)

## Delhi High Court

### SIT on Over Invoicing requested by CPIL, Common Cause:

Common Cause and the Centre for Public Interest Litigation (CPIL) approached the Delhi High Court seeking a thorough investigation by a SIT into the over-invoicing of imported coal and equipment. The over-invoicing was carried out by various private power companies as detailed by the Directorate of Revenue Intelligence (DRI) in several of its investigative reports. In the last few years, major instances of such over-invoicing have been unearthed by the DRI, involving several prominent and influential companies with virtual impunity.

On December 4, 2018, the CBI was ordered to produce its original records/ investigation file relating to the two preliminary enquiries and the regular case, as mentioned in its earlier affidavits/ reply. The Court directed the

DRI counsel to produce the four adjudicating orders concerning various entities. Additionally, the counsel was to file the status report and produce relevant records duly flagged, together with a comprehensive note vis-a-vis each one of them. The matter was taken up on August 8, 2019, when the CBI counsel submitted that there was no necessity for filing another status report as the enquiry stood closed.

The High Court directed that the records be produced before the court on the next date of hearing. The DRI counsel submitted that in three cases the adjudication was complete and it would take the same to their logical end. Arguments in the matter started in September 2023. On October 3, 2023, pursuant to the High Court's order, the co-respondent, CBI submitted a sequence of events post the letter dated January 31, 2014, as well as the status of the investigation against the 40 firms mentioned in the DRI alert dated June 30/31, 2016. It was kept in a sealed cover for the purpose of dictating order by the Court. On conclusion of arguments, the Court reserved its judgment. On December 19, 2023, the bench of Justice Suresh Kumar Kait and Justice Neena Bansal Krishna pronounced its judgement. Observing that the petitioners were invariably dissatisfied with how the investigation of different cases had been carried out by the respondents in the peculiar facts

of these cases, the Court directed the Union government, the CBI and the DRI to meticulously and expeditiously look into the allegations of the petitioners to unearth factual position and take appropriate actions against the erring companies, if any, as per law.

One of the concerned entities, Adani Power Limited, moved two applications seeking recall of the direction against it in the judgment. The bench was informed on January 5, 2024, that the appeal filed by the Commissioner of Customs (Import) was dismissed by the Supreme Court in March last year. It was further informed that the concerned department has filed a review petition before the Apex Court, which is pending adjudication.

## Finance and Accounts (2023-24)

The Audited Annual Accounts of Common Cause for the year ending March 31, 2024, have been received. The Governing Council has accorded its approval on 27-09-2024. Briefly, the non-grant expenditure during the year was Rs 132.67 lakh against Rs 121.84 lakh recorded in the previous year. The non-grant income during the year was Rs 120.47 lakh compared to Rs 106.24 lakh during 2022-23. Thus, there was a shortfall of Rs 12.20 lakh during the year against a shortfall of Rs 15.60 lakh in the previous year.

# NOTICE FOR ANNUAL GENERAL MEETING

To,

All members of COMMON CAUSE SOCIETY

The Annual General Meeting of COMMON CAUSE Society will be held on Saturday, March 1st, 2025 , at 11:00 a.m. at Common Cause House, Third Floor,5-Institutional Area, Nelson Mandela Road, Vasant Kunj, New Delhi 110070 with an option of attending virtually, with meeting id and password to be shared closer to the meeting.

The agenda will be as follows:

1. Consideration of Annual Report and adoption of the Annual Accounts along with the Auditor's Report for the year 2023-24
2. Appointment of Auditors for the year 2024-25
3. Presentation of the activities and programmes of the Society
4. Elections
5. Any other item with the permission of the chair

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

Copies of the Balance Sheet and Income & Expenditure statement will be circulated (or screen shared) during the AGM.

We look forward to your participation in the meeting.

A line in confirmation will be highly appreciated.

**Vipul Mudgal**  
**Director**  
**COMMON CAUSE**

Please email us at [commoncauseindia@gmail.com](mailto:commoncauseindia@gmail.com) if you want a soft copy of the report.

# Status of Policing in India Report 2023

## Surveillance and the Question of Privacy



Jointly prepared by Common Cause and its academic partner, Centre for the Study of Developing Societies (CSDS), the Status of Policing in India Report 2023: Surveillance and the Question of Privacy, is a study of public perceptions and experiences regarding digital surveillance in India .

SPIR 2023 analyses data collected from face-to-face surveys conducted with about 10,000 individuals from Tier I, II and III cities of 12 Indian states and UTs to understand perceptions around digital surveillance. The study also involved a Focused Group Discussion (FGD) with domain experts, in-depth interviews with serving police officials, and an analysis of media coverage of surveillance-related issues.

Please email us at [commoncauseindia@gmail.com](mailto:commoncauseindia@gmail.com) if you want a soft copy of the report. It can also be downloaded from [commoncause.in](http://commoncause.in)

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