9

MINISTRY OF DEFENCE

DEFENCE LANDS AND LAND USE POLICY

ESTIMATES COMMITTEE
1991-92

TENTH LOK SABHA

LOK SABHA SECRETARIAT
NEW DELHI

NINTH REPORT
ESTIMATES COMMITTEE
(1991-92)

(TENTH LOK SABHA)

MINISTRY OF DEFENCE

DEFENCE LANDS AND LAND USE POLICY

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LOK SABHA SECRETARIAT
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(1991-92)

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@ Resigned from the Committee *w.e.f.* 6 March, 1992.

* Elected *w.e.f.* 6 March, 1992 *vice* Shri Vijay N. Patil resigned from the Committee.

INTRODUCTION

I, the Chairman of the Estimates Committee, having been authorised by the Committee to submit the Report on their behalf, present this Ninth Report on the Ministry of Defence—Defence Lands and Land Use Policy.

2. The subject was selected for examination by the Estimates Committee (1990-91), which, after considering the preliminary material, written notes and other detailed information, took evidence of representatives of the Ministry of Defence on 6 November, 1990. As certain issues concerning acquisition of land under the Land Acquisition Act, 1894 and requisitioning of immovable property under the Requisitioning and Acquisition of Immovable Property Act, 1952 had arisen out of the discussion with representatives of Ministry of Defence, the Estimates Committee (1990-91) on 4 January, 1991 took evidence also of the representatives of the Ministries of Rural Development and Urban Development on those issues, which fell within their respective jurisdiction. The views of the Ministry of Law and Justice on certain related legal issues were also elicited through their representatives present during the evidence. While finalising their report on the subject the Committee have, besides the above, also taken note of representations submitted by different organizations and individuals.

3. The Committee wish to express their thanks to officers of the Ministries mentioned above for placing before them the material and information desired in connection with examination of the subject. The Committee also wish to place on record their appreciation for the frankness with which representatives of these Ministries have shared their views, perception and problems with the Committee.

4. The Committee also wish to express their thanks to all the organisations and individuals who furnished memoranda, representations and suggestions, when the Estimates Committee and its Sub-Committee on Defence Matters visited Secunderabad Cantonment in October, 1990 and Jodhpur and Jaisalmer in January, 1991, respectively.

5. The Committee would also like to express their gratitude to the Estimates Committee (1990-91) especially to the then Chairman of the Committee for the able guidance and right direction provided by him to the Committee (1990-91) in obtaining information and taking evidence for an indepth and comprehensive study of the subject. The composition of the Committee is given at Appendix-I to the Report.

6. The Committee (1991-92) considered and adopted the Report at their sitting held on 14 February, 1992. Minutes* of the sittings form Part II of the Report.

7. In this Report, the Committee have observed that since 1960 Defence land holdings have increased four-fold from 5.84 lakh acres as on 1.1.1960 to the total holdings of 22.16 lakh acres at the end of 1989. This includes 96,000 acres of land hired or requisitioned for Defence purposes.

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*Not printed. Five Copies placed in Parliament Library.

The Ministry of Defence have attributed the manifold increase in Defence land holdings in the national security environment during the last three decades as a consequence of which the Armed Forces had to be augmented and modernised. This includes implementation of re-equipment plans involving induction of weapon systems of greater fire power and longer range and also re-deployment of fighting formations, both necessitating greater requirement of land.

Interestingly, the Army Commands have projected additional requirements for land totalling 2,20,907 acres, of which 1,29,402 acres are required for different categories of ranges and the balance for Key Location Plans (KLP). In addition to this the Air Force and Navy and other users of lands under the Ministry of Defence requires 36,130 acres of land. The importance of the question of evolving a sustainable Defence Land Policy is thus obvious.

8. In their Report Committee have observed that owing to land being progressively brought under intensive agriculture use and for other development activities, the State Governments have been finding it difficult to issue necessary notifications in regard to field firing ranges. In many cases the State Governments have either refused outright to give 'no objection certificates' or shown reluctance to do so. At the same time many State Governments have either de-notified some of the existing ranges or have been delaying renewal of notifications. These developments have imparted a degree of urgency to the question of reorganisation of existing firing ranges which involves acquisition of additional land in large measure as also large sums of money that are just not available.

The report of the Committee should therefore be viewed in the context of the challenge implicit in the problem of higher defence land requirement and its efficient management.

9. The Report contains the following important recommendations:—

(i) From a long term perspective the Ministry of Defence must acquire as many permanent ranges as it can afford and the circumstances permit. For this purpose a long term programme of land acquisition may be drawn and implemented. A Special Team may be constituted for reorganisation of ranges for the Defence services so that it addresses itself to the totality of the problem from identification to acquisition.

(ii) The Government should give a fair deal to the land holders who are forcibly dispossessed of their land for a specified duration of the year under the Manoeuvres, Field Firing and Artillery Practice Act, 1938 and give them due compensation including damages for crops. For this purpose, if necessary, amendments may be carried out in the Act in consultation with the State Governments.

(iii) In regard to surplus lands owned by the Ministry of Defence such as abandoned air fields and camping grounds, all efforts may be made to transfer such lands to the State Governments concerned and other

Departments/Public Sector Undertakings of the Central Government. In case State Governments do not come forward to take over these lands the option of disposing of such lands on a commercial basis needs to be considered seriously.

(iv) The annual grant of Rs. 25 crores provided by the Ministry of Defence to the Cantonment Boards for effecting improvements in civic amenities in all the 62 Cantonments is far too inadequate. The Committee feel that Cantonments ought to be treated on the same basis as Union Territories and other Local Bodies like NDMC are treated in regard to maintenance grants. The Ministry of Defence should immediately enhance grant-in-aid to Cantonments.

(v) The Ministry of Defence should evolve a long-term plan for identification and consolidation of military areas within Cantonments and their ultimate conversion into Military Stations.

(vi) Timely completion of land acquisition process and speedy disbursement of compensation to the land owners is most essential and, the Government in the Ministry of Rural Development must impress upon other concerned Ministries/Departments to ensure adequate budgetary allocation so that disbursement of compensation and taking over of possession of land after the declaration of award, are not postponed or delayed for any reason whatsoever.

(vii) The Ministry of Rural Development should examine the various principles adopted by the State Governments for fixation of market value of the land to determine how far these have given rise to prolonged and costly litigations for enhancement in compensation awarded by Land Acquisition authorities. The Ministry should also suggest ways of removing the existing deficiencies both in the law and procedure, in the interest of the land losers and the State.

(viii) The RAIP Act be amended without any delay so as to provide for payment of solatium in cases where any requisitioned property is sought to be acquired. However, till such an amendment is made, owners of the property should be given an option to receive compensation either on the pattern of Requisitioning and Acquisition of Immovable Property Act, 1952 or Land Acquisition Act, 1894.

(ix) When the process of land acquisition proceedings are initiated, a Committee comprising the Representatives of the Acquiring Department, and the Land Acquisition Collector concerned should be constituted to hold negotiations with interested persons for settlement of the amount of compensation.

(x) A maximum period for retaining requisitioned properties with the requisitioning authority may be brought down from the existing 17 years to six years which is considered a reasonable time limit for the purpose. The RAIP Act, 1952 may be amended accordingly.

(xi) The Ministry of Urban Development who are the nodal Ministry for the RAIP Act, should impress upon all the Ministries/Departments to take expeditious action for timely release of requisitioned properties.

(xii) The Ministry of Urban Development should finalise early the proposal of the Ministry of Defence to extend the provisions of Public Premises (Eviction of Unauthorised Occupants) Act, 1971 to Cantonment Boards.

(xiii) The Ministry of Rural Development should undertake the task of enacting a common law on the subject of requisition and acquisition of land by the Union as well as States, after an indepth and thorough study of the various Central and State Laws. The suggested legislation ought to reflect all those features regarding procedure of acquisition, time limits for completion of acquisition proceedings, realistic market value of land, principles of compensation, speedy disbursement, opportunities for judicial reliefs to the aggrieved, and statutory provision for rehabilitation grant and resettlement policy, and preference in means of livelihood and special provisions for lands in tribal areas where land transactions have not been/ are not recorded properly, as are most favourable and advantageous to the land loser.

(xiv) There should be a proper rehabilitation policy for the whole of country in order to obviate the existing disparities in the relief and rehabilitation measures for persons affected by large scale acquisition of land.

10. For facility of reference, the observations/recommendations of the Committee have been printed in the thick type in the body of the Report and have also been reproduced in the consolidated form in Appendix II to the Report.

NEW DELHI;
March 5, 1992
Phalguna 15, 1913 (S)

MANORANJAN BHAKTA,
Chairman,
Estimates Committee.

CHAPTER I

LAND HOLDINGS

Introductory

1.1 Defence lands are held as under:-

(i) Inside Cantonments
(ii) Outside Cantonments.

It has not been found possible to trace the precise historical origin of every Cantonment. Some lands came into the hands of the East India Company/Government by right of conquest or by appropriation; some other lands were got through Treaty with the Ruling Chiefs. Some lands were acquired on payment of compensation to the original holders of the land or by exchanging for other, similarly got lands:

In addition to the lands in Cantonments the Ministry of Defence hold lands outside Cantonment also. These have generally accrued to the Ministry of Defence through the following:

(i) *Acquisition*

Lands for field firing ranges, military stations, airfields, etc. were acquired under Land Acquisition Act, 1894, DI Act, RAIP Act, 1952 etc.

(ii) *Ex-State Forces Properties which accrued to the share of the Defence:*

Consequent upon the merger of the State Forces with the Indian Army, by virtue of Article 295(1) of the Constitution the properties that were with the State Forces which merged in the Indian Army became the properties of the Ministry of Defence. The Boards of Officers convened for the purpose at various stations decided as to which properties of Ex-State Forces were to be taken over for defence, as its share. Hence, in pursuance of the proceedings of the Boards of Officers such lands were taken over at a number of stations all over the country.

(iii) *Campling Grounds Certified by the Governor General in Council for use of Federal Government consequent upon promulgation of Government of India Act 1935,*

A number of camping grounds existed in the ownership of Government of India for long and were created as halting places for foot-marching Army. Consequent upon the promulgation of the Government of India Act, 1935 the apportionment of properties between the Federal Government and the Provincial Governments was regulated under sections 172 and 173 of the Act. A number of Gazette Notifications were issued in

respect of the lands used in various parts of the country as camping grounds in the late 1930s. The issuance of these notifications by itself did not create any new rights as such, in the lands of camping grounds in favour of Ministry of Defence, already existed in favour of the Ministry. But the notifications issued by the Government of India under the Act of 1935 distinguished and notified the properties which were used, or intended to be used, for Federal purposes from other properties of the Government which were to be used for Provincial purposes.

Land Holdings

1.2 The land holdings of the Ministry of Defence during the past three decades have grown as shown below:—

(in acres)

Year	Land owned	Requisitioned land	Hired land	Total land
1.1.60	5,23,205	42,716	18,072	5,83,993 or 5.84 lakh acres
1.1.70	14,95,810	72,818	72,365	16,40,993 or 16.41 lakh acres
1.1.80	16,42,621	34,626	71,810	17,49,057 or 17.49 lakh acres
1.1.90	21,20,043	25,758	70,245	22,16,046 or 22.16 lakh acres.

Factors leading to Additional Holdings

1.3 The Ministry have indicated following factors which led to additional holdings:—

In the wake of modernisation of the Forces and the re-equipment of the weapon systems with artillery, armour and missiles of longer ranges/ greater/power, for proper and integrated training of the Forces, and the testing of the arms/ammunitions/explosives longer, larger and an increased

number of ranges became necessary. Additional lands were made available for these purposes. Major additions are as detailed below:-

(1)	1960-1970	
(a)	Deolali Ranges	25,640 acres in 1961
(b)	Babina Ranges	59,400 acres in 1962
(c)	Pokhran Ranges, Jaisalmer	3,96,648 acres in 1966
(2)	1970-1980	
	Central Proof Range, Itarsi	25,869 acres in 1970
(3)	1980-1990	
	Mahajan Ranges, Bikaner	3,31,329 acres in 1986

In the aftermath of the 1962 War, the 1965 and the 1971 Indo-Pak Wars, and the threats associated with and following these conflicts, higher Force levels were authorised.

Additional lands were needed to create the infrastructure for training/ office/storage accommodation and residential quarters.

On recognition of the threat perceptions, the changing deployment of the Pak and China Forces and our operational plans, re-deployment of our own Forces had to be made. This necessitated procurement of additional land holdings at various locations. Our increased presence/vigilance along the Western border in Rajasthan and Gujarat followed the changes warranted from the 1965 and the 1971 Indo-Pak Wars. New airfields had to be developed. New Ordnance factories were set up and some of the existing factories were assigned additional responsibilities. The increased Superpower Presence in the Indian Ocean and the threat to our Exclusive Economic Zones along the Coast and around the Island territories created additional responsibilities for the Air Force, the Navy and the Coast Guard, in new areas. The DRDO also expanded its activities.

Custodian/Service-wise Holding

1.4 The Ministry of Defence have furnished the following details showing defence owned/requisitioned/hired land held Custodian/Service-wise as on 1st January, 1990:

	Custodian/Service	Land owned By MOD	Requisitioned Land on charge	Hired Land	Total Land
1.	Army (including Military Farms)	17,69,170	24,600	51,718	18,45,488
2.	Air Force (including RCPO)	1,58,841	1,116	7,731	1,67,688
3.	Navy	28,799	42	1,331	30,172
4.	Ordnance Factories	54,162	—	133	54,295

5.	DRDO	9,976	—	2,106	12,082
6.	DG NCC	95	—	4	99
7.	DGQA (erstwhile DGI)	26,403	—	7,200	33,603
8.	Defence Accounts Deptt.	140	—	—	140
9.	Coast Guards	279	—	22	301
10.	I.D.E.S.(DEO)	60,828	—	—	60,828
11.	Cantt. Boards (managed/vested)	11,350	—	—	11,350
	Total:	21,20,043	25,758	70,245	22,16,046

Shortfall of Land

1.5 Asked what was the current shortfall of land required for the following categories in respect of all the custodians/services;

(a) For Office, Housing and other related facilities;

(b) for storage of all kinds; and

(c) for training, inclusive of testing of arms, ammunitions etc.

The Ministry in a written note to the Committee stated that verified details of the to-date shortfall, separately for each of the three categories, is not readily available. The position in respect of various users however is as follows:-

(a) *Army*

Command	Details of requirements (in acres)	
	KLP	Small arms/grenade ranges
1. Southern	(+) 35,044	(−) 24,458
2. Eastern	(−) 6,319	(−) 24,350
3. Western	(−) 12,563	(−) 26,573
4. Central	(−) 32,729	(−) 24,154
5. Northern	(−) 48,818	(−) 29,867
6. New raising	(−) 26,120	
Total	(−) 91,505	(−) 1,29,402

Only in Southern Command there is some surplus KLP holding. This surplus can not necessarily, be set off against the deficiency faced on account of land required for ranges there, as the land for that has to be a compact block in a safe area and not scattered pockets in various stations.

(b) *Air Force*

Requirements	Area (in acres)
(i) Offices, Housing and other related facilities.	3,220
(ii) Storage of all kind	400
(iii) Training inclusive of testing of arms/ ammunition etc.	23,740
(iv) Operational and other allied purposes.	6,170
Total :	33,530

(c) *Navy*

Requirements	Area (in acres)
(i) Housing and related facilities	500
(ii) For other operational purposes including storage, depots and yards.	1200
(iii) For training purposes	800
Total :	2500

(d) *Ordnance Factories*

Deptt. of Defence Production & Supplies has reported that the current shortfall of land is 100 acres for housing and related facilities.

(2) Other users like DRDO, NCC etc., have not reported any shortfall.

Ceiling on Land Holdings

1. When enquired as to whether it is possible and also practicable, to consider establishing a ceiling on the total defence land holdings, the Ministry in a note have explained as follows:

"A parallel with the concept of a ceiling on manpower, or a ceiling on Force leve, cannot be essily drawn in respect of the land holdings. With the technological advancements weapons and equipments tend to become obsolete and depreciate. Some of them can not even be disposed of. Even an effective life-span on 10 to 15 years is unlikely for most of the weapon systems and equipments in today's modernisation momentum. During this process of modernisation some systems are discarded and some new systems are introduced. Even when operating within a given Force level, it is possible to re-equip/operate a system better, with modernisation. As weapons and equipments become less man-power oriented : more autometic and robot/computer-controlled, it may be reasonable to expect that the annual wastages of man-power are replenished by personnel of

higher skills, and that the existing manpower released from phased out weapons and equipments are retrained for better skills. Weapons, equipment and manpower are mobile, and can be deployed generally, wherever warranted, depending on the changing scenario and theatre of action. But. lands and buildings are not mobile hence readjustments cannot be made in a comparable way.

(2) The quick reaction required from the Forces and their rapid deployment require that they should be quartered, or re-deployed, at certain locations which might warrant change with the re-deployment of the Adversary's Forces. Since the existing holdings of lands and buildings cannot be moved, those have to be left behind or have to be left for occupation by other units. Certain new locations have to be occupied temporarily or permanently. Hence, development of the new locations cannot be ruled out even when the manpower and the Force remain at the same levels. This is a handicap due to the immobility of the asset of lands and buildings. Even with the same Force level, for establishing the network of rader and communication facilities additional sites and locations have to be developed.

(3) Development of tactical doctrines and changing strategic perceptions might warrant more lands even for the same force level and manpower. When the concept of the integrated training of men and weapons was extended, over a period, for larger Formations like Brigade, Division, Corps and even Army, for battle-innoculation and for perfecting the tactical doctrines, large ranges became necessary again as notice. the changes that had become necessary for housing aircraft, dispersals, runways etc. warranted additional land for the same combat Force level. Moving from the concept of a short duration war that has been the basis of our planning from the experiences of India-Pak and the Middle East Wars of the 60/70s, in the context of the Iran-Iraq War of the 80s which lasted over 9 years, now we may have to be prepared for a situation of a conflict of longer duration. With this, the stock holding of ammunitions, POL, Supplies etc. and the safety zones for the higher holding have also gone up. The larger safety zones for the ammunition depots holding higher stocks or categories of explosive warrant large-areas to be left vacant.

No station can be developed in less that 10 to 15 years time from taking over the land even if resources are provided. Hence, relinquishing a station permanently even as the Forces move to new locations, but remaining within the Force level ceiling and reducing the land holdings cannot be met within such a time-frame. It will therefore not be realistic to put a ceiling on the holdings within which the Services should be made to operate."

Norms of Land Holdings

1.7 In a written note to the Committee the Ministry of Defence stated that for meeting the requirements of various types of Units. there are given scales of authorisation for office/housing/storage accommodation

and for training purpose. Scales of land authorised for certain categories of units are given in a Table of Norms of land holdings for various types of units of the Army laid down by the QMG in 1947.

In this connection the Ministry clarified that the land authorisation scales for various units are the same, whether the station is a Cantonment or a Military Station.

It was further stated that the scales for land used for various types of units were laid down in 1947. After a review in 1972, as an economy measure, it was decided to impose a 33% cut on the entitled scales while finalising the requirement of lands for various types of Units at any Station. As a further economy measure it has now been recognised that the cut may be raised to 41.8% and orders in this regard are expected to be issued shortly.

1.8 Army HQrs have constituted a Study Team with the Dy. QMG as Chairman and with representatives of DGMT, addl. DG(Qtg), DGDE, Addl. DG (Financial Planning), Additional DG (Military Farms), DG Ordnance Services and E-in-C to examine the existing land norms, to revise it suitably taking into account the present pressure on land to identify surplus lands including lands which may be available as a result of closure of Military Farms and to examine the need for minimum inescapable requirement of ranges in various areas.

1.9 The Committee during evidence, desired to know why ad-hoc cuts were being applied and whether there was no way of working out a rational scale for determining the land requirements of the three Services. In this connection, the Secretary Ministry of Defence during evidence stated as follows:—

> "The Army Chief, in consultation with us because of their concern and our concern had set up a Committee on the 20th August, 1990 which is currently functioning. We are awaiting the recommendations and the report of this Committee. We are in a rush, as such, to impose the cuts in an ad-hoc manner. The Ministry of Defence is pursuing this matter with the service Headquarters, to ensure that if there are any surplus lands or unused lands available then those lands should be first put to use for new requirements. The earlier priveleges which we enjoyed 40 years ago, to have single level structures and a density of 11/2 or 2 persons per acre, is no longer available to us and that is why, the Army and other Services have agreed to a reduction of 33 per cent. There is a need to ensure that unused lands are not held without justification. Our intention is not to proceed in a haste. Our intention is to compact the use of all available lands, compact the location of structures and services as that itself will mean controlling/curtailing additional costs which accrue when the entire services are spread over a lagre area, the road system,

illumination, etc. The Army is agreeable to a cut being imposed. We are trying to optimise on resources."

1.10 The Ministry of Defence *vide* their communication dated the 17th June, 1991 forwarded a copy of the order relating to revised land norms issued in February, 1991 stating *inter alia* as follows:—

> "The revised norms of land requirement will amount to a cut of 41.8% on the norms laid down in the 1947 Handbook as against the ad-hoc cut of 33% imposed since 1972. These revised norms will apply in the case of assessment of land requirement for a new station as will as in assessing the total land requirement of an existing station whenever additional land is required for such an existing station. However, these revised norms will not be applied in case of land acquired for an existing station prior to 1972."

Reorganisation of Ranges

1.11 Field firing ranges, acquired or notified, have formed the basic tool for training of troops. Training of troops to ensure accurate use of weapons and realistic combined arms team manoeuvre can best be done only on field firing ranges. The formations and units of the Army have so far been conducting field firing and battle inoculation in the acquired ranges as well as ranges notified by the States under the Manoeuvre Field Firing and Artillery Practice Act, 1938, However, denotification and non-renewal of notification of ranges by some State Governments have resulted in adversely affecting the training schedules of many formations and units.

Proposal for Rationalisation of Ranges

1.12 Having due regard to the State Governments difficulties regarding notification of existing ranges due to pressure of population, requirement of land for modern intensive agriculture and other developmental activities, a detailed review of the Army's requirement of ranges in its entirety was carried out during 1985-86 to rationalise their use and to achieve optimal training output. The aim of the exercise was to arrive at an acceptable course of action wherein neither the developmental activities of the States nor the minimum training requirement of the Army were to be affected.

Rationalisation

1.13 The requirement of field firing ranges was examined in detail and out of the total of 90 ranges of various categories in use at that time, a total of 8 Category I and 22 Category II ranges were proposed to be acquired. The proposal was accepted by the Ministry of Defence in May 1986, after carrying out an indepth analysis at various levels. It was decided that each Command and three Major training institutions i.e. College of Combat, Armoured Corps Centre and School and School of Artillery should have one Category I range (suitable for all weapons) and each Division, as far as possible, should have one Category II range

(suitable for all weapons less heavy artillery) so that field firing could be conducted in the ranges throughout the year. However, it was emphasised that in order to continue with the training requirements or the Army, the notified range will continue to be so utilised till the acquisition of all the proposed ranges is complete.

1.14 The guideliness followed for selection of these ranges are as follows:—

(a) The range area should preferably comprise rugged, barren, unproductive and non-agricultural land.

(b) The area chosen should be away from habitation and be undeveloped/underdeveloped.

(c) As far as possible, the acquired ranges should be based on of around the existing ranges.

1.15 The Army needs ranges lest the standards in training are diluted and thereby the operational preparedness compromised. The Army has also issued instructions to all Headquarters Commands for initiating denotification process in respect of those ranges which have not been in active use and are not likely to be used in future. Till such time the acquisition process for the selected ranges is complete, it is necessary to ensure smooth periodic notification of the ranges currently in use. Any delay by the State Governments in renotifying the ranges will severly affect the Army's training schedule.

1.16 When the Category I and Category II ranges (i.e. a total of 8+22=30 ranges) are acquired, a total range area of over 15.00 lakh acres, as detailed below, could be diverted from ranges for other purposes:—

(a)	Total Area of 90 Ranges as of today	—	34,21,946 acres.
(b)	8 Category I Ranges proposed for acquisition. Total area	—	8,81,189 acres.
(c)	22 Category II Ranges proposed for acquisition. Total area	—	9,81,751 acres.
(d)	Total area of 30 Ranges	—	18,62,940 acres.
(e)	Surplus Range area.	—	15,59,006 acres.

1.17 Large funds would be required for the acquisition of area for the proposed 30 ranges. During the current year, there is a provision of only Rs. 17.00 crores for the acquisition of land for all different purposes, including land required for ranges. This year there are no funds available from the sanctioned budget for acquisition of ranges. It would, therefore, be many years before funds could be found to acquire the land for the proposed ranges.

1.18 The Navy does not have any field firing range on land.

1.19 As far as the Air Force is concerned, their firing ranges are all

unidirectional. The Air Force has projected a need for 3 multi-directional ranges of which one has been proposed at Nohar in Sriganganagar District, Rajasthan, with an area of 19,470 acres. Establishment of these three ranges is expected to result in some of the existing ranges being given up, and the new ranges being located closer to existing operational squadrons. This matter is presently under the consideration of the Ministry of Defence.

1.20 In regard to identifying the areas for reorganisation of ranges from 90 to 30 and treatment of areas that would be rendered surplus on reorganisation of ranges the Secretary, Ministry of Defence stated during evidence:—

> "We have identified the lands for reorganising these Ranges. Till we reorganise these Ranges, we will continue to use that land."
>
> The DGDE added :
>
> "Most of the ranges are notified ranges, we do not own the land there. The State Government has notified the land for us. They say that for certain days of the year you do the firing there and you compensate for the damage done the disturbance caused to the people. So, when we get away from those ranges, actually we are not going to get any surplus land. If we have our own ranges, they can be used for about 300 days or so in a year."

1.21 On enquirying to whether all the sixty ranges proposed to be given up on reogranisation were notified ranges, DGDE replied in the affirmative.

1.22 On the ongoing exercise for reogranisation of Ranges, the DGDE stated :

> "In fact, the position is that we had started this exercise about a year ago, starting with the Army, because the largest ground was required by Army. We have made some headway so far as the Army is concerned. The Director-General of Military Training is in touch with the National Airport Authority of India. We are going to have a similar exercise done in respect of Air Force. Some work has started but we have still to formalise the whole thing. The Navy also has certain presence on the ground which is not so extensive as in the case of the Air Force and the Army. It is third in the descending order."

1.23 In response to a specific query whether the Ministry of Defence would consider the setting up of a special tram with a very tight time-bound programme for the purpose (for range reorganisation for all the three Services). The Secretary replied:—

> "No problem, Sir."

1.24 In this connection, Additional Secretary, Ministry of Defence, informed:

> "I would apprise the Committee of another development. The Minister of State for Forests and Environment had a meeting and the consensus that emerged in the meeting was that to solve the forest problems, they should try to identify barren and waste, which if acceptable to the Army, they should take over and surrender the notified areas. The second decision was that there should be more intensive use of the existing areas of the ranges so that no more areas need be taken."
>
> He further stated·
>
> "There are so many problems. There are so many ranges. Most of the ranges do have a part of the forest land. Most of the areas are not inhabited."

1.25 Clarifying the position regarding surplus area on reorganisation of ranges, the Ministry of Defence in a subsequent note stated as follows:

> "It may be indicated that, on acquiring 30 ranges (8 category I and 22 category II ranges) with a total area of 18,62,940 acres, an area of 15,59,006 acres would become surplus. This area of 15,59,006 acres, which forms part of the notified ranges, would not be required *after* the 30 permanent ranges are established through land acquisition. These lands are not, today, held on acquisition/ hiring/requisition. These are all private/State Government lands. We are not now liable to pay any rent or any other recurring payment. When it is released from the notification, the land will be available to the owners for their uninterrupted use. This is an economical arrangement for the Army, because we do not have to make any capital investment for this and recurring compensation for the occupation of the whole site for the whole year is also not paid. The financial liability now is limited only to compensation for any damage done during the period of firing.

As against this, when 30 ranges are set up on defence-owned land, considerable capital investment in the form of acquisition costs for the lands will have to be made. Financial resources for acquisition of all the sites are not likely to be available in the forseeable future. Therefore, notified ranges will continue to be in use for many more years to come."

Notification of Ranges

1.26 Explaining the position regarding notification of ranges, the Quartermaster General, Army Headquarters, stated during evidence on 4 January, 1991:

> "The ranges are notified from year to year. However, we are in favour of long term notification, otherwise the ranges are not

available for much of the time. Secondly, once denotification takes place, every year, we have to go back to the State Government for notification.

We had a Committee to look into it and the matter is still under consideration. For the interim period certain decisions had been taken. Today, we have 94 ranges all over the country. We would be able to release a large chunk of the area, but that is only notional. But to acquire 30 ranges, we do not have enough money. A via media that has been suggested is that we get a long term notification of these ranges with whatever little restrictions."

National Test Range

1.27 The Ministry of Defence stated that :

"There is requirement of a substantial area for a National Test Range for which the original selection was 37,386 acres of land in the Baliapal Complex in Balasore, Orissa. This will be an instrumented range necessary for testing of weapons and equipment under development and the tactical doctrine under evolution in the changing scenarios."

1.28 Enquired whether National Test Range was responsibility of the Ministry of Defence, the Secretary replied:

"Yes, Sir, it is."

1.29 Asked whether the Ministry would continue with this responsibility or would they like it to be handed over to ISRO or some other organisation, the Defence Secretary stated:

"In fact, this concept of NTR was not something exclusive to the Ministry of Defence, it was to subserve the purpose of the Department of Space, which sends out various kinds of vehicles into space. There was an Expert Committee set up, quite some years ago, under the Chairmanship of the present Minister of State for Defence, Dr. Raja Ramanna. It had representatives from the three Services, Department of Space, and other Scientific and Technical bodies. They went into all the technical not merely physical requirements of space of how much area is required to undertake this or that kind of test. They came up with a series of recommendations after seeing the possibility on the ground of what was possible. I would submit that the NTR is not meant merely for the use of the Army or the Air Force. It is to be used for flight testing of rockets and missiles of various ranges and capabilities at 10 to 250 kms. range."

1.30 Explaining the rational for selecting Baliapal as the site for National rest Range. The Defence Secretary stated:

> "There is a requirement of extremely protected firing area for day-to-day use and then we also have the inescapable requirement of providing testing of rockets which are productionised by our Defence Public Sector production units or by the Ordnance Factories or both of them in collaboration with the private sector. Like-wise, we require facilities for evaluation of rockets and missiles, flight evaluation of range technology of systems like the Agni which has the capabilities of 200 to 2000 kms. and so on, besides, the launching of satellites by the Department of Space. Briefly without going into details, I would submit that the scientific requirements take into account the orbit, the axis, that is, whether it is, North-South or East-West in terms of gravitational pulls, they look for an area-specially as a missile has to go fairly high in the space, which is subject to atmospheric disturbances in most parts of the year, what is the monsoon period in that area, how shallow the coastline is, etc. A combination of factors led to the identification of low sea-line area which is, preferably, crescent shaped and opened out into a sea which is not, at the moment, suffering from enormous air or sea traffic, so that when the testing has to be done, on projectiles or missiles, which go beyond a certain elevation in the sky or beyond a certain disturbance along the sea there will be minimal need to close sea or air traffic of an international kind. So they came to such a pass which has been debated in the last few years. And one other very important factor was that once you have fired a misile on a journey up into the atmosphere on its return journey its entire movement has to be monitored by ground stations or stations in the sea. Floating stations of Indian Navy or other organisation, scientific vessels to get a complete feedback date on how it performed. It was found, over a period of time, in the process of elimination that this was the only area, the Balasore area."

1.31 He further added:

> "How, on the one side the requirement is there which we have been discussing, and on the other side we have certain areas dispersed all over the country of surplus air fields and other areas which do not match for the simple reason that we have to have an outlet on the sea and we have to have a certain ground facility which has a fairly large requirement of land. So, NTR is something inescapable, which has to be there for scientific reasons and how soon we will be able to resolve the matter which has been pursued by the Department of Defence Research for the last seven years now, still remains to be seen. Because there is a let of opposition

from the population actually on the ground in the area proposed to be taken over. Some part has been taken over, some facilities have already been set up on the ground and from Balasore we are already operating—in fact Agni's firing was done from Balasore. The local Government has not been particularly happy with the pursuit of this project. So, it has been in some kind of suspended animation in the last few years. But I would submit that NTR is a necessity which cannot be given up for strictly high priority scientific and defence consideration."

1.32 As regards sharing of financial burden, the Secretary of the Ministry stated:

"Once everything is sorted out, I would see no difficulty of our apportioning the total initial cost and recurring costs as between us and the other concerned Departments. I don't think that the issue has been debated in the past, but I shall see that whatever is done in future will be utilised by multiple agencies. If it is not entirely for the Defence Ministry, the burden, will have to be shared."

1.33 The Committee during evidence, referred to land in Siliguri by the Defence authorities in 1948 on lease. In 1987, the lease period expired but the Army had not vacated the land. The Committee enquired whether it was a very healthy proposition to retain that land without a prior notification when the lease had expired.

In reply, the Quartermaster General, Army Headquarters stated:

"What happens is that, normally in the operational situation, sometime, the Forces have to move into a particular sector in respect of a threat. In most of the areas, there is hardly any population, hardly any inhabitation and the operational requirements demands us to have the ground prepared at the shortest possible time. I hope, lateron, as the time goes by, the movement of population also starts in the wake of army and the people then start realising that the land which is in occupation of the Army, could get compensation to them. This has been the case in J&K, Punjab, Rajasthan and all the border States, where induction of the Army precedes induction of the civil population. We are resolving this problem. Where such cases are coming up, we are looking into them and paying compensation."

1.34 In response to a query regarding acquiring this plot of land, the witness replied:

"We keep this land on lease."

Conclusions

The Committee note that Defence land holdings have increased four-fold since 1960. As against 5.84 lakh acres of land held by Defence Services as on 1.1.1960, the total holdings at the end of 1989 were 22.16 lakh acres.

This includes 96,000 acres of land hired or requisitioned for Defence purposes.

1.36 The Ministry of Defence have attributed the many-fold increase in Defence land holdings broadly to increased presence of Defence forces on Western borders in the wake of two wars fought in 1965 and 1971 and to the presence of Super-power in Indian Ocean and imperatives of defending country's Island territories and its Exclusive Economic Zone. The Committee further note that as a consequence of these changes in the national security environment, the Armed Forces had to be augmented and modernised. With the implementation of re-equipment plans involving induction of weapon systems of greater fire power and longer range and with the re-deployment of fighting formations, the land requirements of Defence Services have continued to grow year after year.

1.37 The Committee find that Army are the major land user and account for 18.45 lakh acres while Navy and Air Force together occupy only 1.96 lakh acres. The other users of Defence land include the Ordnance Factories, Defence Research and Development Organisation, Directorate-General (Quality Assurance), Defence Accounts Department, Cantonment Boards and the Defence Estates Organisation. In fact, the lands which are temporarily surplus to other organisations are being kept in reserve for future defence use, as also the lands held as grants or on lease by private parties, rest in the custody of Defence Estates Organisation. The total land under the management of various Cantonment Boards is 11,350 acres. Most of this land is used either for Defence purposes or for housing troops and their families and includes lands given on grants/lease in notified civil and bazar areas within the Cantonments.

1.38 The Committee note that lands held by the Defence Services are mainly used for (i) housing and other related facilities, (ii) training areas and establishments, (iii) storage depots and yards (iv) testing arms, ammunitions and explosives. They, however, find that verified details of land required under each of these categories is not readily available with the Ministry of Defence. Consequently the Committee are unable to ascertain the short-fall of land required under different categories.

Recommendation

The Committee cannot comprehend how any meticulously planning in respect of acquisition of land for defence purposes can be done in the absence of relevant basic data. They, therefore, consider it desirable that appropriate action is taken to maintain such data. The Committee would like to be apprised of the action taken by the Ministry in this behalf.

Conclusions

1.39 The Committee note that all the Army Commands have projected additional requirement for land totalling 2,20,907 acres, of which 1,29,402 acres are required for different categories of ranges and the balance for Key

Location Plans (KLP). In addition to this the Air Force and Navy and other users of lands under the Ministry of Defence require 36,130 acres of land. The Committee are also apprised that only Southern Army Command have indicated surplus land to the extent of 35,044 acres.

1.40 The Committee are further informed that even though the Force levels may be subject to a ceiling, the need for new locations and more land for defence purposes cannot be obviated owing to changes in the strategic perceptions, deployment pattern of the Forces and the development of tactical doctrines. Therefore, a ceiling on land holdings within which the Defence Services might be made to operate cannot be a realistic answer to the problem of land availability.

1.41 In this context, the Committee note that Cantonment/Military Stations and other establishments of the Defence Services are governed by Land Norms laid down in 1947. As an economy measure, these Norms were reviewed in 1972 and an ad hoc cut of 33% on the entitled scales of land imposed. On the basis of the recommendations of the Committee constituted by the Chief of Army staff in 1990 these Norms have further been revised by imposing an additional cut of 8% over the existing scales of entitlement for determining the optimal authorisation of land for any establishment.

Recommendation

1.42 Keeping in view the high cost of creating additional infrastructure and the need for optimal utilisation of existing resources, the Committee feel that it is essential that the scales of land authorisation for different types of units of establishments of Defence Services are fixed taking into account present realities in regard to land use and availability in the country. The Committee, therefore, welcome the revision of Land Norms and hope that these norms will be kept under review on a periodic basis.

1.43 Some of the Cantonments have been encircled by dense urban agglomeration which, as it is, need appropriate lung spaces. The Committee, therefore, recommend a cautious and selective approach in enforcing the proposed cut in regard to such Cantonments. They would expect the defence authorities to liaise with their counterparts in the civilian administration for this purpose.

Conclusions

1.44 The Committee note that field firing is an essential tool for training and battle inoculation of the troops. They further note that Army and Air Force carry out field firing in about 90 ranges which have been notified by various State Governments under the Manoeuvres, Field Firing and Artillery Practice Act, 1938. The land falling under these ranges is either owned by the State Governments or by the private parties.

1.45 The Committee are informed that owing to land being progressively brought under intensive agriculture use and for other development activities, the State Governments have been finding it difficult to issue

necessary notifications in regard to these ranges. A comprehensive review of Army's requirement of ranges was, therefore, carried out during 1985-86 with a view to rationalising the use of existing ranges and to achieve optimal training output. After an indepth analysis, at various levels, of the proposals resulting from this review it was decided by the Ministry of Defence in May, 1986 to scale down its requirement from existing 90 ranges to 30 which include 8 category I ranges (suitable for all weapons) and 22 Category II ranges (suitable for all weapons except heavy artillery). The Committee, however, note that as these 30 ranges would be subject to use throughout the year a total of additional 9.24 lakh acres of land is required to be acquired by the Ministry. On the other hand 15.59 lakh acres would be left completely free for the uninterrupted use of civilian population. The Committee find that large resources will be required to acquire additional land for implementing the proposed reorganisation of field firing ranges. They also note that in many cases the State Governments have either refused outright to give 'no objection certificates' or shown reluctance to do so. At the same time many State Governments have either denotified some of the existing ranges or have been delaying renewal of notifications. The Committee are informed that this is going to severely affect the training schedule of the Army. The Committee are also aware that some of the existing ranges are proving to be inadequate owing to induction of new weapon system and that need is being felt by IAF for multi-directional firing ranges which necessarily involves large tracts of land. The Committee therefore conclude that acquisition of more land for setting up permanent ranges does not appear to be feasible in the immediate future. At the same time it cannot be vouch safe that such ranges once acquired will not fall short of requirements of the Army or Air Force at a later stage. Nevertheless, acquisition of permanent ranges seem to be desirable keeping in view the difficulties which are being faced in renewing the notification of existing ranges or in getting new ranges notified. It has been suggested to the Committee that a via media could be found by amplifying Manoeuvres, Field Firing and Artillery Practice Act, 1938 so as to ensure that ranges are notified for longer durations and to give Central Government powers to issue directives to the State Governments in this regard.

Recommendations

1.46 The Committee are of the opinion that from a long term perspective the Ministry must acquire as many permanent ranges as it can afford and the circumstances permit. They desire that a long term programme of land acquisition may be drawn and implemented for this purpose. However, at the same time the Committee quite clearly see the usefulness of carrying out the suggested amplifications in the Manoeuvres, Field Firing and Artillery Practice Act, 1938. The Committee are of the firm view that these amendments will not only ease the problem of the Army in the immediate context but will also provide necessary leeway for rationalisation of the ranges at a future date if so warranted by the requirements of the training.

1.47 The Committee further feel that with the existing procedure it might take an unduly long time to complete the identification and acquisition of land for organisation of ranges. They, therefore, recommend that a Special Team may be constituted for reorganisation of ranges for the Services so that it addresses itself to the totality of the problem from identification to acquisition.

1.48 National Test Range is a vital requirement of the country. Unfortunately, for one reason or another the question of its acquisition has been dragging on for the past many years. The Committee desire that position may be reviewed, at appropriately high level, to resolve this problem through mutual discussion amongst all parties concerned.

1.49 Apart from the Defence Services, National Test Range is being utilised also by the other agencies of the Government. They are, therefore, of the view that if this range is going to be used by various other agencies to a substantial extent, then the expenses of acquisition and its maintenance should not be left to be borne entirely by Ministry of Defence, the resources of which are already scarce. The Committee desire that the cost of acquiring and maintaining National Test Range should be shared by users on a proportionate basis or through some practicable formula.

1.50 Under the Manoeuvres, Field Firing and Artillery Practice Act, 1938 Army are not liable to pay any rent or any other recurring payment to the land owners for conducting field firing in the notified ranges which are either private or State Government lands. The Committee consider this a legacy of colonial rule. They recommend that the Government should give a fair deal to the land holders who are forcibly dispossesed for a specified duration of the year and give them due compensation including damages for crops. The Committee urge that for this purpose, if necessary, relevant amendments may be carried out in the Act in consultation with the State Governments. The Committee would like to be apprised of the action taken by the Government in this regard.

1.51 The Committee note that there have been instances where the Ministry of Defence have failed to take timely action in issuing the necessary notification for continuing temporary occupation of land on lease which has created avoidable problems. The Committee are of the view that the time lag between the expiry of lease and its renewal etc. should be cut to the minimum so as to avoid harassment to the land owners.

Recommendation

1.52 The Committee recommend that where Defence Services intend to extend occupation of any land for a further specific period adequate notice should be given to the affected parties. They also expect such cases to be duly monitored by DGOE.

CHAPTER II

LAND USE

Utilisation Pattern

2.1 The Committee desired to know how much of the total approximate 22.16 lakh acres of defence land held, was utilised for—

(i) housing and other related facilities,

(ii) training areas and establishments,

(iii) storage, depots and yards, and

(iv) testing of arms/ammunitions/explosives.

In a written note the Ministry of Defence explained:

"The available land records do not show category-wise utilisation for housing or other related activities. However, the broad details of the lands under occupation of the Army who are the major users of land are as below:

(a) Key Location Plan (KLP)	3.25 lakh acres.
(b) (i) Training areas including field firing ranges	8.93 lakh acres.
(ii) Small arms/grenade ranges	0.23 lakh acres.
(c) Other establishments like Storage/Depot/ Workshops/Camping Grounds	6.04 lakh acres.

No such details in respect of Navy/Air Force have been furnished.

(2) Apart from the lands used by the three Services, certain lands shown on the charge of the Defence Estates Officers and the Cantonment Boards are used for housing and other facilities. These are held on grants/leases. Some other areas are used by the Cantonment Boards for municipal purposes.

(3) The land holding of 33,603 acres held by DGQA are all used for testing of arms/ammunitions/explosives, and are at the Central Proof Range Itarsi, Khamaria and Jabalpur. This testing is with reference to the production of the OFBs. The user's testing/evaluation of the items are held at their ranges which are otherwise for training purposes. Part of the holding of the DRDO to the extent of 2392 acres is also the Interim Test Range at Chandipore, Orissa."

Lands not under active use of Defence Services

2.2 Those lands which are not entrusted to any of the three Services or other Users, for their active use are held in the custody of Defence Estate Organisation (DEO). These lands measuring 60,828 acres comprise the following:—

(i) Lands under forest in the hill Cantonments of Dalhousie, Bakloh, Kasauli, Dagshai, Jautogh Subhatha, Landour, Lansdowns, Ranikhet, Almora, Nainital, Jalapahar, Lebong, Pachhmarhi etc. On these hills these forests are the real green-tops. These now remain the ecological and environmental asset of the nation and there is no question of changing the land utilisation, pattern. Further, the Forest (Conservation) Act, 1980 debars any change in the use of these lands.

(ii) All the sites on grants and leases in the bungalow areas of all the 62 Cantonments.

(iii) The lung spaces left as un-built or un-buildable in the Cantonments.

(iv) Many of the old Camping grounds and abandoned airfields, which Army/Air Force have handed over as surplus.

Grass Birs

2.3 The Ministry of Defence clarified that some open lands with the Users are also not available for active use. For example approximately 72,000 acres of land forming the grass-birs at Gwalior (that accrued to the Army with the integration of the Gwalior State Forces) had been with the Military Farms till two years back. Thereafter, it has been with other Army Units at the station. This is the natural habitat of the Indian Bustard. The site was used to a limited extent for firing in 1984-85. It cannot be used as a range or for construction of accommodation and remains for environmental protection.

2.4 Enquired how much money was being spent on grass-birs forest area in Gwalior, DGDE stated during evidence:

> "On this 72,000 acres, which is the grass-birs, we hardly spend anything. On the forest area, we spend some money for keeping some Forest Guards and Mallis to plant seedlings."

2.5 In response to a query, the representative of the Ministry of Defence informed that there were no villages in those forests.

2.6 The Committee pointed out that either the Ministry of Defence should hand over the land to the Ministry of Environment and Forests to handle or the Ministry of Defence should properly maintain it by asking

the Government for appropriate funds for this purpose. To this Secretary, Ministry of Defence, stated:

> "Wherever we are holding lands for whatever historical reasons, either protected forests or classified forests, we are not allowed to use such lands but we are allowed merely to protect them. Then, your question is why the Ministry of Defence has to spend anything at all to protect these lands which is not its primary role and why these should not be handed over. We accept this. We will negotiate with the Ministry of Environment and Forests and see how we can deal with the large tract of the grass-birs and the classified forests that we have in and around Dalhousie and in several other areas in the UP hills. I would submit that when we do that, if there are any small pockets where we have been allowed even partial use, we will continue to bear the expenses. On some basic understanding as to what should or should not come up in that area, once we have handed it over to the State or the Central authority, we will definitely examine this in a serious manner in conjunction with the concerned authorities and see what best can be done."

Unused Lands

2.7 Some old Camping Grounds (approx., area 4300 acres), some old abandoned Air Fields (approx. area 18,200 acres) and encroached land (approx., area 4000 acres) which are included in the lands not under active use have been lying unused generally since the early fifties.

2.8 According to Ministry of Defence many of the unused camping grounds had been on agricultural leases through the Collectors till the mid 50s, when these sites were taken over from the State Governments by the Defence Estates Organisation. All the camping grounds/unused airfields which could be put to agricultural purposes were given on temporary leases for that purpose. Some of the airfields were also used by Rehabilitation Department, the Food Corporation of India etc. when they had urgent need for land for their activities. The Ministry also informed the Committee that ownership of some of these lands by Ministry of Defence had been disputed by the respective State Governments. The market values of these sites has not been estimated.

2.9 The Committee enquired whether the Ministry of Defence considered disposing of these unused land. In their note, the Ministry have stated:

> "The Ministry of Defence considered disposing of the surplus camping grounds/abandoned airfields. For this a policy was laid down in September 1977. While action to dispose of the sites was being processed for sanction, the then RM took the view that because of the increasing paucity of land and growing unwillingness of the State Governments to issue NOCs, "no defence land may be

declared, surplus; land may be given up only on the basis of exchange and on no other basis; the expanding need of the Defence Forces will require a lot of land and, may be, the present holdings will be just adequate". In July 86, it was decided by the then RRM that: 'No defence land shall be declared surplus. If at all any land is given up it should be only on the basis of exchange. However, the demands of the State Government/Central Government as well as of Public Sector Undertakings/Companies/ Enterprises under their control may be considered on the merits of each case.'

Only lands for which there was no alternative defence use were declared as surplus camping ground/abandoned airfield.

"None of the said sites fall within the limits of Contonment Boards; some fall within Municipalities. The Policy, as laid down, permitted exchange of these sites for alternative lands suitable for defence purposes and for transfer to Central/State Government Departments/undertakings, at market value. Despite circulating lists of sites to the Chief Secretaries of the State Governments in August 1986, there has been no response/ demand. However, separately, the West Bengal Government had requested for the Chara Air Field (616.94 acres) for re-establishing a PAC Campus. It has been decided to transfer the land to the State Government at the negotiated price of Rs. 46.13 lakhs."

2.10 Explaining the position on additional land holdings, the Secretary, Ministry of Defence during his evidence before the Committee, stated:

> "I do admit that we have a situation which is dynamic and, on one side we have large holdings and side by side, we have pockets of surplus lands or areas which are little more than pockets, which are no longer required because of the very substantial changes in the very functioning of the Defence Services, equipments that they hold, their battle philosophy and such other factors. We have almost a continuous demand for additional requirements to be met. Prima facie, it may appear that we have large holdings, we have pockets of surplus land and yet we keep on acquiring large pockets of additional land. I would briefly mention that what we inherited, in 1947, largely remains with us and because of the changed situation in the country, geo-politically and otherwise, we have found that certain holdings are no longer relevant to the current requirements of the Services.
>
> It has also been felt both by the Services and the Ministry, as well as the valuable observations made by the erstwhile Committees of Parliament that in view of the enormous increase of population in the country in all parts, the progressive increase in land values, progressively increasing use of lands being made cultivable, we should do all that is possible to ensure against any frivolous or

unjustified acquisition. That process has been continuously on and the Government is monitoring the situation."

2.11 In regard to the disposal of 22 abandoned airfields, the Ministry of Defence in their note furnished after evidence stated as follows:

> "Out of these, Pandaveswar airfield and Charra airfield have already been transferred to the Eastern Coal Fields Ltd., Burdwan/Government of West Bengal, respectively, on payment of market value. Airfields at Jhingura, Kasia and Prithiganj are also under consideration for transfer to the Government of U.P.
>
> The question of disposal of abandoned airfields was considered in an internal meeting in the Ministry of Defence on 28 December 1990. It was felt that all the three Defence Services should review their plans and examine whether any of these abandoned airfields would be required to be retained for defence purposes. After a clear picture emerges, the issue of disposal of the remaining abandoned airfields would be settled."

Old Grants

2.12 Administrative permission for occupation of lands (which came into the hands of the Government by right of conquest or Treaty with the then ruler, or an payment of compensation in the 18th and the major part of the 19th Century), granted by the Officer Commanding Station, QMG's Branch, the C-in-C and the Government before the scheme of leases were introduced, from 1899, are known as old Grants. These are not restricted to the permissions granted in pursuance of the later GGO No. 179 of 1836 brought into force in the territory of Bengal Presidency and the similar GGOs applicable to the Bombay Presidency and the Madras Presidency. Generally, these documents are not available.

As per records maintained by Defence Authorities most of the bungalows/residential sites in the Cantonments all over the country are held on "old Grants." Some of the private persons known as occupancy holders of these sites have now started disputing the Governments ownership of the land. In the case of Union of India Vs P.D. Tandon pertaining to bungalow No. 29 Chatham Lines, Allahabad Cantonment, the Supreme Court shifted the burden of proof on the Union of India. In respect of Pune Cantt. occupancy holders of 16 old grant Bungalows have challenged the Government title to the land in Supreme Court. The Supreme Court has remanded these cases to Bombay High Court and the matter is subjudice at present.

2.13 In a subsequent note the Ministry of Defence while explaining their views on transfer on sale/allotment to original or their successor allottees such of old grant sites or lands as were not needed by the Ministry of Defence and difficulties in solving the problems through a statute, have stated that: "old grant sites exist only in Cantonments. On these sites the

land belongs to Ministry of Defence and the buildings belong to the grantee's successor. The accepted policy of the Government in respect of such sites is that in the Notified Civil Area (bazaar) the built up area and the land which cannot be independently used from such sites may be transferred to the occupancy holder on free hold at the estimated market value. This poses no problem. But this option has been unattractive because those who have lived on the sites for 100-150 years do not want to pay market value. They do not come forward for conversion. As regards the sites outside the notified civil area (bangalow areas) the policy of the Government has been *not* to transfer the rights in the land to the grantee's successor but to reserve such sites for future defence use, by resumption. Hence, the question of transfer of such sites, on sale, does not arise within the present policy.

(2) The occupancy holders are demanding/agitating that the sites should be treated as their private land and not the land of the Ministry of Defence. Problems have arisen when the Government wanted to resume the sites by paying compensation only for authorised structures and nothing for the land. Occupants got stay orders from the Court or even judgements against the view that the land belonged to the Government and the occupancy holder's rights were as under the old grant terms. Generally, in most of the cases, the original grant papers are not available. A statutory presumption that the site shall be treated as belonging to the Government of India in the Ministry of Defence and the occupancy holder has a right as contained in the old grant, notified by the Governor General in 1936, may not be upheld even if a statutory presumption of ownership of land is enacted. On this matter, the then Attorney General (Shri K. Parasaran) had advised as below, in September, 1986:—

> 'A legislation can be made on the lines indicated .....more particularly a rule of evidence as to presumption, the title in the land in the Cantonment areas vest in the Government and that it is for the parties to prove the same. It should not be overlooked that parties may also seek to prove title by an adverse possession if they had completed 60 years of adverse possession before coming into force of the Limitation Act of 1963 or if they had not so completed 60 years before that date to allege and prove that they had been in adverse possession for a period of 30 years, being the period prescribed under the 1963 Act. Any such legislation which may be passed may not cut short the litigation which crop up in future. The present day pattern of litigation is such any litigation can be prolonged. In fact even a legislation which may be made on the salient features may itself be challenged as unconstitutional and on that issue the litigation may hang on for some years.'

(3) When the draft legislation was examined, the Ministry of Law had advised that though a law of evidence can be created presumptionary status, if conferred on the present GLRs, may not be upheld by the Courts

as the Registers were not prepared in the same way as the Settlement Records prepared under the State Land Revenue Codes. It was indicated that once a similar record is created a presumptionary value could be placed. In September 1989, the Law Ministry recorded as follows:—

> 'The administrative Ministry will have to find out a sound course of action by which they should be able to maintain their General Land Register based on indisputable particulars. One way perhaps could be to have a statutory body or a small tribunal entrusted with the powers to determine the ownership of all properties within Cantonment areas and the General Land Registers should be based on the final determination of title by such body or tribunal. The final determination of title obviously would be made after giving opportunity to all interested parties to come forward and produce whatever evidence they have in support of their claim. For such adjudication it should also be necessary to take into account the historical facts reflecting on the ownership of the land such as that a particular territorial area was acquired by conquest. If the volume of work is considerable establishment of more than one such bodies or tribunal could be considered. Issuing title deeds afresh after final determination by such body can also be thought of and General Land Registers could be prepared accordingly. Thus, it will be a one time measure. I may, however, clarify that we are not advising the course of action as suggested in this para, this merely an idea for consideration of the administrative Ministry. If they feel that this can be usefully worked out we can discuss it further.'

(4) Acknowledging Governments mere ownership right on the land is not adequate; the nature of the rights of the holder of the land and Government as in old grant has also to be mandated. It is doubtful whether such a presumption would survive judicial scrutiny.

This apart, under the Constitution, Entry 18 of the List II (State List) in Schedule VII of the Constitution is the following—

> '18. Land, that is to say, rights in and over land, land tenures including the relation of landlord and tenant, and the collection of rents, transfer and alienation of agricultural land, land improvement and agricultural loans, colonization.'

(5) The State Legislature has exclusive jurisdiction on the above matter *vide* Art. 246(2). The substance of the proposed legislation we have on hand is what interest shall be reckoned for various parties (Govt. of India, old Grantees, occupants, challengers etc.) in respect of the land in the Cantonments and what the land tenures are. Hence, the heart of the matter in legislation appears to belong to the State Legislature and not to the Union Legislature. Thus, it is felt that the more relevant and striking provision in the Constitution regarding legislative jurisdiction being Entry

18 List II, the Parliament may be devoid of power for the proposed legislation.

(6) Even before the federal structure was introduced, Lord Curzon who attempted to create a law or presumption of government ownership of the land did not succeed in the effort. It is not quite certain that the Parliament can legislate on this matter. The number of properties left as 'old grant' in bungalow areas is now about 2,000, with a total area of 12,000 acres, distributed in about 50 cantonments. Only a part of these properties would be resumed and that too over many years. In the notified civil areas (bazaar areas) there are about 45,000 holdings with a total area of about 5,000 acres. It is unlikely, for socio-political reasons, that we would ever resume the sites in bazaar areas. The reliance to be placed on the General Land Register entries is being considered by the Bombay High Court (from 5th November, 1990 onwards) in a batch of appeals filed by Government in respect of cases where resumptions done in Pune had been quashed. Once the judgements in these appeals are announced, certain clarity will emerge.

(7) The case in the Bombay High Court has not yet been taken up for hearing though it has been appearing high on the list.

2.14 Explaining the genesis of 'old grants' sites the Director General, Defence Estates stated during evidence:

> "Those sites were initially given to the Army Officers and later to other persons to build bungalows, houses and shops. When we wanted we could pay the value for the building and take over the property because it is a joint property. The people who are holding that want us to recognise the land to be theirs and want freedom to use that land for re-development for building houses and for building commercial complexes. As far as the Army is concerned, they have treated these as assets. By paying compensation for the aged buildings, when we want to take over the land from them, we assert that the land is ours and the building is theirs."

2.15 Commenting about the feasibility of resolving this problem through an enactment of Parliament the Secretary, Ministry of Defence during evidence said:

> "The question, and the prospect through fresh legislation, of vesting the prescribed property rights with the Government, that is, in the Ministry of Defence, appears to have been very extensively examined in the past years and the advice of successive Attorney Generals also solicited through the Ministry of Law and so on. In sum, it would appear, purely in legal terms, that it is not possible through an Ordinance or an Act of Parliament to invest the Ministry of Defence with such rights as you have in mind. We have been facing a series of court cases in various State High Courts and the Supreme Court. A batch of our cases are being heard in the

Bombay High Court on what kind of sanctity could, possibly, be attached to the GLR. On the basis of the studies of the records that we hold as of today and the circumstantial/collateral evidence, various High Court have been inclined, for given reasons, to give us different verdicts on the principal issue of where these properties will vest land what rights we have. We are quite willing to consider any thing considering the long past history of this as also the recommendations of the earlier Estimates Committee. My own view, after seeing the past records of this case, is that nothing very much is likely to come up through the legal process, specially as the advice of one former Attorney General, Mr. Parasaran is very extensive and is also not very old. It is of recent origin. He has conclusively summed up by saying that in the existing judicial environment and seeing the earlier rulings of the Supreme Court on allied issues. It is not possible to consider and conceive legislation which invests the Government such rights as you have just referred to. That leaves us with very little leeway in terms of how we tackle these 2000 and odd Old Grant cases in Bunglow areas spread over 50 Cantonment Boards and covering 12000 acres of land in the bazar area around. The land, as such, is located in the prime areas of very valuable urban land. And, around these grant sites are the costliest establishments of great concern. It is not merely for economic and monetary purpose that we try to cling on to the Old Grant sites. But the reason is, if these were to go out of our hands unconditionally, they will jeopardise our establishments in the overall area in which they are located and will create a series of problems for us specially in those States where the State authorities, and the local municipal authorities do not have any firm legislation or bye-laws to regulate or other laws to enforce it. The value of the land is extremely high. A case in point is Pune where we have faced a series of problems in the recent past and we are continuing to face cases in the Bombay High Court. We are continually trying that ever best we can do and we would be most willing to get further advice of this Hon. Committee on what should be done in addition to what we have done in the past, because, our effort, in the recent times of trying to secure legal authority to put an end to the existing situation has not met with much success. That leaves us with the non-legal, place to place, site to site, informal approach, if that is acceptable to the Government. The Government works on the basis of checks and balances. If such discretion is given, which is unfettered, then there may be a series of agreements which are not uniform or equal in terms of natural justice. We have a problem in terms of an informal approach to the problem. On the legal side, we seem to have come to a very difficult kind of situation. We will now see how the Bombay High Court directs us to go. That is our position, as of today."

2.16 The Committee enquired why the suggestion for setting up of Tribunals for establishing title of grant land was not implemented DGDE replied:

> "This is a suggestion from the Law Ministry. When we have a problem of title they had said that on the basis of the evidence a record of title should be created and a new record of rights should be created for these areas. Here again, the problem is what is the documentation to be placed before the tribunal. That itself is lacking. Although creation of a tribunal is within the jurisdiction of the Central Government, after the Constitution came into force, Entry 18 in the State List says, 'land trial' and interest of people in the land is a subject matter of the legislation of the State Government."

2.17 The Quartermaster General added:

> "Now we have reached a stage that Tribunal is to decide what interest various persons have got to the land. It is a matter actually for the State Government to see. Therefore, the Central legislation there will became possibly questionable."

2.18 The representative further stated:

> "It is a very difficult problem at the moment and it is more difficult when you look at the larger cantonments which are urbanised. I think, we as Government, are not very fair to the people who have been on occupation for the last 100 years. Under the present terms, they are not ready to quit. We are paying them at the book value of the property. It may be to the tune of Rs. 20,000 or so. That is the book value."

Military Farms

2.19 The Military Farms cover a total of 37,017 acres of land at various stations. This excludes approximately 72,000 acres of land, at Gwalior, known as Grass-birs and held by MF till about 2 years back. These lands have been transferred to other local Army units. The breeding farms at Hissar and Babugarh and the Remount and Training Depots at Hempur and Saharanpur of the RVC occupy 6227 acres of land. Some of the land holdings of Military Farms at prime locations are as follows:—

Station	*Area in acres*
(1) Agra Cantt.	269
(2) Jhansi Cantt.	1088
(3) Allahabad Cantt.	843
(4) Bareilly	754
(5) Ranchi	382
(6) Lucknow	1518

(7) Kanpur Cantt.	861
(8) Sitapur	4492
(9) Jabalpur	1100
(10) Hospet Taluk Bellary Distt.	5628
(11) Belgaum (outside Cantt.)	721
(12) Delhi	80
(13) Ambala	338
(14) Indore	1645
(15) Jamnagar	554
(16) Secunderabad	4063
(17) Bangalore Distt.	1099
(18) Jalandhar	707
(19) Ferozpur Cantt.	954

2.20 Explaining the rationale of setting up Military Farms the Ministry stated that these were established sometime in the beginning of the last century when the Cantonments in most places were fall away from the townships and there was no reliable arrangement, locally, for supply of milk. There were also no arrangements for storing milk for given periods. Hence, in most of the places where Cantonments were established Military Farms were also set up to meet the daily milk requirement of the troops.

The Ministry further stated that today, the situation has altogether changed. With the improvement in the transport system, the development of cooperative milk Unions, the growth of the townships itself and the milk revolution (Operations Flood), the availability and supply position of milk has considerably improved.

Dwelling upon the relevance of these farms in the changed situation the Ministry stated that Military Farms, as they are located, cater to the needs of only a small percentage of the troops. The 1988-89 audited data reveal that the annual requirement of liquid milk was 821 lakh litres. Of this only 302 lakhs (*i.e.*37%) was produced by the Military Farms and the balance was purchased by the ASC/MFs. In addition MF produced 3.90 lakh Kgs. of butter, 9881 Kgs. of Cream, 6348 Kgs. of 'Paneer' and 30,000 tonnes of hay for animals. Some of the lands which they hold are very fertile and valuable. With the present day situation the continuance of the Military Farms requires very serious re-examination.

2.21 Referring to audit observation, contained in C&AG Report (No. 2 of 1988) on working of Military Farms, that the cost of production of milk in most of the Military Farms was higher than the civil rates. The Committee enquired during evidence whether there was any need for continuing these Military Farms. The Defence Secretary, in his reply stated:—

"I don't think there is any need to debate this point. We are in the

process of doing something about them. We are seeing how to rationalise the whole situation. We will try to do it on a time-bound basis. I think before the end of the 8th Defence Plan, that is, 1995, the whole thing will be resolved. But that does mean that the desired decisions will not be taken in the next two to three years."

2.22 The Committee were informed in a separate written note that a study Team constituted by Army HQrs will look into the recommendations of an Expert Committee, which had favoured disbandment of Military Farms.

Cantonments and Military Stations

2.23 The stations at which the Army was quartered came to be known as Cantonments. To start with the sites they came to occupy accrued to them as a result of conquest or under agreement with the then Rulers of the different States. The first such Cantonment was established in 1765 at Barrackpore. The last Cantonment was established in 1962 at Ajmer. There are 62 Cantonments. The Cantonments are basically meant for stationing the troops. However, civilian population also lives in the Cantonment. It is this Urban population which provided the requisite supplies/services/domestic servants etc. According to the present policy no new Cantonments are being established. Instead, Military Stations are planned wherever necessary. Since 1962, Military Stations have been established at many places. There are 239 Military Stations.

2.24 Explaining the concept of a 'military station' the Ministry stated that a station where the Forces are quartered permanently and is not part of a Cantonment or of any Municipality/Corporation is a Military Station. For example Bhatinda, Hissar, Pathankot, Suratgarh, Lalgarh, Jattan, Guwahati, Narangi, Tezpur, Jorhat, Bengdubi etc. Which are outside the Municipal limits, are Military Stations.

On the other hand pockets of land, where troops are quartered in Calcutta, Madras, Bombay, Bangalore, Shimla and which are within the Municipal Corporation limits, are neither Cantonments nor Military Stations. They are known as 'Enclaves'.

2.25 According to the evidence given by the then Defence Secretary before the Estimates Committee (1982-83), the genesis of the decision not to set up any new Cantonment, was that the maintenance and provision of civic facilities to the civilian population was, under the Cantonment Act, the responsibility of the local authority for that area. In view of that it was not considered necessary for the Ministry of Defence to accept that responsibility and it was decided that in future they should take responsibility only for the military troops, by setting up Military Stations.

2.26 In regard to review of Policy for setting up only Military Stations the Ministry of Defence stated as follows:

"The Estimates Committee of the Lok Sabha examined the subject

'Cantonments' in 1982-83. They 'welcomed' the 'policy' of the Government to set up only Military Stations, comprising areas for lodging the troops and setting up military facilities and installations and not Cantonments comprising military as well as civilian population after 1962."

2.27 Asked in this context, to justify the wisdom in setting up and continuing with Cantonment Boards, the Secretary, Ministry of Defence, stated:

"I would submit that at different points of time, Cantonment Boards were decided to be established. Since the situation on the ground being what it was, the then colonial authority could not take any other decision. We have not given up Cantonment Board because it has relevance for one or the other Defence Service. Also because of large investment made over a period of time and the structural facilities created, it has not always been easy to take the hard decision of giving it up. For example, our presence in Delhi. The question arises from time to time, between us and the Services, as to how much we can vacate and where we can go and what quantum of additional funds would be required to recreate this essential infrastructure. The answer to this has been very costly."

2.28 Explaining as to whether the Ministry had made the best use of surplus pockets in Cantonment Military Stations and Enclave lands, the Secretary submitted that:

"Cantonments and Military Stations are two denominations. The Military Station came much after the historical concept of Cantonment and the socio-economic situation had undergone enormous changes even before the attainment of Independence and more so after 1947, and the Services in their wisdom, specially the Army, which has the largest presence on the ground, felt that the erstwhile concept is not altogether viable. The Government went over this proposition and, over a period of time, it was accepted. The answer to the question whether the Army needs to be on the ground in sizeable strength, in indentified areas lies not in replicating the concept of Cantonments and acquiring the required area of land and giving it entirely to the control and responsibility of the Board. There is absolutely no civilian presence in the Military Stations. In Cantonment from time to time, we have a sizeable civilian population."

2.29 The Committee pointed out that as certain pockets of Defence land called Enclaves did not have benefit of independent maintenance and were dependent on civil authorities for water and scavanging etc. These could

also called Military Stations. In this context the Defence Secretary, at one stage of the evidence, clarified as under:—

> "So far as Enclave lands are concerned, that conceptually it is not a third category as compared to Cantonment and Military Station."

2.30 In this connection, the Quartermaster General, Army Headquarters in his evidence before the Committee stated:

> "The Cantonment consists of two parts. Some areas are inhabited by civilian population and other areas are basically kept for the military purpose. There are certain areas in this set up which are used both by the civilian as well as the military like roads, schools, hospitals and things like that. The areas which are basically under the occupation of the military are really independent and looked after by the military through the military funds. No grant comes from the Cantonment Board. Whereas other areas which are under the occupation of the civilians and commonly used by both military and civilians are normally looked after by the funds either generated or grants given to the Cantonment Board.
>
> Our experience of the Cantonments in the early 50s has been sad in the sense that there has been a lot of encroachment with the kind of people who spoiled the get up and environment. Secondly, if you look at Cantonments they have now been overtaken by the metropolitan areas or township whereas the Military Stations are not seen on the maps—they are a few kilometres away from the town. As the possession of the land close to metropolitan towns was very difficult, therefore the Military Stations went out of the ambit of the normal municipal limits and functioning.
>
> We also looked at the fact that we don't really need any additional help from the civilian population because of the socio-economic condition of an officer at this time. Previously military officers used to have ten to fifteen civilian servants in their house, they were having a horse or two and the maintenance staff etc. But now all that has gone. Most of the units in the Military Stations are also on war establishments and they don't need any other assistance. Units with civilians are mainly regimental centres, school, etc. now.

So you can see that Cantonments developed only certain pockets of the civilians as they were. But the Military Stations were developed purely with military presence and whatever civil population was there—say a few small houses or a small little village—was rehabilitated somewhere else and the title of all land held as a military land or Military Station. The development of the station has become settlement of the military set up only. Not only that, in the Cantonments, we had a certain established norms which helped in the running of the unit in various matters. But we have got away from that also. We are self-sufficient in terms of canteen services and other small ventures that we have.

On the schooling side,—Central School, Army School and Unit Nursery School—have come up more and more...We are becoming self-sufficient in running a particular station."

2.31 Asked whether Military Stations can be converted into Cantonments without civilian population so that certain powers to raise funds within the Military Stations are exercised to reduce dependence on Ministry of Defence grants the QMG replied as under:

> "I do admit that if we were to have municipal functioning there for carrying out such duties, we could generate some money, that is true."

2.32 During on-the-spot study of Study Group of the Committee to Secunderabad Cantonment in October, 1990, the Vice President and elected Members of the Secunderabad Cantonment Board and other public representatives in Memoranda submitted as well as during informal discussion highlighted the following inadequacies of the Cantonment and also raised some issues of general nature:

(1) The Secunderabad Cantonment is the largest and the poorest Cantonment all over the country, consisting of more than 3 lakhs population. About 80% people are weaker sections. At present within a decade about 300 new colonies have come up. The Government of India, Ministry of Defence may sanction funds of Rupees 25 crores for all round development of civic amenities such as drinking water supply, drainage system, repairing and asphalting roads, street lights, maintenance of public gardens, children parks, community centres and public libraries and educational, medical and recreational facilities and implementation of master plan.

(2) The Cantonments Act, 1924 may be amended to free the 64 Cantonments in the country and just make it like any other Municipal Act.

(3) In Secunderabad Cantonment, there is no industry, no colleges, no general hospital, no high schools, no ITI for the educational purposes. Children go to adjoining Hyderabad City near about 15 Km. away from the Cantonment area.

(4) Surrounding civil areas lying vacant lands are not useful for the Defence purpose. It may be allotted to the weaker sections of society under Housing Schemes.

(5) In civil areas people residing since more than 200 years by constructing their houses should be granted free-hold rights to them. At present they are not allowed to construct houses as they are considered as 'Old Grants'.

(6) In Secunderabad Cantonment about 150 allotted on lease bunglows land area under the management of D.E.O. as B3, B4 lands,

consisting approximately 500 acres of land, should be taken over by the Ministry of Defence and auctioned to the Housing societies.

(7) At present within a decade 300 colonies apart from the old localities have sprung up but staff i.e. safaiwalas, etc., have been reduced from 490 to 400 instead of increasing the safaiwalas. So minimum five hundred (500) mazdoors are required for the Cantonment. So remove the ban on recruitment and filling up sanctioned posts in all categories for Secunderabad Cantonment which was imposed two years back.

2.33 The Ministry of Defence (Director-General, Defence Estates) with whom the matter was taken up, furnished a note giving their factual comment *inter alia* demand-wise as follows:—

1. *Sanction of Rs. 25 crores for implementation of Master Plan for development of Secunderabad Cantt.*

The Secunderabad Cantt. Board had commissioned the services of the Kirloskar Consultants to draw up a Master Plan to improve the drainage, sewerage, roads and parks etc. of the Cantonment. The Master Plan prepared in Aug. 1987 envisages an investment of Rs 10 crores for works. At todays cost the expenditure could be over double the amount. The cost of augmenting water supply through the Hyderabad Metropoliton Water Supply Authority is extra and was not covered by the Kirloskar Study. This outline estimate had been considered by Cantt. Board and the GOC-in-C, Southern Command. Implementation of such a scheme requires considerable financial support from the Government of India which is not in sight. The GOC-in-C has ascertained availability of grants to approve the scheme. But, for want of fund allocation in the Defence Plan this is not possible.

(2) *Amendment of Cantonments Act, 1924*

The observation of the Members are, apparently, on a misunderstanding. The basic feature of the Cantonments Act is the same as of the Municipal Act. There are no amendments of material nature required to be made to the Cantonments Act. The Act was last amended in 1983.

(3) *Provision of Education and Medical facilities*

The facilities like colleges, hospitals, high schools, ITI etc. established or supported by the State Government are available for residents of the twin city (Secunderabad and Hyderabad) which includes the Secunderabad Cantt. The Cantt. Board is not running a general hospital but it is maintaining three dispensaries in 3 localities. Financial position of the Cantt. Board does not enable the Cantt. Board to establish and maintain general hospital, schools etc.

(4) *Allotment of vacant lands not useful for Defence purposes in Secunderabad Cantt. to Weaker Sections*

In Secunderabad Cantt. the Army is of the view that they are short of lands for their own requirements. In that perspective the vacant defence lands there are actually for future defence use. There is no restriction on use of private lands in the Cantt. in accordance with the building lay-out/ bye-laws/FSI.

(5) *Grant of free-hold Rights*

The existing policy permits grant of free-hold rights to old grants in civil areas. But the facilities of conversion to free-hold in the civil areas has not been utilised by the present occupancy holders. What, presumably, they want is that the Government treat all the old grant sites as free-hold of the occupancy holder. That is, gift away the site to them. This is not possible.

(6) The Bungalow sites under the management of the DEO are liable to be taken over as and when defence requirement arises. Since the resumption gets stalled due to various judicial processes, the progress of resumption has been slow. It is not intended to resume sites for disposing it off in auction. By disposing off the land associated with the bungalows the Cantt. Board does not become self-sufficient anyway. Land belongs to the Ministry of Defence and when disposed off the sale value accrues to Central Government and not to the Cantt. Board.

(7) *Removal of Ban on Recruitment*

With 213 housing colonies coming up during the last 15 years, there has been a requirement for increasing the strength of the conservancy staff. The Cantt. Board had, in December, 1986 sought the sanction of the GOC-in-C, Southern Command for creation of additional staff as below:

Sanitary Inspector : 02
Sanitary Overseer : 07
Safaiwalas : 341

There were severe constraints of resources and the Board was not in a position to meet the additional expenditure involved in the creation of the posts. However, the GOC-in-C sanctioned, in Sept. 1987, 45 additional posts of safaiwalas, thus total authorisation of the conservancy staff of the Cantt. Board went up from 492 in 1947 to 537 in Sept. 1987. Before the vacant posts could be filled the DGDE imposed a ban on making recruitments to fill vacant posts in State-aided Cantt. Boards because there was no money to ensure that the establishment could be paid their salaries.

Over the years some retirements took place. Now, even on the authorised strength of 537 posts, there are 84 vacant posts. The total grant-

in-aid provided by the Ministry of Defence for 62 Cantts in the last few years has been as below:

Year	Amount (in crores of Rs)	Year	Amount (in crores of Rs)
1980-81	4.36	1986-87	7.50
1981-82	5.00	1987-88	7.84
1982-83	6.00	1988-89	9.00
1983-84	6.60	1989-90	9.10
1984-85	10.88	1990-91	9.00
1985-86	8.00		

From 1.1.86 with State Governments revising the pay scales of their employees to the level of the revised pay scales of the Central Government Employees, the Cantt. Boards also had to revise their pay scales to the same level, retrospectively, during the last one to two years. With the granting of minimum pension, at the Central Govt. rates and relief on pension, the liabilities of the Cantt. Boards have gone up. Added to this is the additional liability on the cost of POL, water supply, electricity etc. Hence, the Cantt. Boards are not in a position to discharge their responsibilities without significant increase in grant-in-aid.

2.34 The Ministry of Defence further stated that "the DGDE had projected a minimum requirement of Rs. 125 crores during the plan period 1990-95 for special grant-in-aid for the 62 Cantonments to take up various development projects of which Rs. 100 crores was to be from the 'service charges' component and Rs. 25 crores from 'grants' component. An amount of Rs. 175.07 crores had also reflected in the proposal given by the DGDE towards ordinary grant-in-aid to balance the budgets of the Cantonment Board in their activities. Unless money on the basis of these projections are included in the Defence Plan, the Cantonment Board cannot be sanctioned any amount for implementing the Master Plan or for meeting the demands in Secunderabad. It would be observed from the data furnished above that the amount of grant-in-aid sanctioned during the last one decade has been grossly inadequate. There is no outlook for better prospect. Hence, the Master Plan prepared by the Kiloskar Consultants at an estimated cost of Rs. 25 crores is difficult to be implemented."

2.35 In another note furnished to the Committee, the Ministry of Defence have intimated:

> "No local body discharging its functions properly can be self-sufficient, as their allocated resource-streams are meagre and the areas of responsibility large. Even large Corporations like those of Calcutta, Bombay, Madras, Delhi are highly State-aided. Even the New York Municipal Corporation was bankrupt in the 1970s, without Federal and State aid. It is thus apparent that whoever

administers the Cantonment Board areas, financial assistance shall require to be rendered from the Union funds. On this broad basis, the DGDE has been arguing for financial assistance on the same basis as the MCD and the NDMC are being helped by the Central Government (Home Ministry).

When the service charges of the Municipal Corporations like those of Delhi, New Delhi, Bombay, Calcutta etc. can be planned, budgeted and paid, and that too at 3/4 rate of property tax why should the dues of the Cantonment Boards even at 1/3rd rate be not planned, budgeted and paid? No tax is levied in Chandigarh. Ministry of Home Affairs funds the maintenance and development of the city. Five years back the budget for that was Rs. 160 crores of which only some part was for law and order responsibility. Hundreds of crores of rupees have been given to MCD and NDMC during the past plan periods for civic amenities. Though Bombay Municipal Corporation is the responsibility of the Maharashtra Govt., an annual grant of Rs. 100 crores has been sought from the Centre. Hence, there is no reasons why Ministry of Defence should not discharge the responsibility placed on it."

2.36 In regard to higher grants for maintenance of Cantonments, the Secretary, the Ministry of Defence, during evidence stated as follows:

"I am not sure whether the Government would be in a position to give higher grants. It is a question of resources. And in the case of payment of service charge, to be made mandatory, we will have to see, as to how to take this up. This will also require further consultation with the Ministry of Finance. Now, about other observations that the Cantonment Boards be assisted on the same pattern as the Municipal areas, wherever located, in the States or Union Territories, I feel that this should be done because what actually we have is not the question of administration of the Cantonment Boards. We are now differentiating the civic population living in the Cantonment and that in the adjoining Municipal areas, whether it is a family welfare grant or housing plan or water supply or sewerage grant from the Union Ministry of Urban Development or from wherever else, we ourselves feel that it is not a very fair treatment, especially, when we have no resources in the Ministry of Defence to give larger grants to the Cantonments. About the commercial exploitation of identified areas, we have discussed it earlier also and this should be attempted.

Civic areas of other Cantonment Boards and the local Municipalities and other observation that the development and maintenance of civic facilities like running of local road system, street illumination, water supply, sewerage etc., these should be

planned and maintaned in collaboration with the civic authorities, we shall definitely pursue this with the concerned authorities. We have to persuade the State Governments and bring them around. What I can submit today is that, when the Committee's recommendations are made available, we will definitely follow these up with seriousness and within a time frame."

2.37 The Committee were informed that the Cantonment Boards are entitled for a service charge calculated at only $33^1/_3$% of the property tax on the Ministry of Defence Properties. But, the Central Government pays to other municipal bodies similar charges at $33^1/_3$% to 75% of such rates. On this also the Ministry of Defence has not, reportedly, been meeting the full claims of the Cantonment Boards, which now, stand at about Rs. 20 crores per annum. The allocations of fund to meet the dues on this have been only as below:

Year	Amount (in crores of Rs.)	Year	Amount (in crores of Rs.)
1985-86	12.95	1988-89	12.37
1986-87	8.00	1989-90	12.26
1987-88	9.50	1990-91	12.44 (Estimate)

Thus, the normal dues, even at the lowest rate were not paid to the Cantonment Boards.

Conclusions

2.38 The lands held in custody by the Defence Estate Organisation include 60828 acres which are not under active use and are comprised of lands under forests in the hill Cantonments, all the sites on grants and lease in the bungalow areas of all the Cantonments, lung-spaces left as unbuilt or unbuildable in the Cantonments and many of the old camping grounds and abandoned air-fields which Army/Air Force have handed over as surplus. The lands which are largely comprised of old camping grounds and abandoned air-fields constitute around 1% (22,500 acres) of the total Defence lands. These have been lying unused since the early fifties. As some of these lands do not serve any alternative defence purpose, these have been declared surplus. The Defence Secretary during evidence before the Committee admitted that there was need to ensure that unused lands are not held without justification.

The Committee enquired into the prospects of these surplus lands being exchanged for such lands as could be of use to the Defence Services or their out-right disposal, particularly where the lands are situated at prime urban locations. The Committee are informed that Government have taken a policy decision that no Defence land shall be declared surplus and, if at all, any land is to be given up it must be done on an exchange basis. Nevertheless the policy permits the Ministry to part with this land in favour

of State Governments, Central Government Departments and Public Sector Undertakings on merits of each case.

They are further informed that lists of sites declared as surplus land circulated to State Governments concerned in 1986 had not elicited any satisfactory response. In part only one site was under transfer to West Bengal Government as a result of offers made to State Governments. The Committee are further informed that it has been decided that all the three Defence Services would review their plans and examine whether any of the abandoned air fields would be required to be retained for Defence purposes and that the issue of disposing of these air-fields would be settled only after a clear picture emerges.

Recommendations

2.39 While the Committee would like the Ministry to expedite the final assessment of the three services in regard to lands which are surplus such as abandoned air fields and camping grounds they would also like this exercise to be carried out with some degree of finality. All efforts may be made to transfer such lands to the State Governments concerned and other Departments/Public Sector Undertakings of the Central Government. At the same time the Committee desire that the option of disposing of such lands on a commercial basis needs to be considered seriously and promptly. They would also suggest that some of these lands may be offered to civilian population living in the adjoining areas and having already encroached upon or having access to these lands through the respective State Governments. In case State Governments do not come forward to take over these lands under a time bound programme and on terms reasonably advantageous to the Ministry of Defence, the Committee are of the view that the Ministry of Defence should feel free to either use them for self-financing housing projects for the benefit of retiring Defence personnel through the Army Welfare Housing Organisations or use it for other commercial purposes with the assistance of agencies like L.I.C. and Housing Urban Development Corporation. The Committee also feel that such lands can also be advantageously utilised for rehabilitation of persons displaced from lands which have been acquired by the Ministry in some other locations in consultation with State Governments.

Conclusions

2.40 The Committee note that defence lands not under active use include 72,000 acres of grass-birs forest area in Gwalior which is the natural habitat of great Indian bustard. They were informed that this forest area is being maintained by the Ministry of Defence from its own resources. During evidence Defence Secretary accepted the suggestion to hand over this land to the Ministry of Environment.

Recommendation

The Committee recommend that apart from grass-birs at Gwalior other classified forests being maintained by the Ministry of Defence, as a part of various hill Cantonments, should also be considered for transfer to the Ministry of Environment and Forests. However, they desire the Ministry of Defence to keep on maintaining those forest areas where they have been using the land even partially.

Conclusions

2.41 The Committee note that position regarding ownerships of old grant sites has been subject of doubt and the matter is before the Courts of Law. They find that in the early days of British rule, the administration of Cantonment lands was governed by a series of military regulations issued separately by the military authorities of the three presidencies. Under these regulations, permission to occupy defence land for purposes of residential accommodation was processed by the Officer Commanding Station. As the final permissions were granted by the OMGs Branch the records regarding those were maintained by OMG staff. However since the Indian Registration Act 1908, the Indian Stamp Act, and Transfer of property Act etc. had not come into force at that time, the documents supporting these grants, could not be registered like a normal tiitle deed. Moreover at the present stage such documents called as 'Old Grant Papers' are not available in all cases.

According to the Ministry of Defence, though a legislation to mandate presumption of the Government's ownership of the land was not enacted, the Privy Council, 1911, had ruled in K.A. Ghaswala *Vs* Secretary of the State that Government would be presumed to be proprietor of the soil in Cantonments until the contrary was proved. This view was subsequently also adopted by the Courts in India. After Independence the said presumption theory has, however not been upheld by the Courts of Law. In a case of Allahabad Cantonment (Union of India Vs P.D. Tandon) the Supreme Court, in 1984, shifted the burden of proof of ownership to the Union of India.

The Ministry of Defence in this regard have decided to adopt a stand in the light of judgements of the Bombay High Court on certain resumption cases relating to old Grant sites in Pune and the appeals in some of these cases now pending before the Supreme Court.

Recommendation

2.42 The Committee, however would recommend to the Ministry of Defence that Old Grant sites and lands which are not needed by the Ministry of Defence and also do not pose any danger to their establishments, may be considered for sale to the original allottees or their successors, subject to the verdict of the Supreme Court on appeals on Pune resumption cases. The Committee expect that the Ministry would undertake

such an exercise concurrent with progress of cases pending in the Courts of Law.

2.43 The Committee note that Military Farms are a legacy of past when Army units were stationed far away from urban population and means of communication were poor. At that stage fresh vegetables and milk etc. were not easily available at remote places where troops were located. With this situation having undergone a sea change, they are of the view that there is no need for continuing the Military Farms. In this regard the Committee also note that the Ministry of Defence have constituted a Study Team whose terms of reference *inter alia* includes making specific recommendations regarding disposal or alternative use of land which may become available as a result of closure of Military Farms. They find that the Study Team has yet to submit its report.

Recommendation

The Committee trust that as they have been assured by the Defence Secretary, the Government will take an early decision on the recommendations of the Study Team in deciding about the alternative uses of land which may become available once Military Farms are closed.

Conclusions

2.44 The Committee note that since 1962 no new Cantonments has been set up. Instead the Government have established 239 Military Stations to quarter Forces on a permanent basis. However, these Stations are neither part of a Cantonment nor a municipality and are altogether a separate denomination by themselves. The Committee are apprised that the genesis of the decision not to set up new Cantonments lies in the view that it was not necessary for the Ministry of Defence to accept the responsibility of maintaining and provisioning of civic facilities for the civilian population which are an inseparable part of the Cantonments. Moreover Defence Services have progressively reduced their dependence on civilian support in providing various types of services to the troops and their families living within the Military Stations which are stated to be functioning in a self-sufficient manner. The maintenance of these Stations is independently looked after by the Defence Services and funds for the purpose are being provided by Ministry of Defence in the normal budget of the Defence Services.

However, the 62 Cantonments already set up upto 1962 continue to exist as before. The Committee are informed that a total switch over to Military Stations has not been considered in view of heavy investment in the infrastructure already created in the Cantonment areas and also because the Cantonments continued to be relevant to the requirements of one or the other Defence Service.

2.45 The Committee note that civic amenities within the Cantonments are being provided by their respective Cantonment Boards by utilising their

own internally generated resources as well as grants-in-aid received from the Ministry of Defence. In this context the committee are informed that Cantonment Boards are entitled for a service charge calculated at 33 ⅓% of the property tax on the properties owned by Ministry of Defence within the Cantonment. However, they also learn Government of India are paying service charges in regard to its properties falling under various municipal bodies, at the rate of 75% of the prevailing rates of property tax. The Committee further note that whereas Cantonment Boards, even on the basis of existing rates of service charges, ought to have been provided funds to the tune of Rs. 20 crores per annum, the actual amount provided to Cantonment Boards during the last 6 years has been ranging only between Rs. 8 and 13 crores. The Committee are also informed that the budgetary position of Cantonment Boards is also very weak so much so that 60-70 percent of its resources is exhausted in paying the salaries of the staff, and that out of 62 only 12 Cantonments are financially viable.

2.46 The Committee note that the Estimates Committee (1982-83) also went into the question of financial resources of the Cantonments in greater details and made a number of recommendations for improvement in their financial position. One of the recommendations was to bridge the budgetary gaps, if any, of the Cantonments by means of grant-in-aid. The Committee find that since then there has been no material difference in the situation and the position has not improved in regard to basic civic facilities, viz availability of education medical and housing etc. The position has only deteriorated because of lack of planning and financial support.

2.47 The Committee find that the annual grant of Rs. 25 crores provided by the Ministry of Defence to the Cantonment Boards for effecting improvements in civic amenities in all the 62 cantonments is far too inadequate. This is amply evident from the fact that an estimated amount of Rs. 25 crores is required for effecting necessary improvement in the Secunderabad Cantonment alone. The Committee also note that DGDE have projected a minimum requirement of special grant-in-aid amounting to Rs. 125 crores during the plan period 1990-95, so as to take up various development projects in various cantonments and an additional requirement of Rs. 175 crores towards ordinary grant-in-aid for balancing the normal budget of the Cantonment Boards. The Ministry in their evidence before the committee have expressed their helplessness in meeting these requirements. The Ministry of Defence have, however conceded that when compared to Union Territory of Chandigarh or bodies like NDMC Cantonment Boards are not getting a fair treatment and that Municipal Bodies of Delhi and Bombay are able to meet their budgetary deficit only through substantial grants from Government of India.

The Committee are surprised to note that even within the Cantonments, standards of maintenance vary in respect of areas which are being exclusively used by military, and the common areas which are being used by both military personnel and the civilians. While the former are maintained

better and independently by Defence Services through funds separately provided to them, the latter are left with whatever little maintenance can be afforded by the Cantonment Boards. During the study tour of Secunderabad Cantonment, the committee were fully apprised by the representatives of the civilian population of the poor civic amenities available to the civil population in the Cantonment. These include poor conservancy service, lack of health care and educational facilities etc. Moreover the Committee also note various other difficulties resulting from fast urban growth within and around Secunderabad Cantonment. While the Committee appreciate the necessity of providing good civic amenities wherever the troops and their families are quartered, they are nontheless dismayed to find that civilian components of the Cantonments have been given. The Committee wish to underline the importance of providing proper civic amenities within the cantonments on a reasonably equitable basis which, in their opinion, is essential for maintaining the overall environment and peaceful conditions within the Cantonments. They are convinced that continued neglect of the civilian population will in the long run harm the interest of the Defence Services.

Recommendations

2.48 The Committee, therefore are making the following recommendations.

(1) That Cantonments be treated on the same basis as other union Territories/Local Bodies are treated in regard to maintenance grants.

(2) That the payment of service charge which is 33⅓% of the property tax leviable in respect of its properties owned by Ministry of Defence within the Cantonments should be brought at par with rates at which municipal bodies are entitled to receive service charges in respect of Government of India properties. Further, the payment of entitled gross amount service charges of cantonment Boards should be made mandatory.

(3) That the Ministry of Defence must enhance the grant-in-aid to the Cantonments.

(4) That Cantonment Boards should be encouraged to identify area which are financially unviable and commercially utilise such areas in the Cantonments as are not likely to serve any Defence purpose.

(5) That the existing homogenous civic areas from old Cantonments like Shillong, Pune, Barrackpore-be identified for ultimately handing them over to the adjoining civic municipalities,

(6) That in the development of civic functions like sewage, water and power etc. in the Cantonment areas there should be great coordinated and joint planning with the existing civilian authorities of the respective states.

(7) That in order to ease the housing shortage in the Cantonments, the FSI restrictions, building bye-laws and the land use policy be so reformulated as to ensure:

(a) optimum utilisation of the scarce resource of land;

(b) expeditious urban renewal of the station;

(c) decongestion of crowded locality; and

(d) Planned and regulated development of vacant/sparcely populated localities.

(8) The Ministry of Defence should evolve a long-term plan for identification and consolidation of military areas within the cantonments and their ultimate conversion into Military Stations.

The Committee would like to be apprised of the implementation of the steps taken in this regard.

CHAPTER III

FINANCIAL RESOURCES

Requirement of Funds

3.1 Presently there are 377 acquisition cases at various stages of legal process. These cover an area of 1,72,000 acres, distributed between the three Services as below:-

Service	No. of Cases	Area (acres)	Estimated Cost
			(Rs./crores)
Army	313	1,46,000	110
Air Force	47	12,540	18
Navy	17	14,260	37
Total:	377	1,72,800	165

3.2 There are a large number of proposals for the acquisition of lands under consideration at various levels of the three Services. The acceptance of necessity and the administrative sanctions for these proposals have yet to be agreed to by the Govt.

3.3. To make good the current shortfall of land requirements the Committee desired to know how much additional resources would be needed. In this connection, the Ministry of Defence stated as follows:

> "For acquisition of 1,72,000 acres of land in 377 cases under execution, the estimated cost of compensation is Rs.165 crores (Reference para 3.13 preceding). However, because of the time-lag between the data relied upon the prepare the estimates and the time by which the compensation may be actually disbursed, there could be considerable increase in the aforesaid estimated cost.
>
> The exact location and the cost of lands and assets thereon, at the sites proposed for the major ranges for Army, have not yet been worked out. Estimated cost of acquisition of 94,849 acres of additional lands for the ranges at Deolali, Babina and Ahmednagar (K.K. Ranges) was Rs. 126 crores in 1989, say Rs. 140 crores in 1990. Allowing for 10% escalation, the cost of acquiring 9.24 lakh acres of land for the Army ranges alone will be about Rs. 1364 crores, at 1990 rates. The cost may rise

further, as the acquisition is likely to be spread over a long period."

3.4 The Committee asked if no additional resources were made available, by which year the existing authorised scales of housing and other categories would be complete. To this, the Ministry of Defence, stated as follows:

"The fund requirement for creating housing and other related facilities for the presently authorised force level has not been estimated by any of the Services. The current holdings of accommodation of the Army are approximately 60% of its authorisation. The additional requirement of accommodation, to cater for full authorisation of the Army, at current prices, will cost approximately Rs. 8,000 crores. This includes Rs. 2,500 crores for new military stations and the modernisation schemes. The cost of acquisition of land to bridge the deficiency will be additional to this and is likely to vary, depending on the time-frame in which the work is actually completed.

We are operating under a system of annual budget allocations. It is not practicable to get a firm commitment on the availability of resources for the defence sector for a period of 5-10 years. The annual increase in budget allocation may range around 7-10%. Necessarily, we have to adopt a resource-based approach to the acquisition of additional land and to its subsequent utilisation.

We are also actively considering proposals for certain changes in the terms of engagement of other Ranks in the Army. In case Colour Service is reduced, the requirement of married accommodation might get scaled down. Thus, over-all presently it is not possible to project a firm picture of fund requirement for making up the currently assessed shortfall of land."

3.5 In regard to budgetary provision for land acquisition, DGDE stated:

"When the Defence Plan was thought of, Rs. 17 crores was the amount provided for land acquisition.

3.6 The Quartermaster General, Army Headquarters, supemented:

"We have got the norms. We ourselves are working as to how much will go to land acquisition; how much will go to accommodation and how much will go for other things, etc."

DGDE further stated:

"One land acquisition case came up after a long time. There is an award for Rs. 20 crores. The Madhya Pradesh Government goes on reminding. I have budget of Rs. 17 crores, in which various demands have been included."

3.7 When the Committee observed that there had to be a better basis for provisioning it, the Additional Secretary, Ministry of Defence, stated:

> "In the Committtee on Defence Expenditure, certain suggestions have been made in this regard. One such suggestion is that it should be possible for the Defence Ministry to consider and to identify equipments needed and dispose them of."

The Quartermaster General admitted:

> "We also agree with you that the present allocation of the plan is not adequate. But in the total availability of money, we have to see the priority areas."

Internal Revenue Generation

3.9 In response to a query as to whether the Ministry of Defence could not generate its own resources to bridge the resource gap, the Ministry stated:

> "As far as generation of resources by the MOD is concerned, several approaches have been suggested for introducing market-principles into defence land use. It is conceivable that some redundant/rarely used defence land could be sold at market prices or leased out in such a way that significant funds are generated. However, such a concept is yet to be fully developed and accepted by the Government."

3.10 The Committee enquired whether the Ministry of Defence would be able to utilise its land, as a capital, if the concept of self-financing was introduced, to generate sufficient internal resources to meet the requirements of budget allocations on accommodation. Ministry explained the position *inter alia* as follows:

> "Some method of 'self-financing' can be introduced to meet some of the requirements of the Services, utilising land as a capital. When the Cantonments were developed in the 19th century and the early 20th century, lands which were cheap and plentiful were given on grants, or leases, first to the Army Officers (who, incidentally, were only British officers) and later to others. Through utilisation of private capital bungalows/houses/shops were constructed in the Cantonments. These became available for use by those who were rendering services to the Forces and also for the Forces themselves. The Govt. had only to pay a rent for the hired buildings and not to make the capital investment. Borrowing from the principles adopted in the 19th century and the early 20th century, it may be decided that, at certain locations, some extent of land can be set apart in the Cantt./Military Station and can be sold to Group Housing Societies for making buildings according to the specifications required for Service use. Support facilities like water, electricity etc. will have to be extended from

the Station resources on payment. There may be many investors willing to make investments because of the current non-availability of developed lands in urban areas and the problems of constructing accommodation.

Such a scheme of creating housing facilities on 'self-financing' basis cannot perhaps be adopted at very prime locations where there will be competitive hiring".

3.11 Another difficulty explained in this context by the Ministry is that all revenues of the Govt. have to go to one single Consolidated Fund. All expenses from the Consolidated Fund have to be separately authorised by Parliament. Ministry of Defence cannot generate its own resources to discharge its liabilities even to the extent of financing the land acquisitions. The constitution does not envisage the role of a real estate trader for the Ministry of Defence/Services.

3.12 Referring to the Constitutional provisions mandating the money accruing out of the sale of assets will go to the Consolidated Fund of India, the Committee enquired whether the Ministry of Defence could not devise a scheme after inter-Ministerial meeting by which the amount which goes to the Consolidated Fund of India for the sale of the land which is not required by the Ministry of Defence could not back to Ministry of Defence meet the requirement of housing and other self-financing schemes. In reply, the Secretary, Ministry of Defence, stated:

"Principally, there is no argument against it. If, for whatever reasons, certain funds which accrue on account of whatever sets, they necessarily go in to the General Revenues. These could be, by a policy decision, reverted to the Ministry. If the Ministry of Finance see to that kind of logic, that would be the easiest route of re-deploying the resources, we will have to discuss this issue with the Ministry of Finance. The other is to tie up with some Public Sector Organisations which it could take over our pockets of surplus assets and create for us the desired infrastructure whether it be housing or any other structure, and adjustment in terms of costs could be done.

In Principle the Ministry of Finance has not shown a negative posture. We dispose of some of our equipments which are obsolete. They have in principle agreed to our setting up an Empowered Committee for the disposal of all waste/unwanted stores. I learn, informally, that this has since been approved by the Cabinet and, we will get the formal letter also. All I can say is that we will definitely take up in a systematic manner proposals with the concerned authority to seek approval of the course which you have commented upon and try our best to see it through."

3.13 In the context of above discussion the Committee also examined the question of relocating Cantonments so as to sell prime land of such

Cantonments as are existing in the midst of large urban agglomeration. The Committee called for the view of the Ministry on the following specific points:—

(a) Ought there to be a total review of this capital asset?

(b) How should such a review be conducted?

(c) Would the Ministry of Defence concede the principle and desirability of relocating identified Cantonments/Military Stations?

(d) What principles, criteria, methods should be adopted for considering any such relocation?

(e) What are the broad financial implications of such relocations? Can the Government articulate the financial principles that will need to be subscribed to, prior to considering any such relocation?

(f) Can this capital asset of the Ministry of Defence be used in any other manner/form than as at present? What can those possible alternative uses be?

In reply, the Ministry of Defence stated:

"Cantonments and Military Stations do occupy some prime urban areas in the country. These areas have become prime locations over many decades; it is not that prime locations were acquired *ab initio*. The land at a location may be very costly now, as a result of heavy investment having been made at that place for providing buildings and other infrastructure. If similar facilities, in replacement, are to be created elsewhere, it may be necessary to spend even more money. For example, when the existing buildings and other assets are to be disposed of, what we may get is, on the average, 10% to 20% of the capital cost of such buildings. For creating equal built-up accommodation elsewhere, the capital cost will be about 10 to 20 times, in the time-frame in which it can be built. It requires a long lead-time and manpower to create the substitute infrastructure. The prime urban areas have the existing rates of value only because of the non-availability of prime land for residential, commercial and other activities currently in demand at that location. In today's demand and supply position, if the Govt. decides to shed all that area at one go the supply position suddenly undergoes a change. The economy of the station would be affected with the withdrawal of the Forces and their families. Hence, when disposing of the property, revenue at the rate at which the land was sold in the small transactions that took place in that area, with the acuate shortage, would not accrue. So, it is not as if the Govt. would be making a lot of money by selling off all the existing assets at prime locations and by creating new assets in remote areas.

The families of the Forces require certain facilities for the

morale of the Forces and for the development of their children. They would like to live in a place which has got adequate facilities for education of their children in the best institutions to the highest levels possible, and with easy access to the facilities which only developed urban areas can provide. Convenient and adequate facilities of rail-heads airports, schools, colleges, Universities etc. will not be available in the remote areas. Hence, relocating the families from the prime urban areas to remote areas will be an unpopular measure detrimental to the moral of the Forces. Further, the civilian population will again grow around the new sites. In course of time, say 25 to 30 years, these areas will also become prime lands and the scheme of relocation would again come into application. The Armed Forces would thus be used as pioneer to develop the area but they would continue to remain underprivileged."

The Secretary further stated:

"In macro economic terms large scale presence of Armed Forces in terms of use of lands in metropolitan cities is not desirable. I concede that, upto a point, where we do not require to be at a given place, for whatever reasons, we could well get out of that. But, matching with such a reason would have to be the availability of resources. It is not a matter of debate that the Ministry of Defence is not constitutionally a trader in land. This is in terms of initiative. But, of late we have been internally engaged in a discussion within the Ministry, in collaboration with the service Headquarters, especially of the Army, as to what kind of things we should do to see the way out, because, I do not think that any Government would be able to provide us with the kind of resources which we will, inescapably, require to establish and to make up the gaps which still persist in the requirements of the Services especially in terms of accommodation."

Projection of Funds

3.14 The land acquisition process cannot be completed in the same year in which the administrative sanction is issued. In some cases it may not be completed even within the next 3-4 years. Administrative sanction for acquisition of land is not based on the budget provision in a particular year. The administrative sanction is given on the basis of acceptance of necessity for the land and the priority for a particular project in the Defence Plan . Land acquisitiom, generally, is the first part of the overall requirement of a particular programme in the Defence Plan and the land acquisition cost is a part of the programme cost. The yearly budget allocation is made on the basis of the progress made on various land acquisition sanctions, assessing the likelihood of depositing the compensation with the Collector in the particular year and also on an

assessment of the likely, or actual enhancement of compensation granted by the Courts and Arbitrators for the acquisitions done in the part. Variations between the fund allocation and the fund utilisation take place when, due to administrative problems, the concerned State Govt. is unable to complete the due process of law and disburse compensation/take over possession of land and also when decrees of the District Court/High Court/Supreme Court awarding enhanced compensation come up for honouring. There is no way to evolve valid forecasts of the time and financial effect of the judicial verdicts. In cases where, even by re-appropriation adequate funds could not be provided in a particular year, the disbursement of compensation and the taken over of property on acquisition had, sometimes, to be postponed. For example, in the acquisition of land for the Mahajan Field Firing Ranges the fund requirement on the basis of the Award under the LA Act had become much larger than was acticipated. One of the reasons for this was the low rate that had been estimated at the stage of issuance of the Administrative Sanction. Another was that while additional benefits to the displaced were not provided in the Rajasthan LA Act, the same were ordered by the Rajasthan High Court to be paid before taking over possession of the land. These additional benefits were, generally, on the lines of those that became available under the Central LA Act following the amendments made to that Act in 1984. In this case the disbursement of compensation and taking over the land had to be delayed, for certain areas, to the next financial year. Also, in the case of acquisition of land for the Hema Range (near Mhow), the financial constraints have restrained the Govt. from completing the acquisition process. Adequate funds were not available to disburse compensation, when the Award was declared.

3.15 According to the Ministry, no plans for growth programme have been drawn up. As and when the Users identify their requirement of additional lands, the responsibility is cast on the DG DE to provide the basic data for decision-making. Once a decision to acquire the land is taken, all executive measures are entrusted to the DG DE. It would thus be seen that there is no advance assessment of the volume of land that may be required in a given time-frame of, say 5-10-15 years.

3.16 In regard to Defence Land Plans corresponding to Five-Year Defence Plans, the Ministry of Defence in a note stated:

> "When Five Year Defence Plans are drawn up, the fund requirements for the on-going programmes and the new programmes and the expected annual cash-flows are estimated and reflected. For this, all the Users are asked to furnish the basic data.
>
> In the past the DGDE was not asked to project the fund requirements and the estimated cash-flow for the acquisition sanctions already under execution and the fund requirements for the additional land requirements warranted by the new programmes of the Services.

As such, there have not been any Five Year Defence Land Plans in the strict sense, but the fund requirements were being incorporated in the Plans on the basis of figures given by the User Services.

A separate Five Year Plan for Defence Lands may not be altogether necessary as land is a component of various defence projects and the cost of land is incorporated in the cost of each project. However, there is need for greater certainty in the annual allocations for land-acquisitions etc. as this would enable the DGDE to meet his obligations in a phased manner."

Budget Estimates

3.17 The variations between the revised budget estimates and actual expenditure of DGDE during the last ten years have been as follows:

Year	Revised Estimates (in crores)	Actual (in crores)	Variations (in crores)
ARMY			
1980-81	Rs.17.00	Rs.17.12	(+)Rs.0.12
1981-82	Rs.10.00	Rs.10.43	(+)Rs.0.43
1982-83	Rs.10.50	Rs.12.72	(+)Rs.2.22
1983-84	Rs.19.50	Rs.19.50	NIL
1984-85	Rs.38.00	Rs.39.98	(+)Rs.1.98
1985-86	Rs.30.00	Rs.39.08	(+)Rs.9.08
1986-87	Rs.82.00	Rs.103.00	(+)Rs.21.00
1987-88	Rs.24.50	Rs.26.93	(+)Rs.2.43
1988-89	Rs.17.00	Rs.19.00	(+)Rs.2.00
1989-90	Rs.20.97	Rs.27.31	(+)Rs.6.34
		NAVY	
1980-81	Rs.0.51	Rs.0.28	(−)Rs.0.23
1981-82	Rs.0.50	Rs.0.13	(−)Rs.0.37
1982-83	Rs.3.20	Rs.2.67	(−)Rs.0.53
1983-84	Rs.0.63	Rs.1.35	(+)Rs.0.72
1984-85	Rs.1.50	Rs.1.74	(+)Rs.0.24
1985-86	Rs.1.70	Rs.1.22	(−)Rs.0.48
1986-87	Rs.6.00	Rs.9.06	(+)Rs.3.06
1987-88	Rs.3.00	Rs.0.59	(−)Rs.2.41
1988-89	Rs.4.50	Rs.4.55	(+)Rs.0.05
1989-90	Rs.1.52	Rs.0.92	(−)Rs.0.60

AIR FORCE

1980-81	Rs.0.82	Rs.1.24	(+)Rs.0.42
1981-82	Rs.0.24	Rs.1.76	(+)Rs.1.52
1982-83	Rs.2.60	Rs.0.84	(−)Rs.1.76
1983-84	Rs.2.97	Rs.3.23	(+)Rs.0.26
1984-85	Rs.2.53	Rs.3.22	(+)Rs.0.69
1985-86	Rs.4.53	Rs.6.03	(+)Rs.1.50
1986-87	Rs.16.50	Rs.14.97	(−)Rs.1.53
1987-88	Rs.10.00	Rs.4.48	(−)Rs.5.52
1988-89	Rs.2.50	Rs.2.45	(−)Rs.0.05
1989-90	Rs.6.99	Rs.7.28	(+)Rs.0.29

Reasons for Variations

3.18 The variations between the revised estimates and actual expenditure during the years are attributable to the following facts:-

(i) The executive action for acquisition of lands had been entrusted to the State Governments. Determination and disbursement of compensation till 1982-83 were arranged by the respective State Govts. Except in respect of Assam. After making payments from their own funds debit vouchers were reaised against the Ministry of Defence through the Accountant General of the States. At times these vouchers were not received in time and excess expenditure was booked during the subsequent years.

Army

(ii) The budgetary allotment and control of the actual expenditure is generally kept within the normal variation limit of 10%. But, in the year 1985-86 there has been substantial increase of Rs. 9 crores in actual expenditure owing to urgent demand for possession of the land by the Army and requirement of the State Govt. to disburse compensation in respect of Mahajan Field Firing Range for taking over possession immediately.

(iii) The variation during the year 1986-87 is due to the erroneous booking of charged expenditure alongwith voted since the head of account for compilation remains the same. Advance drawn from the Contingent Fund also got booked under this head.

(iv) The variation during the year 1989-90 was inescapable because of curtailment of the revised estimates during the fag end of the financial year in March 1990 from Rs. 27.97 crores to Rs. 20.97 crores by the Ministry of Defence and the Directorate General were simply informed about the reduced allotment and hence the expenditure could not be restricted because of the commitment already made to the State Govt.

Air Force

(v) The budgetary allotment and control of the actual expenditure is generally kept within the normal variation limit of 10%. But in the year

1987-88, Rs. 4.94 crores was provided to meet liability assuming issuance of revised common sanctions in respect of acquisition of land at Jalahalli, Bangalore. But, the revised sanctions were issued only during the year 1989-90 and hence the sum of Rs. 4.94 crores earmarked for the projects could not be spent in 1987-88.

3.19 The committee observed from above details that whereas the Army had generally exceeded its budgetary allocations, the Navy and the Air Force had not often been able to fully utilise the sums allotted. Grounds for variations being similar, the committee enquired what remedial measures could be taken to avoid such excess expenditure, or under utilisation, of allocations. In their reply, the Ministry of Defence stated:—

> "One of the factors contributing to the variation between the budgeted provision and the actual expenditure, apart from those listed while furnishing clarifications in respect of Army is that the Awards are declared by the Collectors' after the finalisation of the Revised Budget, each year. At the stage of preparation of the Revised Budget Estimates, it could be reckoned that certain acquisition cases were mature for declaration of the awards and, therefore, funds could be deposited for disbursing the due compensation. However, the actual amount required is not always known as even the draft Awards are not ready in most cases. Thus, as a general practice, the amount reflected in the administrative sanctions or some increase over the same, is used for arriving at a picture of the fund requirements. For the reasons explained in the Preliminary Material, the funds actually required, once the Awards are finalised, exceed the provision earlier budgeted on the basis of the sanctions prepared much before the Awards are known. Further, in many cases the Awards are expected to be declared well before the close of the financial year and for which available funds could be readily deposited. However, such Awards are not made within the year, in all cases, and this leads to under-utilisation of funds. The gap between the budgetted figure and the actual utilisation can be bridged with better forecast of the estimated cost of acquisition, reduced time-lag between the estimation of the cost and the declaration of the Award, and adherence to the time-frame expected for progression of the legal process when the Revised Budget Estimates are prepared."

3.20 The Committee note that 377 cases are at various stages of processing for acquisition of 1,72,000 acres of land for the use of Defence Services. The estimated cost of these acquisitions is Rs. 165 crores. Apart from these there are a large number of other acquisition proposals under consideration at various levels of the three Services. Administrative sanction for these proposals are yet to be approved by the Government. The Committee have also been informed that the estimated cost of acquisition of about 95,000 acres of land for K K Ranges is Rs. 140 crores and that the cost of acquiring 9.24 lakh acres of land proposed to be acquired for the

purpose of reorganisation of ranges is about Rs. 1,364 crores. These estimates are based on rates prevalent in 1990. The Committee are also apprised that for creating additional housing and other related facilities approximately Rs. 8,000 crores will be required at current prices. Thus, while the requirement of funds totals upto Rs. 10,000 crores, there is no possibility of the Government being able to commit funds under the Defence sector at this extraordinary scale during the next 5-10 years.

3.21 In this context the Committee find it surprising that budgetary exercise of the Ministry of Defence has almost entirely side-stepped this problem as is evident from the meagre budget provision of Rs. 17 crores under the Annual Defence Plan. The Committee are shocked to find that this amount is not even sufficient to meet the expenditure in regard to one single land award of Rs. 20 crores. They, however, understand that Committee on Defence Expenditure is seized of this problem. Without trying to pre-empt the recommendations of this Committee, they would, however, like to outline certain thrust areas for meeting the yawning resource gap.

Recommendation

The Committee desire that the question of rationalising and redeploying land and building resources may be pursued vigorously. At the same time Government ought to ponder over the principle of self-financing in the Defence Services to the extent feasible. This, however, can be possible only if funds generated by the Ministry of Defence by sale of surplus land and other assets are permitted to be ploughed back into the Defence Services Estimates through suitable changes in principles of Finance and Accounting or under an informal arrangement with Ministry of Finance. The Committee urge the Government to consider this suggestion with utmost seriousness.

Conclusions

3.22 The Committee understand that enormous delays which had been occurring in processing of land acquisition cases, were curtailed when the Land Acquisition Act, 1894 was amended in 1967 providing for a maximum period of 3 years between the notification of intent of acquiring lands under section 4 and declaration of award under section 6 of the Act. Thereafter, further measures for speeding up this process were introduced with the amendment made in 1984, whereby the maximum period between the stages of the acquisition process with reference to section 4 and section 6 of the Act has been provided as one year. Similarly the maximum period between the issue of final declaration regarding acquisition of land under Section 6 and the declaration of the award under section 11 is limited to 2 years. The Committee are apprised that this has speeded up the land acquisition process. They, however, find that benefits of this amendment are now being eroded due to financial constraints faced by DGDE in depositing the awarded amounts with the Land Acquisition authorities. That such a thing should have happened is a matter of deep regret.

Recommendation

3.23 The Committee feel that the timely completion of land acquisition process and speedy disbursement of compensation to the land owners is most essential and therefore, urge the Government in the Ministry of Rural Development to impress upon the Ministries/Departments to ensure adequate budgetary allocation so that disbursement of compensation and taking over the possession of land after the declaration of award, are not postponed or delayed for any reason whatsoever.

Conclusion

3.24 The Committee note that variations between the Budget Estimates and the actual expenditure incurred by the DGDE in the Ministry of Defence, have been a persistant feature. They find that during the span of ten years from 1980-81 to 1989-90 it was only once during 1983-84 that the actual expenditure was equal to the Revised Budget Estimates. The Committee feel that since the Budget Estimates are reviewed from time to time during the year till the concluding months, there should not be any scope for variations between budget estimates and the actual expenditure. Although the Ministry have cited reasons for such variations the Committee cannot but look upon this as indicative of a systemic fault in the budgeting of expenditure. They feel that there seems to be lack of monitoring of the progress of expenditure.

Recommendation

The Committee desire that requirement of funds for land acquisition should be examined properly so that precise estimates are made thus leaving little scope for any variation between the budget estimates and the actual expenditure.

CHAPTER IV

LAND ACQUISITION

Land Acquisition Procedure

4.1 In a note submitted to the Committee the Ministry of Defence stated that the power to take a decision that a piece of additional land should be acquired has not been delegated by the Government to any lower functionary. When the proposal for land acquisition is to be examined and formulated the Users constitute a Board of Officers to reconnoitre, examine and select the site and the extent of the land for the purpose in view. The representative of the Collector and other relevant district level functionaries like the Conservator of Forest, Executive Engineers (PWD/Irrigation/Electricity Board) etc. are included in the Board of Officers. The estimated cost of the acquisition is furnished by the DEO who assesses it on the basis of average of the sales statistics for the previous three years ascertained from the local revenue authorities. Every proposal for acquisition of land has to be submitted by the User to the Government of India with a "No Objection Certificate" obtained from the State Government to the proposed acquisition and an estimate of the likely compensation for the private and state Government lands involved in the proposal. The power to issue the NOC has been delegated by the State Government to the Collector only for very small areas of land proposed to be acquired. In all other cases the the implications are examined at the level of the State Government. In case of urgency, the land is requisitioned initially under the RAIP Act, 1952 and possession taken over. If there is a permanent requirement, a proposal for acquisition under Land Acquisition Act, 1894 is submitted to the Government. However where condition laid down in Section 7 of RAIP Act are fulfilled land can also be acquired under that Act.

Once an acquistion proposal is approved by the Government, the administrative sanction is issued. The local Defence Estate Officer then places a demand with the District Collector for the acquisition of the land. Thereafter, the local DEO and the representatives of the User organisation inter-act with the District Administration and the State Government for taking action under the provisions of the Land Acquisition Act.

4.2 The process of land acquisition begins with issue of a preliminary notification under Section 4 of the Land Acquisition Act, 1894 in the official Gazette and in two daily Newspapers circulating in that locality of

which atleast one shall be in regional language, indicating that it appeared to the Government that the land in the locality is needed or is likely to be needed for public purpose. The Collector causes public notice of the notification at convenient places in the said locality.

Under Section 6 of the Land Acquisition Act it is mandatory for the Government to make a declaration that the land is needed for a public purpose within one year under the signature of a Secretary to the Government or of some officer duly authorised to certify its order. This declaration is pronounced after considering the objection, if any raised to the preliminary notification under section 4. Every declaration is to be published in the offical Gazette and in two daily Newspapers circulating in the locality and atleast one in the regional language. No declaration is to be made after the expiry of one year from the date of publication of the notification.

Thus a time-limit of one year is provided for completion of all formalities between the issue of the preliminary notification under Section 4(1) and the declaration for acquisition of specified land under Section 6(1) of the IA Act.

Under Section 11 of the IA Act, the Collector inquires into the objections which any person interested had stated pursuant to the notice given under Section 9 to the measurement and into the value of land *at the date of publication of the notification under Section 4(1)* and makes an award, with the previous approval of the appropriate Government. This award has to be made within a period of 2 years from the date of publication of the declaration under Section 6 of the Act. If no award is made within that period the entire proceedings for the acquisition of the land would lapse.

Policy Guidelines for Acquisition of Lands

4.3 The Ministry in a written note stated that there is no formal policy regarding acquisition of land for defence purposes on the analogy of the Industrial Policy. However the Ministry further stated that Local Defence authorities have been directed to keep in mind the following policy guidelines before proposal for fresh acquisition of land are taken up with respective Service Quarters:

(i) Carefully explore the possibility of utilising the existing defence owned land before projecting proposal for fresh acquisition.

(ii) Ensure that land already available is fully utilised.

(iii) If the land held by a particular Service is not surplus to its requirement (according to the scales prescribed) but is not likely to be utilised within the next 10 years, then such areas

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should be made available to any other Service which is in a position to more speedily utilise such land. Each such case will be examined on merits keeping in view the reasons for the non-utilisation of land offered by the Service holding it.

(iv) Where private land is proposed to be acquired, to ensure that the least fertile land suitable to the Defence requirement is identified for the proposed acquisition.

(v) Ensure that, as for as possible, the sites selected for acquisition should:

(a) be away from townships so that the land is not expensive and its acquisition is not resisted by the owners;

(b) be contiguous to the land of existing Cantonment in case it is required for its further expansion. However, the economies of developing the expanding part of the Cantt. at a distance from the existing Cantt. Should be worked out. This should include cost of developing separate infrastructure by way of electric and water supply and central sewage. Thereafter a view will be taken as to how the Cantonment should be expanded.

The above policy guidelines have not been placed before the Parliament as these are executive instructions, which may require sudden change, in the event of any unforeseen change in the security scenario.

4.4 The Committee enquired whether the provision of "Land already available" being "fully utilised" has always been observed. The Committee also asked the Ministry to give illustrative examples of departures, with reasons for such non-observance. In their reply the Ministry of Defence stated as follows:

> "When the Board of Officers is convened to consider a requirement, they are furnished information regarding the land already available in the general location in which they have to identify the land requiremnt for a specific purpose. The recommendations for for acquiring additional lands are made by the Board of Officers after taking congnisance of all available lands which are suitable to the need under view. Decisions to acquire the requisitioned/hired lands also emerge after similar examination. No case of departure from these guidelines has come to the notice of the Government."

4.5 On being asked as to whether the Government instructions of 1982 on selection of sites cited in paras (a) and (b) of 4.3(v) supra were reconcilable, the Ministry of Defence elucidating the position, stated as follows:

> "Paras (a) and (b) at S.No. (v) of the guidelines are not irreconciable. A new location need not necessarily be very near an existing Cantonment. In such a situation the guidelines

stipulate that the land, which may be acquired at other location, should not be expensive and acquisition should not be resisted by the owners. But, sometimes the addtional land required may be for a small complex. Creating complete infra-structure and developing a new township could be costlier than extending the Defence infrastructure available at a place. For example, if any additional unit can be kept contiguous to an existing cantonment/military station the pressure for residential accommodation will be reduced to some extent because, for a time, they can draw on the existing pool of accommodation in the cantonment/military station though the satisfaction level in the existing cantonment/military station would come down. Extending water supply, electricity and many infra-structural facilities would be easier and cheaper. The facilities for education and social inter-action like schools, the Institutes for Officers, JCOs and ORs etc. available at the station can be used by the additional units. The constraint is that, sometimes, contiguous to a cantonment/military station additional lands cannot be had. In such circumstances this will not work. But, there may be locations where this can be had. This has worked in practice in some locations. For example, when additional land was required for some Units in Meerut, the land contiguous to Meerut Cantonment on Meerut—Roorkee road to the north was requisitioned and subsequently acquired when additional land for housing an additional brigade was required in Ferozpur it was acquired contiguous to the Cantt. The Cantt. Board could even extend the conservancy services. When land was exchanged with the International Airports Authority/DDA, in lieu of the land given in Delhi Cantonment for extension of the International Airport land was given on behalf of the International Airport Authority by the DDA contiguous to the Delhi Cantonment, in Mahipalpur. When additional land was required for expansion of Hissar military station, the same could be had contiguous to the land already acquired. Thus, the guidelines are not irreconcilable.

When Cantonments themselves have become expanding townships and if there is no land in close proximity, obviously, criterion (b) referred to in 4. (v)(b). will not come into application".

Delays in Acquisition Proposals

4.6 The Ministry in a note to the Committee stated that the acquisition proposals are delayed in a good number of cases because of the following:

(i) Resistance of the local population.

(ii) Pressure from environmental activists/special interest groups.

(iii) Change of the policy/attitude of the State Governments.

(iv) Delay in the clearance from the Ministry of Environment and Forests whose clearnces are necessary.

(v) Judicial intervention and title disputes etc.

4.7 The dissatisfaction of the civilian population to land acquisition is apparent in the following forms:—

(i) Resistance to the issue of No Objection Certificate by the Collectors/State Governments.

(ii) Objections following the notification under Section 4 of the L.A. Act calling for objections, if any, to the proposed land acquisition.

(iii) Claims for higher compensation than that offered.

(iv) Resistance in handing-over the possession of the acquired land after declaration of the Award.

(v) References and requests for arbitration, for enhancement of compensation.

Cost over-run

4.8 In regard to cost over-run experienced in acquiring land the Ministry of Defence stated that this happens mainly due to the following factors:—

(i) The estimates reflected in the Board Proceedings/sactions are inescapably evolved on very rough rates, based on the preceding three years average recorded sales noted at the time of drawing up the proposals or processing the sanction. The actual rate has to be the price at the time of the section 4 notification, which unavoidably issues at a much later date. This rate is not an average for a block of any three years. Often, there is a gap of a few years between the dates of the sales adopted to prepare the estimates for the sanction and the issuance of the sanction. Thereafter, a few months pass before the notification u/s 4 of the Act appears and the escalation for this period is not built into the estimates.

(ii) The economic development (which is quite speedy in most cases) taking place in the vicinity pushes up the prices of the land in the interregum, often exponentially.

(iii) Court decisions enhancing the compensation payable in specific cases have vastly raised the cost of land acquisition, thereby very sharply raising the project costs.

(iv) With the growing local resistance to the acquisition of lands, the State Govts. have been progressively demanding high scales of payment for the rehabilitation of the affected persons.

4.9 Enquired whether it was not possible to improve cost estimates process by taking above factors into account at the time of survey or when NOCs are obtained, the Ministry of Defence stated:

> "It is possible to improve the estimate making on the financial effect of acquisition of the land and also to reduce the gap between the estimated cost and the actual effect. Often the average of the sales over a three years period available at the time the Board Proceedings are drawn up, is taken to reflect the cost in the sanction. But the amount payable is on the basis of sales at a distant point of time. If the processing time for Board Proceedings is reduced and the administrative sanction for acquisition is approved soon thereafter, the deviation is cost can be lesser. One of the reasons for the delay in sanction is also the non-availability of funds for the capital investment required, even though at certain levels of the Armed Forces creating the infrastructure at new locations is considered an operational and strategic necessity. By adopting the revised formula the gap between the estimated cost and the actual cost can perhaps be reduced.

By entering into negotiated awards under Section 11(2) the long drawn out legal process for enhancement of compensation and payment of interest of the intervening period, which rise to considerable amount, could perhaps be avoided.

It is non-payment of full compensation for proper resettlement and the lower rate of compensation admissible that leads to high resistance to requisition of land under the RAIP Act. Hence, it is fair that the formulas for compensation under both the Act should be comparable. Ministry further informed the Committee that liberal enhancement of cost by Courts and litigations have arisen mainly, in Punjab due to the linkage established in the Punjab and Haryana High Court in respect of compensation under RAIP Act. Once the distinctions are removed the occasions for litigation, and enhancement, would also come down".

Delegation of powers to State Governments

4.10 The Committee desired to know the nature of interaction by Ministry of Defence with the State Governments for effecting speedy acquisition of land. The Ministry stated that the due process of legel action is carried out by the State Government and its subordinate officers in close association with Defence Estate Organisations.

4.11 The Committee enquired why the Ministry of Defence, as the user ought not to process cases of land acquisition itself, particularly when officials of D.E.O. are invariably consulted by the State Government at all stages of proceedings, the Ministry in a note clarifying the position stated

that the executive function of the Central Goverment has been delegated to the State Government under Article 258 of the Constitution.

"The officers of the Indian Defence Estates Service are conversant with and competent to discharge responsibilities regarding land acquisition. In the Central Govt. only the Ministry of Defence has got a complete field and headquarters Organisation capable of taking on the responsibilities of land acquisition. No other Department of the Government of India has such network of qualified persons. From the days before the network was created under the Ministry of Defence, it has been the practice that all responsibilities for acquisition of land for the purpose of the Central Government were discharged through the State Govt. agencies, acquisition of land without the co-operation of the State Govt. is not practicable. Only the land records maintained by the Revenue Department of the State Government are the legally admissible evidence, as prima-facie proof, of the ownership/rights on the land. Hence, any person entrusted with the task of land acquisition should have access to this document including the opportunity to get it updated, it should not happen that the same sites of land are processed for acquisition by various authorities. If various departments of the Government of India and the State Government start acquisition proceedings without going through a single nodal agency there would be numerous problems. For valuation of the lands access has to be had to all the registered sale deeds to find out the transaction data. These are under the custody and control of the State Government. Furthermore, there is the problem of the law and order if a large number of people are to be removed from their places of residence/work. Problems of relief and rehabilitation may also arise. Maintenance of law and order provision of relief and rehabilitation etc. are the responsibility of the State Govt. These responsibilities can be discharged only through close association with the State authorities. For various reasons it is always advantageous to have the acquisition done through the State Govt. agencies.

However, this does not suggest that they should be given a carte blanche on whether some part of the site selected should at all be acquired, what rate of compensation should be given what measures should be provided for relief and rehabilitation and how enhancement of compensation through Courts should be dealt with. The Central Government should have a decisive say in such matters. Preferably, the award of compensation should be in consultation with the Ministry of Defence, through the Defence Estates Organisation. It can happen that people are aggrieved with the quantum of compensation awarded. Anybody who is aggrieved with the quantum of compensation awarded can seek judicial adjudication through a reference under Section 18 of the Land Acquisition Act. The acquiring Department itself cannot do this as the Act provides that the Court which is

considering a land reference under section 18 shall not reduce the compensation awarded by the Collector. Hence when the State Government and the Collector declare an Award, without suitable consultation with the Defence Ministry, the latter can be saddled with a quantum of compensation which it cannot get reduced. For this reason, it is necessary that the State Government exercises the power of approving the Award only in consultation with the Central Government. The litigations regarding compensation could be through the DEO and the processing of an enhancement claims should not be at the mercy/neglect/indulgence of the State Govt. officials whose accountability in the matter is not under scrutiny. A decision whether any site should be acquired or not or whether the Ministry should withdraw from the acquisition, should also rest with the Ministry."

4.12 The text of the notification entrusting the function to the State Govt. in respect of some of the States is reproduced below:—

S.O. 782 (E)—In exercise of the powers conferred by clause (1) of Article 258 of the Constitution of India and of all other powers enabling him in this behalf and in supersession of previous notifications on the subject in so far as they relate to the States of Andhra Pradesh, Assam, Himachal Pradesh, Karnataka, Madhya Pradesh, Meghalaya, Orissa, Tamilnadu, Tripura and West Bengal, the President, hereby entrusts to the Government of the aforesaid States, with their consent, the functions of the Central Government as under:—

(i) The Land Acquisition Act, 1894 (1 of 1894) except the functions exercisable by the Central Government under the proviso to sub-section (1) of Section 55 of the said Act; and

(ii) The Land Acquisition (Companies) Rules, 1963, in relation to the acquisition of land for the purpose of the Union in these States.

Subject to the following conditions, namely:

(a) that in the exercise of such functions, the respective Governments shall comply with such general and special directions as the Central Government may, from time to time issue; and

(b) that, notwithstanding the entrustment, the Central Government may itself exercise any of the said functions should it deem fit to do so in any case".

Entrustments to other State Governments are on identical lines.

4.13 It would be noticed that the function exercisable by the Central Govt. under Section 55(1) of the Act which is the power to make rules for the guidance of officers in all matters connected with the enforcement of the Act, has not been delegated. The entrustment of the function has been subject to the condition that the respective State Govt. Shall comply with general and special direction as the Central Govt may, from time to time, issue and that, notwithstanding the entrustment the Central Govt. may

itself exercise any of the said functions should it deem fit to do so in any case". The Central Govt. exercise certain functions despite their entrustment. For example, Section 4(1) of the Act states that "whenever it appears to the appropriate Government that land in any locality is needed or is likely to be needed for any public purpose or for a company a notification to that effect shall be published in the official gazette. . . . . ." While the State Govt. can exercise the aforesaid power, such exercise can obviously be only after the Central Government itself has come to the view that the land is needed or is likely to be needed for a Central Government purpose. The State Government cannot *suo-moto* take such a decision. Again, in Section 5(A) (2) it has been provided that the objections raised against the acquisition shall be submitted to the decision of the Government and "the decision of the appropriate Government on the objections shall be final". If the State Government, acting on behalf of the Central Government, decides to uphold an objection not to acquire the land, it is only fair that such a decision should be taken in consultation with the Central Government. Otherwise, the State Government could nullify the decision of the Central Government. Again, if the State Government has reservations of making a declaration under section 6 it is only fair that such a decision should be taken in consultation with the Central Government. Section 48(1) of the Act provides that except in the case provided for in Section 36 the Government shall be at liberty to withdraw from the acquisition of any land of which possession has not been taken. It is only appropriate that this power is exercised by the State Government only with the concurrence from the Central Government when the acquisition is done for the Central Government. Otherwise, the whole effort of the Central Government could be nullified by the State Govt."

4.14 On being asked to state the views on exercise of powers of the appropriate Government, insofar as the acquisition for purposes of the Central Government, delegated to the State Government in accordance with Article 258(1) of the Constitution read with in Department of Rural Development SO. No. 782(E) of 1985 as also to the approval of the award with the prior concurrence of the Ministry of Defence, and opening of award under Section 28A of LA Act without clearance from the Ministry of Defence, the Ministry of Agriculture (Department of Rural Development) in a note to the Committee stated:

> "Once the power to acquire the land has been delegated by the Central Govt. to the State Govt., to interfere with the authority of the State Govt. to decide on the objections received from the affected persons would neither be desirable nor in accordance with law. It will also not be in the interest of the dispensation of justice to require the State Govt. to consult requisitioning agency before deciding on objections or take decisions for exclusion of certain areas from acquisition or to withdraw acquisition proceedings under Section 48 of

the Act. Besides, State Govts. are no less custodian of public interest than the requisitioning Central Ministry. It is however, always open to the requisitioning authority to have informal consultation with the State Govt. and impress on them the need to over-rule the objections wherever necessary if they are in the public interest. The Department, therefore, does not favour any provision for the 'appropriate Govt.' to consult a requisitioning agency before deciding on the objections received from affected parties.

Under Section 28 A of the Act, the reopening of the award made under Section 11 by the Collector on the basis of a court judgement is fully in consonance with law. No prior clearance of requisitioning authority is needed for taking action under section 28 A. Since under Section 28A, awards are opened on the basis of the order of the Court in respect of land covered by the same notification under Section 4(1), the question of doubting the admissibility and reasonableness does not arise. Any consultation with the requisitioning authority prior to initiating action under section 28 A would adversely affect the interest of land losers and defeat the objective with which this amendment was inserted in 1984.

The declaration of award is in the nature of a judgement quasi-judicial proceedings. The competent authority is expected to apply its mind to all aspects of the nature of land, location, its productivity, market value etc. and make an objective assessment of the value of the land. Under the law the requisitioning authority is not barred from giving its views about the value of the land if it so wishes before the award is made. But it would amount to interference in the judicial process, prejudicing the mind of the competent authority and tempering with his independent judgement, if provision for consultation with requisitioning authority is made before the declaration of the award. Therefore, the Department of Rural Development is not in favour of any amendment to Section 11 which has the effect of providing for prior concurrence of the requisitioning authority. It may be relevant to mention here that Section 11(1) provides that no award shall be made by the Collector without the previous approval of 'appropriate Government'.

The award made by the competent authority is, therefore, not accepted routinely but is scrutinised by the higher officers in the appropriate Govt. for ascertaining whether it has been made properly and fairly with due application of mind as per the prescribed rules and procedures.

The Department, therefore, is of the opinion that neither Section 28 A nor Section 5A(2) need any change and should be retained in the present form."

4.15 On being asked to state their comments on a view expressed by the

Ministry of Defence that the existing arrangement so far as it enabled the Land Acquisition Authority to sustain objections or to take other such actions during the process of land acquisition had the potential to nullifying the decision of the Central Government to acquire land, the Department of Rural Development in a note to the Committee have stated:

> "Ministry of Defence have taken the position that their proposal to acquire land should not be questioned or amended in any way. This view cannot be accepted as it would be not only against the provisions of law on land acquisition but also principles of natural justice. The acquisitioning authority has to convince the competent authority why particular piece of land is needed. No exception can be made in this regard for any specific requisitioning authority under the law. Further the principles of natural justice also demand that the persons affected by acquisition should have an opportunity to put in their objections in writing before a decision is taken to acquire the land. The State Government as the quasi-judicial authority, therefore, has to look into these objections and also the considerations of public purpose as indicated by the requisitioning authority before it takes a decision whether to modify, reject or go ahead with the proposal. Any repeal or modification of these procedures would go against the provisions of the Constitution. It is relevant to mention here that in cases of urgency, there is arrangement for speedy acquisition of land Under Section 17(4) without observing the provision of Section 5 A which permits filing of objections against the acquisition.
>
> In view of the above, no changes are considered necessary in the statute by the Department."

4.16 Enquired why urgency clause under Section 17 of the Land Acquisition Act, 1894 was not more often invoked for acquisition of land as the seller (owner) got the compensation quickly and the Government got the possession quickly, the DGDE during evidence explained the position as follows:

> "When urgency clause is invoked, extra compensation at 6 per cent interest was payable and no on-account payment was payable until the Act was amended in 1984. On the question of extra financial liability, the Finance Ministry had often asked us not to invoke the urgency clause. The advantage that accrues by invoking urgency clause is that the project can be started early and the capital cost of the project will be less. This advantage possibly had been lost sight of. After amending the Act in 1984. It is possible to make on-account payment. When invoking this urgency clause the affected person loses an opportunity raise an objection against acquisition of his land. In the normal process, after notification is issued, there is a period of four weeks given for a person affected to raise objection. Normally such objections are considered and disposed of. In most of the cases, it is

rejected. So, if it is adopted as a standard practice, this provision of giving an opportunity to the affected person to raise objection is denied."

Lapse of Proceedings

4.17 There have been instances of lapse of land acquisition proceedings on the ground of non-declaration of award, under Section 6 of the L.A. Act, by the State Governments within the prescribed time, as pointed out by the Ministry of Defence. The Committee asked the Ministry of Agriculture (Department of Rural Development) what measures they would suggest to meet the situation. In reply, the Ministry stated:

> "Whenever the land acquisition proceedings lapse on account of non-declaration of the award the State Govt. has to initiate acquisition proceedings *denovo*. However, where the requisitioning authority vigorously pursues its proposal for acquisition with the State Govt., instances of lapse of acquisition proceedings are rare. In any case, lapse of a proceeding is an administrative problem and it is possible to overcome this through better liasioning with the State Govt. by the requisitioning authority."

4.18 The Ministry of Defence stated that there are 4 major cases where appeals not got filed in time and dismissed by the Appellate Courts as barred by limitation.

Similarly the Committee were informed about five instances of withdrawal of notifications of land acquisition either at the instance of the Ministry of Defence or the State Governments in recent years in the context of resistance from the local population against the acquisition, in case even though the Award had been declared and compensation had been disbursed.

4.19 The Committee enquired how the Ministry of Defence disposed of award cases where State Governments did not take prior clearance. Whether such awards were in accordance with provisions relating to acquisition and payment of compensation under the Land Acqusition Act, 1894. The Ministry of Defence in their reply stated:

> "The Central Government has either to acquiesce in the award declared by the Collector or to withdraw from the acquisition proceedings in pursuance of Sec. 48 of the Act. Withdrawal from acquisition does not solve the problem. Land is still required for the purpose for which the acquisition was started. There is no guarantee that after withdrawal from the proceedings and payment of compensation under sub-section (2) ibid for the damage if any suffered, an alternative site in acceptable time frame and at reasonable compensation can be had. Most often, there is no alternative. In the cases where the Urgency Clause under Section 17 has been invoked and possession of the site had been taken over

before declaration of the award the scope of even withdrawal from the acquisition proceedings is not there. The Central Government is saddled with what the Collector/State Government has awarded."

Improvements in LA Act, 1894 and RAIP Act, 1952

4.20 After the Land Acquisition Act was enacted, in 1894, the requirement of land for the Services and other Defence Organisations was met by invoking the provisions of this Act. In major aspects the present Land Acquisition Act retains the structure introduced in 1894.

4.21 During the World War II a need was recognised for occupying various lands urgently but, not necessarily on a permanent basis. All the required sites could not, obviously, be secured through hiring agreements. Hence, the Defence of India Act, 1939 invested powers to requisition properties and to hold on to them by paying recurring compensation as well as compensation for damages, if any, done. The law also catered for the acquisition of property by following a simpler legal process than what had been provided in the Land Acquisition Act 1894. The rationale is that possession of the property being a "fait accompli" and the property having been put to effective defence use, the elaborate scheme of the LA Act was not warranted.

4.22 The role of the Armed Forces underwent a sea change after Independence and the country adopted a Parliamentary democratic system. The main objective being the general welfare of the people, the policy underwent changes, over a period of time, to meet the overall objectives of the State.

Policy adjustments/changes are as brought out through successive amendments to the LA Act and the RAIP Act. These were introduced by the Govt. recognising the problems and hardships faced by the dispossessed persons. The studies/analysis preceding these changes were undertaken by the nodal Ministry administering the LA Act and the RAIP Act and not by the Ministry of Defence. The nodal Ministry for the LA Act is the Ministry of Rural Development (earlier, the Ministry of Agriculture) and that for the RAIP Act is the Urban Development Ministry. The issues arising from land acquisition by recourse to the LA Act had been examined in depth in the Rural Development Ministry before the requisite amendments were made in 1984.

There has been change in the Government's policy only to the extent of the revision of the statutory provisions regarding acquisition and compensation. The supplementary element included in the 1980s, related to the re-settlement and rehabilitation measures for the dispossessed persons.

Additional provisions in RAIP Act, 1952

4.23 Section 8(1) of the RAIP Act, 1952 had provided for payment of recurring compensation for the requisitioned property. This had not

provided for any periodic revision of the recurring compensation which in fact is a "rent". No provision for revision of rent had existed in the Defence of India Act, 1939/1962 or the rules made thereunder. An amendment was made in March 75 by inserting Sub-section (2) (a) to Sec. 8 of the RAIP Act to provide that where a property had been subject to requisition under the Act for a period of 5 years or longer immediately preceding the commencement of the Amendment Act in 1975 the recurring compensation be reviewed and, thereafter, at 5 years interval. This gave a relief to the dispossessed persons in the form of a more reasonable rent compensating for inflation and the loss of accrued benefit (on account of the development that may have taken place in the vicinity).

4.24 When enquired whether there had been any debate within or outside the Parliament in regard to Policy or land acquisition the Ministry stated:

> "There were debates in the Parliament and outside on the subject preceding the amendments incorporated in the two statutes. There were also inter-Ministrial consultations. The Ministry of Defence in turn, consulted services Headquarters, DGDE, etc. The policy changes introduced already had been mentioned in preceding paras."

Payment of Compensation

4.25 Government also had recognised that in the matter of deciding the award of compensation under the LA Act the Central Government had practically no say. To remedy the situation a new provision, as below, was incorporated in Section 11(1) of the LA Act.

> "Provided that no award shall be made by the Collector under this sub-section without the previous approval of the appropriate Govt. or of such officer as the appropriate Govt. may authorise in this behalf. Provided further that it shall be competent for the appropriate Government to direct that the Collector may make such award without such approval in such class of cases as the appropriate Govt. may specify in this behalf".
>
> It also introduced a new Sub-Section (2) as follows:
>
> "Notwithstanding anything contained in Sub-Section(1) if at any stage of the proceedings, the Collector is satisfied that all the persons interested in the land who appeared before him have agreed in writing on the matters to be included in the award of the Collector in the form prescribed by rules made by the appropriate Government he may without making further enquiry make an award according to the terms of such agreement. The determination of compensation for any land under Sub-section (2) shall not in any way affect the determination of compensation in respect of other lands in the same locality, or elsewhere in accordance with other provisions of this Act."

4.26 With these provisions it was envisaged that the State Governments would not give awards without clearance from the Central Government and that a negotiated compensation could be given to the dispossessed persons avoiding all litigations and consequent extra expenditure and delay for the dispossessed persons as well as the Government. However, the potential to enter into a negotiated award, as authorised in Sub-section (2), has not been exploited. Even though the law gave the opportunity and the power to the Central Government to control the award, in practice the entire power of the Central Government (except the power to make rules and to take decisions on acquisition) has been entrusted to the State Govt. by the Presidential order under Article 258 of the Constitution. However, some State Govts. take the clearance of the Central Govt. to the draft award. Others do not take such clearance and act as they like.

4.27 The Ministry further stated that the increase in the solatium over and above the market value was granted to land owners under the LA Act recognising the fact that even when lands of comparable advantage/price were available for the dispossessed person to buy (out of the compensation awarded) he was required to incur additional expenditure in the form of stamp duties and registration charges on the transfer of the property. Unless compensated for this he would become poorer. With such charges going up in many States, 15% solatium was not adequate relief for the compulsory nature of the acquisition. The enhancement of solatium to 30% was given to provide relief on this account.

Earlier, when the market value of the land as on the date of Section 4 notification was adopted and the award and disbursement of compensation was made 2 to 3 years or still later, the money which the dispossessed person was getting was not adequate for getting equal substitute land because of the escalation in the land price and the fall in the real money value, in the interregnum. With the additional benefit of 12% per annum authorised under new Section 23(1-A), this handicap has been removed, to some extent, though depending upon the location and the activities the actual appreciation may be more or less than 12% per annum.

Till the amendment made in 1984, when land was taken over invoking the urgency clause, relief to facilitate resettlement of the displaced was not given. With the introduction of Sub-section (3-A) to Section 17, before taking possession of the land under Sub-section (1), the Collector shall tender payment of 80% of the compensation for such land (as estimated by him) to the persons interested and entitled thereto. This is a great relief.

Getting compensations revised by recourse to Sec. 18 (through land references) has been time-consuming and costly for the poor persons who could not engage the services of a counsel or indefinitely wait for relief considering the long delay in the judicial process. Section 28-A, which is as follows, was introduced in 1984:

"(1) Where in an award under this part the court allows to the

applicant any amount of compensation in excess of the amount awarded by the Collector under section 11, the persons interested in all the other land covered by the same notification under Section 4, Sub-section (1) and who are also aggrieved by the award of the Collector may, notwithstanding that they had not made an application to the Collector, under Section 18, by written application to the collector within three months from the date of the award of the Court require that the amount of compensation payable to them may be re-determined on the basis of amount of compensation awarded by the Court."

The Collector can award the enhanced compensation. This provides relief to the poor persons, who cannot afford to embark on costly litigation.

Time Limits for completing Acquisition Proceedings

4.28 Para 5 of the "Rules for the Acquisition, Custody, Relinquishment, etc. of Military Lands of India (A.C.R. Rules) 1944 provides that the Chief Revenue Officer of the District or some other officer appointed by him for the purpose is the authority who will arrange the detailed process of land acquisition and that the State Government and their subordinate officers will be regarded generally as experts in the administration of land and as advisers on any political or other questions affecting the inhabitants of the area which may arise in the course of land acquisition. Every proposal for acquisition of land has to be submitted by the Users to the Government of India with a "No Objection Certificate" from the State Government to the proposed acquisition and an estimate of the likely compensation for the private and State Government lands involved in the proposal. The power to issue the 'NOC' has been delegated by the State Government to the Collector only for very small areas of land proposed to be acquired. In all other cases the implications are examined at the level of the State Government. For getting the NOC, the Board of Officers, constituted by the Department and including the Collector as well as other district level functionaries, liaise the State Government at appropriate levels. This effort is supplemented by direct intervention by Senior Officers at the Command Headquarters, Army Headquarters and the Ministry and sometimes even by the RRM/RM with the State Ministers/Chief Ministers. Such matters are also discussed at the Civil—Military Liaison Conferences, held annually. Some State Governments have also constituted Standing Committees to examine land acquisition proposals. For example, Punjab has constituted District Level Land Acquisition Committees and a State Level Joint Committee. Other State Govts. have still not formalised such arrangements. The Punjab Government has even prescribed a PERT table to monitor the action at various stages and to ensure that there are no lapses.

4.29 In a preliminary note to the Committee the Ministry stated that

according to ACR Rule, 1944 the State Government and their subordinate officers are to be regarded generally advisors on any political or other questions affecting the inhabitants of the area which may arise in the course of land acquisition. The Committee desired to know how the advice on "political or other questions affecting the inhabitants of the area" was given and by whom and what was the objective behind it and how differences of opinion, if any were resolved? Explaining the position, the Ministry of Defence stated as follows:—

"Para 9.1 of Standing Order No. 28 (Land Acquisition No. 28) of the Punjab Govt., issued under the Land Administration Manual, contains the following:—

In no circumstances shall any religious place of worship, shrine, tomb, graveyard or any immovable property attached to any institution, the boundaries of which are continuous to the site of the same, be acquired compulsorily. If any other immovable property attached to any such institution or any Wakf property be required, the Collector must refer the matter to Govt. in the Acquiring Department which should consult at least four legislators of the community concerned before taking action (where however the number of legislators is less than four, he/they should be consulted).

(2) Similar provisions exist in the instructions issued by the J&K Govt. In addition, the Cabinet Decision No. 90 dated 19.3.1982 of the J&K Govt. contains the following:—

It is hereby ordered that the demands for land by Defence Forces shall be examined and considered by the Committee constituted under Government Order No. 2364-GD of 1980 dated 28.11.1980 read with Government Order No. 2459-GD of 1980 only in respect of lands other than the following types of the lands namely:—

(a) Land cultivated or cultivable for any agricultural crop of saffron or fodder production or which is an orchard or vegetable growing;

(b) Land earmarked for or which can be used for purposes of industrial or planned development;

(c) Land within a radius of 10 Kms. from the limits of a city Municipality, Town or Notified Area or demarcated Forest;

(d) Land within 5 Kms. of any place of tourist interest, shrine or pilgrimage;

(e) Urban and Urbanisable land;

(f) Land which is situated within 1/4 Kms. from the National Highway or State Highway;

(g) Land within one Km. of lakes, canals, rivers and springs, etc.

(h) Land where considerable population/houses are involved;

(i) Pastures and grazing lands; and

(j) Land though uncultivable or barren is likely to fall within the command area of any irrigation scheme.

(3) Such aspects are taken cognisance of by the State Government while considering the issuance of the No Objection Certificate for acquisition of land. Again the Standing Instructions of Punjab, for example, contain that while making a reference to the Collector of the District the departmental officer shall also ensure that the land to be acquired for non-agricultural purposes does not disturb the agricultural needs of the country and does not cause avoidable hardship to small land owners. It is also to be considered by the State Government whether the displacement of the residents of the area is involved and whether the proposal could create resettlement, law and order or rehabilitation problems.

(4) In all such matters, if the Central Govt. is unable to persuade the State Government to the User's perception, the opinion of the State Govt. prevails and is adopted."

4.30 In a note explaining reasons for delays in land acquisition proceedings despite statutory provisions, and what could be done now to further reduce them, the Ministry of Defence have stated:

"The impression that in a majority of cases the time limit is invariably exceeded in post 1984 cases is not factually correct. The situations where the time limit is exceeded, and hence the acquisition proceedings have lapsed, are very rare."

The Ministry of Defence furnished details of few exceptional cases of lapsed land acquisition proceedings on certain ground including exceeding the stipulated time limit.

4.31 Explaining the position, the Ministry of Defence added:

"A further reduction in the time-periods reflected in the LA Act for various activities is not desirable. The time limit for various activities should have relativity to the volume of work involved. When vast areas of land are to be acquired a large number of persons are affected. A large number of notices have to be served, objections/claims received etc. Those have to be consi-dered after giving the affected persons opportunities for being heard. These activities take time. The larger the acquisition area, the more the time required. It may be, when small acquisitions, say 5 acres/10 acres or even 100 acres are involved, the process can be done early. When hundreds of acres of land and people are involved, it is unrealistic to expect that in a shorter time the due process can be completed to the satisfaction of all concerned."

4.32 The Committee desired to know whether Ministry of Defence were satisfied with the present time limits and whether such time limits were adhered to in reality. The Ministry in their reply stated as follows:

> "Though there have been some aberrations, we are satisfied with the present time-limits. In cases of extreme urgency, the time-limit is not a serious constraint, as section 17 of the Act can be invoked. The time required for normal processing will depend on the volume of work (extent of area) involved in the acquisition. If the period is curtailed statutorily despite reasonable efforts, some acquisition cases may lapse and *de novo* costly proceedings may become necessary. If the area to be taken over is not large, by meaningful dedication to duty, the task can be accomplished in good time. The present parameters appear to be fair."

4.33 Asked why the Ministry of Defence ought not also have a PERT table for monitoring action at all stages of the proceedings, the Ministry of Defence have stated their views as follows:

> "More than a PERT Table adherence to give time schedules is required by all authorities, at various levels. Even though a PERT Table indicating the time-frame for various stages of actions (as per the instructions issued under the Punjab Land Administration Manual) is available, in actual practice there are variations from the prescribed time-frame in the majority of cases, for varying reasons."

4.34 DGDE is required to ensure, and the Ministry to monitor, the following:

(1) Timely placement of demand for acquisition, once the Govt. sanction is issued.

(2) Publication of notification under Section 4.

(3) Publication of declaration under Section 6 (within the period of one year available).

(4) Submission of draft award in three to six months before the expiry of 2 years from the declaration under section 6.

(5) Deposit of compensation as soon as the award is declared and disbursement of the compensation.

(6) Early finalisation of reference cases so as to reduce interest liability."

4.35 In a note about the State Government having prescribed the time limits for completing various stages of acquisition proceedings, the Ministry of Agriculture (Department of Rural Development) stated as follows:

> "The Central Land Acquisition Act, 1894 is not applicable to the State of Jammu and Kashmir and Nagaland Assembly has not

adopted it for enforcement in the State. Of the remaining States/ UTs, we have intimation about ten States and Union Territories having prescribed time limits for completing various stages of acquisition proceedings. These are Andhra Pradesh, Goa, Gujarat, Maharashtra, Orissa, Punjab, Sikkim, West Bengal, Dadra and Nagar Haveli and Pondicherry."

4.36 Enquired whether the Government had taken up the matter with the State Govts. for prescribing time-limit in accordance with the L.A. (Amendment) Act, 1894, the Department of Rural Development stated the position as follows:

"Soon after the amendment of the Land Acquisition Act, 1894 in 1984, the Department of Rural Development in January, 1985 addressed the State Govts. and UT Administrations on the need to adhere to the time frame prescribed in the law for completing different stages of acquisition proceedings. In August, 1987, their attention was again drawn towards this aspect and they were urged to fix appropriate time limits, if not already done, for various stages of work and processes relating to land acquisition proceedings so as to ensure completion of all formalities within the over-all time frame laid down in the Act.

This point was also discussed in the Land Acquisition Conference held in July, 1989. The following consensus arrived at in the Conference on the subject also emphasises on fixing time limits for completion of various processes under L.A. Act.

In view of the time limit specified in the Land Acquisition Act for disposal of proceedings and the consequences which follow if the proceedings are not disposed of within the time limit, there is need for greater delegation of powers for various administrative purposes. The States should also specify time limits for completion of various processes of land acquisition work in the interest of expeditious disposal of proceedings.

The consensus of the Conference has been sent to all States/UTs for necessary action."

Monitoring and Review of Land Acquisition Process

4.37 In a written note to the Committee the Ministry stated that there is a mechanism for monitoring the progress of land acquisition cases. The concerned officers in the Ministry of Defence, Services HQrs., DGDE and local levels entrusted with such work keep a close watch on the progress of acquisition proposals. Once an acquisition proposal is approved by the Government, the local Defence Estate Officer places a demand with the District Collector for the acquisition of the land. Thereafter, the local DEO and the representative of the User organisations inter-act with the District Administration and the State Govt. for taking action under the

provisions of the land Acquisition Act. The State Government invariably engage special staff for expediting L.A. cases for defence purposes. The LA Act 1894 itself prescribes certain periods for the due processing of the required action. The acquisition proceedings begin with the issue of a notification u/s 4 of the L.A. Act. It is mandatory to make a declaration u/s 6 within one year and, thereafter, the Award is to be declared u/s 11 within a period of two years. The Defence Estates Organisation monitors cases to ensure timely action so that the acquisition proceedings do not lapse. In practice, drafts of all notifications are prepared by the Defence Estates Organisation. Budgeting of the expenditure and its review takes place four times a year at the levels of the Defence Estates Officer, the Director, DE, the Command, the Directorate General, DE and the Ministry. At these stages, the progress of every case is reviewed. Furthermore, periodical reviews are done and action taken to remove bottlenecks. The User Organisation also monitor the progress at various stages.

The administrative problems of the land not becoming available in the time-frame in which the Users want it are identified when the User's requirements are monitored by the Formation Commanders, involving the DEO in the field, the Director at the Command HQrs and the Director General at the Govt. level. Apart from the Users inter-acting with the Defence Estates Organisation, they also inter-act with the State Govt. at appropriate levels during the annual Civil Military Liaison Conferences and other specially organised meetings to watch the progress of their projects. Every case of land acquisition comes up for review apart from the quarterly reports which the DEOs are required to send, at the stages of preparing the budgets.

Conclusions

4.38 The committee note that the Central Government have delegated the powers of appropriate Government as envisaged under the Land Acquisition Act, 1894 to the State Governments through a notification issued in terms of Article 258 of the Constitution. It is apparent that with the introduction of diarchy envisaged under the Constitution of India and the distribution of powers between the Union and the States, acquisition of land by the Central Government on its own is not a practical preposition. However, the Committee are aware of the difficulties which the Ministry of Defence have been facing in speedy land acquisition and the delay in payment of compensation to the land owners causing dissatisfaction among land owners. At times reversal of decisions by State Governments in granting no objection certificates have also resulted in considerable time and cost over-run in execution of projects of national importance.

4.39 The Committee have examined at length some of the suggestions placed before it by the Ministry of Defence seeking to give the user Department *i.e.* the Ministry of Defence a certain leverage in the processing

of land acquisition cases, so that they can safeguard their interests in the event of State Government upholding objections against the acquisition of land or saddling the Ministry with the quantum of compensation which may not be fair in their opinion and or they can do little to get reduced.

The Ministry has stated that the litigation regarding compensation could be processed through the Defence Estate Organisation to obviate the processing of enhancement at the mercy/neglect/indulgence of State Government officials and that a decision whether any particular site should be acquired or not, or whether the Ministry should withdraw from the acquisition should also rest with the Ministry. The Committee find that the suggestions made by the Ministry of Defence do not have much practical value. Moreover, they also find that in the existing provisions of the Land Acquisition Act there is sufficient scope for mutual consultation between the user Department and the Land Acquisition Authority *i.e.* the Revenue Administration in the State. In view of the same, the Committee do not see any reasons for change in the present procedure.

Recommendation

4.40 The Committee, however, recommend that the Ministry of Defence should work out appropriate modalities for maintaining active liaison with the State Governments in order to ensure smooth and speedy acquisition of land for Defence purposes.

4.41 The Committee note that Punjab is the only State where Government have prescribed a PERT table for monitoring progress of land acquisition cases. The Committee feel that in order to ensure completion of land acquisition within the statutory time schedule of three years the Ministry of Defence ought to strive to see that the example of Punjab is followed by all other States. The Committee, therefore, desire that DGDE should monitor the land acquisition cases on the basis of a PERT table duly dovetailed with the corresponding PERT tables of the project for which land is being acquired. The Government should also take up the matter with the State Governments for making monitoring through PERT technique mandatory in such cases.

4.42 The Committee further stress the need for encouraging the State Governments to establish State and District level Standing Committees to examine land acquisition proposals, on the pattern of those constituted by the State Government of Punjab.

4.43 To ensure compliance with the over-all time limit prescribed under the Land Acquisition Act, 1984, the Committee desire the Ministry of Rural Development to closely liaise with the State Governments and impress upon those State Governments which have yet to specify time limits for

completion of various processes of land acquisition work as per the consensus arrived at in the Land Acquisition Conference held in July, 1989. The Committee would like to be apprised of the outcome as the result of the efforts made by the Ministry in this regard.

CHAPTER—V

LAND ACQUISITION AND CITIZENS

Market Value

5.1 The Ministry of Defence have stated that as a concept, the market value is what a willing buyer will pay a willing seller in the same time-frame for lands of comparable advantages and disadvantages. As long as all the lands were only agricultural in nature and the registered sale deeds faithfully reflected the true value paid, there was not much to agitate on the quantum of compensation awarded in accordance with the provisions of the L.A. Act, 1894. However, the temptation to avoid/reduce tax, and conceal blackmoney payments in the transactions, became apparent from the low transfer value registrations, which appeared to increase on account of enhancement in:

(i) Stamp duty
(ii) Registration Charge
(iii) Transfer of Property Tax

and the requirement to obtain a clearance from the Income Tax Authorities for registration of the sales.

5.2 The above factors have made the basic sales data/statistics relied upon by the Government in deciding the compensation unreliable. Discreation, if granted, could be suspect, being capable of abuse. What can be extracted as compensation from the judicial form is reckoned as "equity". As long as the obtaining social values prevail, and there is undervaluation of the sales transactions, there will be attempts to seek more compensation, if the amount is not a negotiated one.

5.3 In view of the tendency for undervaluation of sales transactions, the Committee enquired from Ministry of Agriculture, Department of Rural Development, what formula would they suggest to arrive at the market value from the consideration reflected in the Sale Deeds, or other documents that could from the basis for estimating just compensation and whether alternative the Department would recommend any other method of arriving at a just and fair compensation for land being acquired. Expressing their views, the Department have stated:

> "Section 23(1) of the L.A. Act, 1894 provides for determination of the amount of compensation on the basis of market value on the date of the publication of the notification under Section

4(1). The Act does not prescribe any method for determining the market value of the land. It has been left to the State Governments to do so who in turn have laid down norms for its determination. The State Governments are aware of the problem regarding determination of market value of land and the safeguards have been provided to deal with it in many States. Besides, in addition to the market value of the land, as provided under Section 23(1) of the LA Act, 1894 and amount for damage, if any, through the amendment carried out in 1984, payment of solatium @ 30% of the market value of the land in consideration of the compulsory nature of acquisition and an additional amount @ 12% per annum of the market value for the period from the date of publication of notification under Section 4(1) to the date of award or the date of taking possession of the land, whichever is earlier, has also been authorised. In addition higher interest @ 9% p.a. for the first year and 15% p.a. for the period thereafter is also payable to the land losers under Section 28 and 34 of the Act for excess amount of compensation and delayed payments. All these provisions make the amount of compensation more realistic and just and thus protect the interest of the land losers. These provisions go a long way in meeting peoples' grievances and reducing litigations.

The Department of Rural Development is aware of the problem about the tendency to undervalue the land while registering sale-deeds. This matter was discussed in the Land Acquisition Conference held in July 1989. The Consensus on the subject reached therein was that while there is no need to change the provision of the Land Acquisition Act, 1894, appropriate measures may be taken to ensure that realistic market value of the land proposed to be acquired is taken into account for determination of compensation such as fixing a minimum value of land for specific areas and different classes of land from time to time for purpose of payment of stamp duty and or determination of other taxes. The State Governments have been advised accordingly.

In respect of lands held by members of Scheduled Tribes reliable land transactions are generally not available and even where these are available these do not reflect the correct market value due to legal restrictions on transfer of tribal land to non-tribals. On the basis of the consensus arrived at in the

Conference, States have been advised to devise alternative methods for determination of market value of tribal lands such as capitalised value of the produce from the acquired/similar categories of land on the basis of its poetntial productivity. The Ministry of Welfare in their draft rehabilitation policy for displaced tribals have also suggested a minimum of Rs. 10,000 per acre for determination of market value.

The Department of Rural Development does not consider it necessary to amend the LA Act, 1894 for reducing litigation arising out of compensation award in respect of acquird lands. The provisions of the LA Act, 1894 as amended in 1984 for determining the amount of compensation are considered quite adequate to safeguard the interest of land losers and reduce the number of Court cases arising out of the compensation awarded."

5.4. As regards the needs to have norms for determining the market value of the land, the Secretary, Ministry of Agriculture (Department of Rural Development) stated during evidence:

"The statute does not lay down any principle. This is left to the State Government to lay down the method of arriving at the value of the land. Even the Mulla Committee which was appointment in 70s did not make any such recommendation. They consider this specific question. They also came to the conclusion that it was not desirable to lay down any statutory rules for this purpose. Similar conclusion was also drawn by the Law Commission in 1958. The State Government do lay down the principles to determine the value of the land. For instance, Orissa has clearly laid down the method of ascertaining the market value by finding out the sale price in the vicinity of that area."

5.5 In regard to 'envelope rate' devised by the Maharashtra Government for market value of the land, the Ministry of Defence informed the Committee:

"The market value of the land for estimating the compensation is based on the registered sale deeds for the locality. The reliability and the relevance of these have come to be looked down sceptically due to the increasing operation of black money. Maharashtra Government had, in 1984, during the discussions with the Ministry of Defence, at the level of Defence Secretary and the Chief Secretary, held that they would adopt an 'envelope rate' which would be $2^1/_2$ times the land acquisition award rates for the compensation. At that time the legal entitlement as compensation was market value (M) +0.15 M (as

solatium) and an amount for shifting the family, say, a total compensation of 1.20 M. After the amendments introduced to the LA Act, in September, 1984, the legal entitlement is market value (M) + 0.30 M (solatium)+0.12 M for period upto 3 years as additional compensation, + disturbance allowance, say a compensation of 1.70 M. When compensation was 1.20 M. the Envelope rate' was $2^1/_2 \times$ (1.20 M) = 3 M. Hence, on the same ration, the 'envelope rate' will be $2^1/_2$ (1.70 M) now, i.e. 4.25 M."

5.6 About the Scheme of the Government of Maharashtra in devising an envelope rate' $2^1/_2$ times of the market value, the Secretary, Department of Rural Development stated:

> "I contacted the Chief Secretary of Maharashtra. Maharashtra Government is itself having second thought and I tried to find out from them how they arrived at it. It is more or less on ad hoc system. They are not satisfied with the rate. That is why, we felt that when the Maharashtra Government had reservations and it does not eliminate the possibilities of further litigation, it may not be worth."

5.7 The Committtee asked the Department of Rural Development to apprise the Committee of the experience of the Government of Maharashtra in adopting the system of 'envelope rates' and how it had been successful in reducing the grievances and litigation for enhancement of compensation. They were also asked to indicate what were the views of the Department to the adoption of same formula for acquiring land for Central Government Departments.

In this connection, the Ministry have intimated that the Government of Maharashtra was addressed in the matter who have informed that compensation at 'envelope rates' has so far been paid in respect of four projects. This envelope rate is inclusive of the amount of compensation payable under the provisions of the LA Act.

5.8 The State Govt. has further stated that the payment of compensation amount at envelope rate has resulted in adverse effect and on the analogy of precedents given, everybody is now demanding the amount of compensation at envelope rates. The Demand having become universal, it has become impossible for the State Government to accede to such demands considering the limited provision in the Plan Allocation for payment of compensation. The State Govt., therefore, ultimately decided to review the entire position and accordingly the State Cabinet in its meeting held on 28th October, 1986 appointed a Committee of Secretaries headed by the Chief Secretary with a view to suggesting the State Governments about the procedure to be adopted while considering the demands of payment of compensation at envelope rates. The Committee has finalised its report very recently and

follow-up action in respect of the recommendations made by the Committee is under progress.

By sanctioning the amount of compensation at envelope rate, there is no reduction in grievances and litigation for enchancement of the compensation. On the contrary, land owners are accepting the amount of compensation at envelope rate and at the same time they are approaching the Court of Laws for enhancement of compensation under Section 18 of the Land Acquisition Act. Thus, they are snatching the benefits under envelope rates as well as under the provisions of the LA Act.

5.9 The Department of Rural Development does not agree to payment of compensation at 'envelope rates' as it is not in accordance with law. Besides, it appears from the above that even the State Govt. is disinclined to continue the arrangement and has undertaken to review the system in depth.

Litigation for enhancement of compensation

5.10 The Committee have been informed that there are 14,520 court cases involving 10,217 acres of land. 4967 number of cases involving 6604 acres of land are more than five year old litigations.

5.11 A large percentage of the cases under litigation relates to claims for enhancement of compensation. Such litigation, however, does not stand in the way of the possession of the land being taken over.

5.12 According to the Ministry of Defence the main reasons contributing to high rise in the number of court cases were as follows:

(i) As long as litigation offers a chance to realise even a small pecuniary gain, there will be court cases.

(ii) The same set of data regarding sales of land, the lay of the land and the advantages of various plots of land can be perceived differently by different persons. There is no precise method of evaluating houses, trees, wells, walls etc. Thus, claims may be perceived differently and the interested persons evolve all manner of arguments. When the matter is before the Court/Arbitrator a perception different from that contained in the Award of the Collector can, and does, emerge. In many cases for reasons not always spelt out, the Court/Arbitrator enhances the compensation awarded by the Collector. When this takes place the issue is examined by the Defence Estates Organisation in consultation with the Ministry of Law. If, it is perceived that the enhancement is fair on the basis of the data relied upon, no appeal is filed by the Ministry of Defence. If it is perceived that the data had been misinterpreted to give unwarranted enhancement to the claimants, or the law on the compensation had been misinterpreted, a challenge is made.

(iii) The LA Act was amended, through a Bill introduced in Parliament in April 1982, which received the assent of the President in September 1984, liberalising the scales of compensation substantially. But a parallel effort was not attempted in respect of the RAIP Act. The disparity in the rates of compensation (*See* Annexure) awarded increased and with that litigations too when the Punjab and Haryana High Court and the Arbitrators in Punjab awarded such additional elements in the compensation as solatium, interest and additional compensation as envisaged in the Land Acquisition Act.

(iv) Certain Transitional provisions were introduced with the amendments made to the LA Act, 1894 in September, 1984 *vide* LA (Amendment) Act, 1984 (No. 68 of 1984). These are as below:—

"Transitional Provision—(1) The provisions of sub-section (1-A) of section 23 of the principal Act, as inserted by clause (a) of section 15 of this Act, shall apply, and shall be deemed to have applied, also to, and in relation to—

(a) every proceeding for the acquisition of any land under the principal Act pending on the 30th day of April, 1982 (the date of introduction of the Land Acquisition (Amendment) Bill, 1982, in the House of the People), in which no award has been made by the Collector before that date.

(b) every proceeding for the acquisition of any land under the Principal Act commenced after that date, whether or not an award has been made by the Collector before the commencement of this Act.

(2) the provisions of sub-section (2) of Section 23 and Section 28 of the principal Act, as amended by clause (b) of Section 15 and Section 18 of this Act, respectively shall apply and shall be deemed to have applied also to; and in relation to any award made by the Collector or Court or to any order passed by the High Court or Supreme Court in appeal against any such award under their provisions of the principal Act, after 30th day of the April, 1982, (the date of introduction of the Land Acquisition (Amendment) Bill, 1982, in the House of the People) and before the commencement of this Act.

(3) The provisions of Section 34 of the principal Act as amended by Section 20 of this Act, shall apply, and shall be deemed to have applied, also to, and in relation to:—

(a) every case in which possession of any land acquired under the principal Act had been taken before the 30th day of April, 1982 (the date of introduction of the Land Acquisition (Amendment) Bill, 1982, in the House of the People), and the amount of compensation for such acquisition had not been paid or

deposited under Section 31 of the principal Act until such date, with effect on and from that date; and

(b) every case in which such possession had been taken on or after that date but before the commencement of this Act without the amount of compensation having been paid or deposited under the said section 31, with effect on and from the date of taking such possession."

5.13 The transitional provisions (*See* Annexure) included in the amendments introduced to the LA Act. 1894, in September 1984 gave retrospective effect to certain elements of compensation and on the rates of interest. The preceptions of the Legislature, the Executive, the Judiciary and the dispossessed were not congruent on the cases covered by this. This was the dam-burster setting in motion a large number of litigations. Some Courts came to reopen long settled cases, awarding higher solatium (at 30%), additional element of compensation and high interest. Where cases had remained in the cold storage of the courts, interest at 15% p.a. came to be awarded for many years, for whatever enhancement the courts could be pursuaded to grant. The Arbitrators and the High Court in Punjab started drawing an extra legislated parallel and power in RAIP Act cases. This gave rise to more court cases.

However, it may be noted that 9553 out of the 14,520 cases, that is nearly 66% are less than 5 years old, after filling. Most of these are a fall out from the transitional provision of the LA Act. 1894 which came in force in September 1984.

5.14 The Ministry further stated that these litigations, emanating with the amendments made to the LA Act, can not be reduced by another set of amendments. Such measures can only set in motion another wave of litigations. Only when the Supreme Court pronounces finally on the scope of the transitional provisions, the tide will recede.

(See paras 5.12 & 5.13 of the report*)*

Variations in provisions of Land Acquisition Act, 1894 ad Requisitioning and Acquisition of Immovable Property Act, 1952.

Compensation under the Land Acquisition Act, 1894.

1. The major elements of compensation for acquisition of land under the Land Acquisition Act, before 1984 Amendment have been:

(i) The estimated market value of the land (including buildings, trees and crops) on the date on which a preliminary notification u/s 4(1) of the Act was published.

(ii) In addition amount at 15% of such market value as solatium.

(iii) 6% per annum of the amount of compensation, as interest, if the compensation, had not been paid or deposited in the court on or before taking possession of the land, till it shall have been paid or deposited.

2. The elements of compensation payable enhanced with the cominginto force of the LA (Amendment) Act 1984, with effect from 24th September, 1984 are as follows:

(i) Additional compensation at the rate of 12% per annum on the market value of the land for the period from the date of publication of the notification under Section 4 of the LA Act to the date of award of the Collector or the date of taking over possession of the land, whichever is earlier.

(ii) Higher solatium at 30% of the market value of the land.

(iii) Higher interest at 9% P.A. for the first year of delay in disbursing the compensation and 15% p.a. thereafter.

(iv) 6% per annum as interest on the amount of compensation awarded by the Court in excess of that awarded by the Collector from the date of taking possession of the land till the date of payment of such excess compensation into Court.

(v) Higher interest at 9% per annum for the first year and 15% per annum for the period thereafter on the amount of compensation awarded by the Court in excess of that awarded by the Collector from the date of taking possession of the land till the date of payment of such excess compensation into Court.

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Compensation Under Requisitioning and Acquisition of Immovable Property Act, 1952.

The compensation payable under the RAIP Act, 1952 is the price which the requisitioned property would have fetched in the open market if it had remained in the same condition as it was at the time of requisitioning and sold on the date of acquisition.

5.15 Asked why the Ministry of Defence had chosen to challenge all enhancements of compensation in various courts as of routine and whether there was any policy governing this aspect of preferring appeals in higher courts for land compensation awards, the Ministry stated as follows:

> "It is not correct to hold that the Ministry of Defence routinely challenges all enhancements of compensation by various Courts. In land acquisition cases, the compansation is initially fixed and awarded by the Collector in consultation with or with the prior approval of the appropriate Govt. While doing this, the claims preferred by the interested persons, the perceptions of the Collector and of the officers at various levels are considered by the Govt. before the draft Award is cleared. The Act itself provides that in a land reference under Section 18, the compensation to be given by the Court shall not be less than what is contained in the Award of the Collector. Section 25 of the Act refers. Thus, in the first instance, it is not the Govt. that is challenging the quantum of the compensation awarded. It is the land owners and the occupants who first challenge the compensation awarded. This takes place before the Court through references under Section 18 of the LA Act, in the case of acquisition by recourse to LA Act, and before an Arbitrator appointed by the State Govt. in the case of acquisition by recourse to RAIP Act if the owner of the land and the Govt. had not been able to agree on the exact quantum of compensation.
>
> The policy regulating the filing of appeals to the higher courts is that the compensation awarded should be within the framework of the law by recourse to which the acquisition was made and that there should be no extension, through judicial forum, what is not provided in the law. In many cases the appeals to the higher forums are taken by the landowners and the Govt. is only a defendent. All appeals are filed only after procuring the advice of the Ministry of Law."

5.16 Explaining the position further the Secretary. Ministry of Defence stated during evidence:

> "We ourselves tried to bring out what seems to be the inequality of the principles of natural justice and what we have learnt from the use of these lands. The Law Commission had gone into some

of these matters in the past in fair detail in the Seventies. I would suggest that based on the final view of the Committee in the matter the recommendation could be addressed to the nodal Ministry. We would on our part abide by whatever be the final view and create as few problems as possible. But the fact remains that Parliament has enacted those laws at given points of time, on the basis of obtaining circumstances different, and brought the law up to date. Some High Courts are taking by and large, a different view on the provisions of these Acts, as we have mentioned elsewhere. The Hon. Punjab and Haryana High Court had virtually decided not to take note of the specific provisions of the RAIP Act. These decisions have been by and large based on the principles engrained in the Land Acquisition Act. As the concerned department we have to judge, when the decision is not on par legally. We have no choice. If we sit back we will be held guilty of having accepted them, as mentioned before this Committee and if this Committee wishes to make some recommendations to the nodal Ministry, we will welcome it."

5.17 The Committee referred to the observation of the Punjab and Haryana Court awarding solatium and interest as available in the Land Acquisition Act, 1894, in case of acquisition of requisitioned Property under the RAIP Act, 1952 (AIR 1983 P & H 277) that:

> "The basic reason or justification for the grant of solatium at the rate of 15 percent of the market value interms of the Land Acquisition Act, 1894, is the compulsory nature of acquisition of the property of a land owner. A land owner is equally helpless in matters of acquisition of requisitioned property under the RAIP Act, 1952."

5.18 The Committee besides seeking the comments of the Ministry of Urban Development enquired from them whether objectives of the principles Laid down in the Land Acquisition Act for awarding solatium and interest on compensation can be achieved through amendments to the RAIP Act only. The Ministry, in note, stated:—

> "The acquisition of the requisitioned property under the provisions of RAIP Act, 1952 is intended to be made in exceptional circumstances, as distinct from the acquisition under the Land Acquisition Act. The nature of compulsory acquisition for which solatium is payable under the Land Acquisition Act, is also different in the two Acts as follows:—
>
> (i) Under the Land Acquisition Act the property is in possession of the landlord and he is compulsorily deprived of the same. The question of any acquiescence on his part or ascertaining his option is not involved at all.
>
> (ii) But in the case of RAIP Act the property is already in

possession of the Government for a fairly long period and the Landlord is not deprived of the actual possession at the time of acquisition. Moreover, of the two circumstances under which the requisitioned property can be acquired in the RAIP Act, 1952, in one case it is entirely optional for landlord to allow the property to be acquired or accept the same in the manner in which it can be restored to him. It is only in the other case in which a requisitioned property is acquired for securing and preserving the work carried out during the requisition of the property for the purpose of the Govt. that element of compulsory acquisition is there. However, this is also to be weighed against the fact that the possession of this property must have been with the Government for a quite long period.

Since the payment of compensation for acquisition of requisitioned property is made on the date of acquisition and not from an earlier period of issue of a preliminary notification under Section—4(1) as in the case of Land Acquisition Act, the landlord gets the benefit of increase of market price in property which has been going up usually at much higher rates than the element of interest or solatium.

Accordingly, there does not seem to be any need to amend the RAIP Act, 1952. Nevertheless, it can be left to the option of the landlord to seek compensation under the provisions of RAIP Act or under the provisions of Land Acquisition Act but in the latter case he shall have to agree to property remaining under requisition for another three years while the compensation is determined from the date on which the decision to acquire the property is communicated to him. From that date onwards he shall not be paid the recurring compensation but interest at the rate of 12% and solatium @30% as laid down in the LA Act."

5.19 In this context, the Ministry of Defence stated:

"There is no option left to the landlord to seek compensation either under the provisions of RAIP Act or under the provisions of LA Act in respect of lands requisitioned under the RAIP Act. Acquisition by recourse to the RAIP Act arises only in respect of properties which have already been requisitioned and where conditions stipulated in Section 7(3) of the Act are satisfied. The compensation on acquisition is as provided in Section 8 of the Act. There is no discretion given therein to the landlord to seek compensation as in LA Act. It is precisely because of this reason that many persons had agitated the matter before the High Courts and the Punjab and Haryana High Court gave a judgement for compensation as contemplated in the LA Act, even though the acquisition had been under the RAIP Act. A property which has

been requisitioned under the RAIP Act can, however, be acquired by recourse to the LA Act, ignoring the effect of requisition and the liabilities attached to the requisition. When it is so acquired under the LA Act, the compensation as applicable under the LA Act would be payable. But, the discretion for this is not available to the landlord. Only where the conditions contained in Section 7(3) of the RAIP Act are not satisfied, the option is to acquire land under the LA Act. The large number of challenges in the Supreme Court as SLPs on the adjudication of compensation granted by the Punjab and Haryana High Court and the Arbitrators in Punjab, in respect of RAIP Act cases, as in the LA Act, were made on the specific advice of the Ministry of Law (Legal Adviser, Solicitor General or an Additional Solicitor General)."

5.20 On being pointed out by the Committee whether, in the opinion of Ministry of Urban Development, the applicability of two different Acts had resulted in excessive litigation involving Govt. Departments, the Ministry in a note stated:

"The Land Acquisition Act, 1894 and the Requisition and Acquisition of Immovable Property Act, 1952 are intended to tackle different situations. while the Land Acquisition Act 1894 makes provision for *ab-initio* acquisition of property for a public purpose, not necessarily being a purpose of the Union, the Requisitioning and Acquisition of Immovable Property Act, 1952 is not intended to acquire properties as such. It is really meant for requisitioning a property for a public purpose, being a purpose of the Union for a limited period upto 17 years. It is only in the exceptional circumstances where any additions and alterations made in the requisitioned property cannot be undone to the satisfaction of the Landlord or otherwise required to be preserved, provision has been made for acquisition of the requisitioned property under Section-7 of the Requisitioning and Acquisition of Immovable Property Act, 1952 in the following circumstances.

(i) Where any works have during the period of requisition been constructed on, in or over, the property wholly or partially at the expense of the Central government and the Government decide that the value of, or the right to use, such works should be secured or preserved for the purpose of Government or

(ii) Where the cost of restoring the property to its conditions at the time of its requisition would in the determination of the Central Government, be excessive and the owner declines to accept release from requisition of the property without payment of compensation for so restoring the Property.

Accordingly there is functional necessity for operating these two

Acts separately. Ministry of Urban Development is not aware whether there has been any excessive Litigation because of the operation of two different Acts."

5.21 In regard to role of the nodal Ministry, when other Ministries come across difficulties in the operation of the Act, the Additional Secretary, Ministry of Urban Development, stated:

"As regards the operation of the RAIP Act, though we are the nodal Ministry, the authority has been delegated to the various Ministries, etc. Where the authority has been delegated, we really do not monitor what is happening."

5.22 In response to query on requisitioning of building for office purposes, the representative added:

"Its operation has been decentralised. It is not operated by our Ministry. In 1985, an amendment was proposed to the Cabinet that the prior approval of our Ministry may be taken. But that was not approved by the Cabinet. As a reault it is being operated independently by various Ministries."

5.23 The Committee enquired whether Ministry of Urban Development did not think the principles governing the compensation in all matters of deprevation of property should be the same in all legislations. To this, the Ministry in their note stated:

"It is considered that the payment of compensation for acquisition of the property under RAIP Act, is rather edvantageous compared to that provided under the Land Acquisition Act. In the latter Act, i.e. Land Acquisition Act compensation is determined at the market rate prevailing at the time of issue of initial notification under Section 4(1) whereas the final award for acquisition may be given upto three years from that date. On the other hand, under the RAIP Act, the compensation is determined on the actual date of acquisition with reference to condition of the building as it was at the time of requisition. Reasons for determining the price with reference to the said state of the building at the time of requisitioning, obviously, is that the landlord is not required to carry out any addition or alternations after requisition which are carried out, if at all by the Government.

As regards solatium the position has been explained in detail seprately. So far as interest is concerned obviously the landlord is at no disadvantage, compared to the Land Acquisition Act since he had been getting recurring compensation (rent) while the building was under acquisition and gets market price as on the date of acquisition."

5.24 Clariflying the position in regrd to an observation made in their note that "the payment of compensation for acquisition of the property

under RAIP Act is rather advantage as compared to that provided under the Land Acquisition Act," the Additional Secretary, Ministry of Urban Development submitted during evidence:

> "When we have made this statement, it is essentially with reference to the urban areas and whatever we submit is with reference to the urban areas only. It may not be applicable to the same extent in rural areas."

5.25 The Ministry of Law and Justice (Department of Legal Affairs) who were requested to advise the legal position in this regard and the justification for going in appeal to the Supreme Court in such cases by the Ministry of Defence, have stated that:

> "the tenor of the judgements of various courts has been that there is no justification for discriminating between an acquisition under the RAIP Act from the one under the Land Acquisition Act."

5.26 With regard to the legal position of payment of solatium and interest in the matters of acquisition of requisitioned land under the RAIP Act, 1952, the Ministry of Law and Justice (Department of Legal Affairs) have stated as follows:—

> "Section 8 of the Requisitioning and Acquisition of Immovable Property Act, 1952, lays down principles and method of determining compensation where any property is *requisitioned* or *acquired* under the Act. Sub-section (1) lays down the *principles* for determining the compensation. If parties do not reach agreement with regard to the amount of compensation, the Central Government is required to appoint an arbitrator. Under sub-section (1)(e) the arbitrator is required to make an award determining the amount of compensation which appears to him to be *just*, and, in making the award, he shall have regard to the circumstances of each case and the provisions of sub-sections (2) and (3), so far as they are applicable.
>
> (2) Further, under sub-section (3), the compensation payable is the open market price of the property on the date of acquisition.
>
> (3) In short, the arbitrator is required to give just compensation, having regard to, among other things, the provisions of sub-section (3) and the circumstances of each case. The arbitrator may also award solatium."

Negotiated Award

5.27 Section 11(2) of the Land Acquisition Act, 1894 as amended in 1984, provides as follows:

> "Notwithstanding anything contained in Sub-Section (1) if at any stage of the proceedings, the Collector is saftisfied that all the persons interested in the land who appeared before him have

agreed in writing on the maters to be included in the award of the Collector in the form prescribed by rules made by the appropriate Government he may without making further enquiry make an award according to the terms of such agreement. The determination of compensation for any land under Sub-section (2) shall not in any way affect the determination of compensation in respect of other lands in the same locality, or elsewhere in accordance with other provisions of this Act."

5.28 It was envisaged under these provisions the State Govts. would not give awards without clearance from the Central Govt. and that a negotiated compensation could be given to the dispossessed persons avoiding all litigations and consequent extra expenditure and delay for the dispossessed persons as well as the Govt. However, the potential to enter into a negotiated award, as authorised in Sub-section (2), has not been exploited. Even though the law gave the opportunity and the power to the Central Govt. to control the award, in practice the entire power of the Central Govt. (except the power to make rules and to take decisions on acquisition) has been entrusted to the State Govt. by the Presidential Order under Article 258 of the Constitution. However, some State Govt. take the clearance of the Central Govt. to the draft award. Others do not take such clearance and act as they like.

5.29 Asked to explain why powers to "enter into a negotiated award" had not been "fully exploited" and what remedial measures could be initiated to ensure a more uniform compliance by States, the Ministry of Defence in their reply stated :—

"The State Govts. have not encouraged the Collectors to enter into negotiated awards perhaps because of the inherent potential of subjective approach being followed by individual Collectors."

5.30 In this context, the Ministry in a separate note suggested:

"The State Govt. and the Collector concerned should be intimated, at the outset, that, if possible, the Central Government would like an award by agreement to be caused and made as contemplated in Sec. 11(2) of the Act and to explore this a Committee comprising the representatives of the Ministry of Defence, the Deptt. of Defence(Fin), the DGDE, the Users and the Land Acquisition Collector concerned should be constituted and that this Committee should hold negotiations once the claims for compensations are received from the interested persons on the issuance of the notices contemplated in sub-sections(1), (2) & (3) of section 9 of the Act."

5.31 The Committee desired to know whether in the existing procedure, the system of negotiated award could be introduced to cut down time

factor and reduce harassment to the land losers. The Secretary, Ministry of Defence, during evidence stated:

> "They are legally permissible with the approval of Collector. We would have to formally discuss with the State Government concerned, before we take up and try to model our plan on the basis of negotiated awards but I am not very sure even if we in the Ministry of Defence are keen to follow it as a major policy change, even if the State Government are inclined to agree with us.....It has to be the Collector's own agreement to ensure a timely award subject to the control of the State Revenue Department hierarchy. Our own experience shows that in some cases the States are not inclined to give the power of negotiated awards to the individual Collectors. This is apparently for maintaining a broad based uniform approach to the basis on which awards are evolved. What I wish to submit is that we will definitely try it out in our future efforts for acquisition, take up a particular State and have a discussion with them at senior level in order to see how it can work out to the best advantage of the State Governments, ourselves and the people who are going to be displaced from the land."

Disbursement of Compensation

5.32 The compensation due for the land acquisition is not disbursed jointly by the Collector and the Defence Estates Organisation. The disbursement is done by the Land Acquisition Collector. Till 1983, except Assam, all the State Governments used to incur the expenditure directly as per their Award and raise debits to the Ministry of Defence. However, from 01.01.83, when compensation becomes due, the required amount is deposited by the Defence Estates Officer with the Collector. The Land Acquisition Officers are required to render accounts of the payments to the Defence Estates Officer as per policy instructions issued from time to time. Whenever any complaint is received the matter is taken up with the concerned State Government.

5.33 On being asked what had been the general nature of complaints about disbursements and how these were taken up with State Governments and settled, the Ministry of Defence in their reply explanined as follows:

> "(1) The amount of compensation awarded by the Collector is not adequate/full. This may be because the claimant had staked a claim higher than that recommended; that he had not received the full claim as per ward; that what had actually been disbursed was not what was recorded or what was due under the Award; that the valuations of trees, wells, walls, huts etc. were not done correctly; the amount had been disbursed to wrong persons (this may be due to misunderstanding, or dispute, about title); that the rate applicable the classification of the land has not been correct etc.

(2) That non-entitled persons were given compensation or that funds had been misappropriated.

Complaints received are sent to the Defence Estates Officers to ascertain the facts from the Land Acuisition Collector. If there has been aberration on the part of the Collector, the State Government and the Collector are requested to take remedial measures. If the complaint arises from a misunderstanding, or misrepresentation of facts, it is dealt with in the perspective."

5.34 The Committee pointed out that there was considerable delay in the actual disbursement of the compensation even after the quantum of money required to be disbursed as compensation deposited by the Acquiring Department with the Collector/State Government and therefore sought the comments of Department of Rural Development on the suggestion that Acquiring Department ought to be made directly responsible for disbursement of compensation to the persons entitled and that alternatively or additionally, there ought to be an enabling provision in the L. Act for the purpose. In reply, the Ministry of Rural Development have stated:

> "The land acquisition proceedings under the Land Acquisition Act, 1984 are conducted by the Collector, as defined in Section 3(c), which means the Collector of a district and includes a Deputy Commissioner and any officer specially appointed by the 'appropriate Government' to perform the functions of a Collector under the Act. Therefore, it is the Collector who under section 31 is empowered to make payment of compensation to the entitled persons according to the award made by him. Normally, payment of compensation is made on making an award under Section 11. However, in some cases delay may take place in disbursement of compensation which may be on account of, among others, one or more of the following reasons:
>
> (a) Dispute regarding the identity of persons to be paid compensation.
>
> (b) Insistence on succession certificate when the recorded land holder has died.
>
> (c) Dispute regarding apportionment of compensation between parties.
>
> (d) Absence of the beneficiary.
>
> (e) Non-receipt of compensation amount from the Requisitioning Department/Agency particularly the additional or enhanced amount of compensation awarded by the reference Court.
>
> (f) Lack of updated land records.
>
> (g) Complaints regarding inadequate compensation, procedural

lapses in its calculation etc.

Some of the above points are required to be settled by following prescribed procedure which takes time. The requisitioning Department would virtually have no role to play in settling these issues. Therefore, it is only the Collector and the land acquisition/ revenue staff who sort out these matters because they are in touch with land holders by virtue of their key position in district administration. Therefore, it is neither desirable nor necessary to involve the Requisitioning agencies in the matters of payment/ disbursement of compensation directly or indirectly. In any case, the Requisitioning agency do normally keep in touch with the land acquisition authorities regarding the progress of acquisition proceedings including disbursement of compensation so that possession over the acquired land can be obtained speedily.

Many State Govts. have preseribed time limits for completing various stages of acquisition preceedings and the Collector is required to adhere to this time-frame. Therefore, there is now much less possibility of undue delay taking place in disbursement of compensation to the interested persons."

5.35 The Department of Rural Development further stated that in July, 1989 they had organised a Land Acquisition Conference to discuss problems relating to the implementation of the Land Acquisition Act, 1984 as amended in 1984. In this Conference besides the Revenue Secretaries and Directors of Land Acquisition of the State Governments/UT Administrations, representatives of Central Ministries/Departments including the Ministry of Defence (Department of Defence) had also participated. The representative of the Ministry of Defence who attended the meeting did not raise any such issue. However, on the basis of the consensus arrived at in the Conference, States have been advised to take the following steps in this regard:

(a) Clear instructions may be issued about the manner in which the identity of persons shall be ascertained. These instructions may provide for local enquiry by a responsible officer rather than any legal process being prescribed for establishing such identity.

(b) States may prescribe alternative procedure (except in very complicated cases) for establishing successors-in-interest rather than prescribing that a succession certificate may be obtained from a Court of law. Poor land losers do not have the resources to file a Court case for obtaining succession certificate. In many cases, there are also no disputes about the succession in the family. Therefore, purely a legalistic method fordetermining successors in-interest through judicial process be avoided wherever possible.

(c) Disputes regarding apportionment of compensation should be

sorted out on the basis of legal advice and through local enquiry in the village. Suggesting Court proceedings for resolving this dispuite should not be resorted to in a routine manner.

(d) Usually, the district administration announces the date and time for disbursement of compensation and thereafter no efforts are made to locate the party who could not be present on the appointed date and time, it should be the responsibility of the Collector to locate the party rather than leaving it to the party to contact the Land Acquisition Officer for payment of compensation.

(e) No land acquisition procedings should be initiated unless the approximate amount of compensation involved in it is first deposited. Further, as soon as the verdict of the court is available, the requisitioning agency may be directed to deposit the amount of additional compensation and also intimate about the liability to pay interest on this amount in case of delay in payment.

(f) As soon as declaration under Section 6(2) is issued, the Collector should take steps for updating of land records in respect of land involved in acquisition proceedings.

In view of the above, amendment to the Act on the lines suggested by the Ministry of Defence is not necessary."

5.36 Explaining the position on the question of disbursement of compensation to land owners directly by the Acquiring Department and the enabling provision in the LA Act for the purpose, the Secretary, Ministry of Defence, during evidence stated:

"I foresee some problems in this regard. Now, there are other large consumers of land and various Central Government authorities which also undertake extensive and continued acquisition of land, as in the case of Defence. In the scheme of land acquisition, the Collector is the nodal authority and is legally responsible for the assessment of the compensation, preparation of the award, finalisation and approval of the Award, payment and disbursement of compensation to the legal owners or to the eligible beneficiaries. While I see the concern of the Committee that there are long and unhappy delays in the actual disbursements, these relate to a variety of reasons varying from State to State and even within the State from Collector to Collector; how prompt and sensitive he is to the people' requirement. We shall definitely examine this matter further and see what best can be done and if no difficulty arises we would definitely try to take on this responsibility of direct disbursement but I think the real answer lies in the Collectors performing his duties rather than our substituting their legal role. Nevertheless, I submit that we will give it a very serious and prompt examination and see what best can be done.

Prima facie I submit that there could be an additional legal

provision under the scheme of the Act itself, just as time frames have been stipulated for various activities and if that does not happen there is provision for the payment of penal interest rates and so on. Once the money is deposited and if there are no contested claims, should the payment remain hanging for one to two years till all other claims are settled.

5.37 The Secretary, Ministry of Defence further stated:

"I agree with the Committee that people are very unhappy expecially in the Northern States where that land is cultivable and valuable. We take away the land through legal process. We will definitely look into the entire matter and see what best can be done.

5.38 During their on-the-spot study visit of the Sub-Committee of the Estimates Committee to Jodhpur and Jaisalmer during January, 1991, some land losers in villages in Jaisalmer District submitted representations to the Sub-Committee and pointed out certain hardships being faced by them in the matter of non-payment of compensation for the lands acquired by the Defence Authorities and cases of pending payment for land acquired in Jaisalmer District by DEO, Rajasthan.

5.39 In regard to certain pockets of lands measuring about 1150 acres dispersed in 10,000 acres of land under occupation of the Army authorities, it was submitted before the Sub-Committee that villagers were not allowed to graze their cattles and till their land. The villagers also demanded Village Community Facilities in their re-settlement scheme in lieu of acquisition of their villages/land. The DEO, Rajasthan, however, explained that they had not taken over the possession of the land. They will take over the possession of the land after paying compensation to the land owners.

5.40 In this connection, the Collector of Jaisalmer submitted that the acquiring authorities (DEO) was very eager for acquiring of land but they were not prompt in making payment to the Collector for disbursement to the land owners.

Practice of Government of Rajasthan for Retaining Share of Acquisition Award

5.41 In regard to the practice followed by State Government of Rajasthan in appropriating to itself a major portion of the amount of compensation payable to the land owners on acquisition of his land DGDE informed the Committee as follow:

"In Rajasthan the question of apportionment of the compensation has arisen. Suppose, there is a compensation of Rs 1000. When the amount is to be disbursed, the State Government says that the individual should be given say Rs. 300 and the balance Rs 700 goes to the State."

5.42 The Secretary, Ministry of Defence, added:

> "The Rajasthan Government has taken the view on more than one occasion that all land vests in the State. On this basis they wish to retain a share of the award."

5.43 Following specific instances were brought to the notice of the Committee during evidence as well in the material furnished in connection with study visit of Sub-Committee to Jodhpur and Jaiselmer during January, 1991:

(i) In land acquisition in Jodhpur for 43 WEU, the Collector declared the award at the rate of Rs. 600/-per acre, pegging down the rate to the date of declaration. The State Government of Rajasthan charged the Ministry of Defence compensation @Rs.17/- per Sq. Yard i.e. Rs. 82,280/- per acre against the rate of Rs. 600/- per acre awarded and disbursed to the erstwhile land owners (Khatedars). It was less than one per cent of the compensation amount.

In accordance with the pricing policy agreed to between the Ministry of Defence and the State Government of Rajasthan, as contained in Ministry of Defence letter No. 2(2)/78/D(Qtg)D/Lands, Vol IV, dated 23 September, 1980 Ministry of Defence issued revised sanction in March, 1980 for payment of Rs. 33,04,364.00 since the land was within the Municipal limits. The enormous difference between the amount charged by the State Government and the amount disbursed to the land owners had been credited to the Revenue of the State Government.

(ii) In another case of land acquisition at Jodhpur for Army Unit at Shikargarh the land losers got only approx 13.7% of the rate of the award declared in September, 1984. The difference between the amount charged by the State Government and awarded amount disbursed to the land owners has been credited to the funds of the State Government.

5.44 The Ministry of Rural Development furnished information as received by them from the Government of Rajasthan *vide* their letter No. 4/5/Revenue/Group-3/91 dated the 4th March 1991, stating as follows:

> "As per Section 7 of Rajasthan Cultivation Act, and Rajasthan Land Revenue Act, ownership of all the agricultural land vests in the Government of Rajasthan. This land is available to the farmers for agriculture on payment of land revenue. Both these Acts prohibit the farmers from using this land for non-agricultural purposes, and they don't have any ownership rights on this land. Section 90A of Rajasthan Land Revenue Act and the rules framed thereunder provide that cultivators can use the agricultural land for non-agricultural purposes only after depositing transfer fee as payable under these rules also after getting approval of the State Government.

Thus only agricultural land is acquired from the farmers for which compensation for agriculture land only is admissible to them. Even if a farmer sells that agriculture land, he gets the price of agriculture land only. It is ensured that, the farmers are paid compensation for the agriculture land by the Land Acquiring Officer as per the prevalent market rates as determined under Land Acquisition. Even after acquisition, such land can be used for non-agricultural purposes only after it is converted into non-agriculture land and the State Government, who is the owner of this land, is entitled to get conversion payment of a price at the rates prevalent on the residential land. Such land is acquired by the Ministry of Defence for non-agricultural purposes. The necessary instructions in this connection were issued by the Ministry of Defence, Government of India through the circular dated 23.9.80 as per the agreement between the State Government and the Central Government after necessary deliberations on every pros and cons of the matter; and accordingly the price of the land is paid by the Ministry of Defence to State Government. From this amount due compensation is paid to the farmers for their agricultural land. The compensation given to the farmer is never less than the market value of their agricultural land.

Thus in the above mentioned cases the payment by the Ministry of Defence to the State Government has been made as per the agreement under, and out of this amount necessary compensation has been paid to the farmers for their agricultural land as determined by Land Acquisition Officer which is the right course of action."

Conclusions

5.45 The Committee note that in a large number of land acquisition cases, land owners have been approaching courts of law for enhancement of the compensation awarded to them by the Land Acquisition Authorities. This, obviously, has resulted in protracted and costly litigation by the Government as also the land owners. In this context the Committee note that the underlying principal for determination of the compensation to be awarded should be to enable the owner of the land to be able to get possession of the similar land to rehabilitate himself without undue loss. They also note that the Mullah Committee which examined this aspect had recommended that the potential value of land being acquired should be the relevant consideration for determining the market value on the basis of which compensation is required to be awarded under the law.

5.46 The Committee find that for various reasons there is a general tendency among the land owners to mention in their respective sale deeds a lesser price than actually received with the primary objective of effecting savings on registration fee and stamp duty. Consequently the basic sales data on which the Land Acquisition Authorities rely in

determining the market value for awarding compensation to land owners, is often incorrect. Open transactions in land which are not many thus do not reflect the true market value of the land or even its potential. Under the circumstances, the Committee are not surprised to find that land owners consider compensation being awarded to them for acquiring land to be unfair.

5.47 The Committee also find that the concept of 'envelope rates' introduced in the State of Maharashtra has not been very successful in keeping land owners from entering into litigation with Government over the adequacy of the compensation.

Recommendation

The Committee, therefore, desire the Ministry of Rural Development to examine the various principles adopted by the State Governments for fixation of market value of the land to determine how far these have given rise to prolonged and costly litigations for enhancement in compensation awarded by Land Acquisition authorities. The Committee also call upon the Ministry to suggest ways of removing the existing deficiencies both in the law and procedure, in the interest of the land losers and the State. While examining the matter, the Committee would like the Government to keep in mind the fact that land for the owner is not only an asset but also a mean of livelihood and when he is deprived of the same, he should be suitably compensated. The Committee would like to be apprised of outcome of such an exercise.

Conclusions

5.48 The Committee note that there were a total of 14520 court cases pending in regard to requisition/acquisition of property, including land, by the Ministry of Defence. They further note that disputes relating to acquisition/requisition of property invariably relate to the compensation payable to the affected party. The Committee find that one of the main issues which has given rise to litigation relates to the different provisions existing in the two status governing acquisition/requisition of property in regard to element of compensation. While Land Acquisition Act, 1894 provides *inter alia* for payment of solatium and interest, there is no such provision under the RAIP Act in regard to requisitioned properties acquired thereunder. The Committee note that through an amendment in the Land Acquisition Act made in 1984, the rates of both solatium and interest have been raised substantially. Consequently, the compensation payable thereunder has become more remunerative for the owners of the property in comparison to what is admissible under RAIP Act. Consequently the affected parties have approached courts of law wherein they have contended that as acquisition of property under both the statutes involves an element

of compulsion, solatium, which is given to compensate the owner of the property against loss of ownership under compulsion, ought to be admissible also in the case of requisitioned properties acquired under the RAIP Act. The Courts and particularly the Punjab and Haryana High Court have upheld this view and have been awarding enhanced compensation taking into account the element of solatium which they would have received if their properties had been acquired under Land Acquisition Act. In this context, the Committee examined the question why the provision of two statutes in regard to element of compensation cannot be brought at par and the two statutes harmonised to that extent. In addressing this question, the Committee have been persuaded by the considerations of equity and justice to the citizen. It was urged before the Committee by Ministry of Urban Development, who are the nodal agency in regard to RAIP Act, that the provisions of RAIP Act in regard to compensation were more advantageous as the owner of the property gets its market price on the date of acquisition which reflects the appreciation in the value of property during the period intervening between the requisition and acquisition of the property. It has further been contended that such appreciation in the value of property often exceeded the combined effect of solatium and cumulative interest on the amount of compensation. Therefore, any amendment to the RAIP Act, 1952 has not been considered necessary by the Ministry.

5.49 The Committee feel that in advancing this argument the perspective of the Ministry appears to have been shaped by presumption that properties are requisitioned and acquired only in urban areas where values appreciate relatively faster. However, the Committee are aware that RAIP Act is being resorted to by the Government agencies, particularly the Ministry of Defence, on a significant scale in requisitioning and acquiring rural properties also including agricultural land.

5.50 Nevertheless, it has been suggested by the Ministry of Urban Development that owners of the property can be given an option to receive compensation under either of the two statutes subject to the condition that property under requisition is allowed to remain under requisition for a further period of three years from the date on which the decision to acquire is communicated to the owner and whereafter the owner would cease to get monthly recurring compensation. Instead he would be entitled to receive solatium as well as interest at the prescribed rates.

5.51 The Committee find the arguments advanced by the Ministry of Urban Development are not relevant to the main issue which concerns the payment of solatium in compensation for the element of compulsion involved in acquisition of property. They are convinced beyond doubt that the RAIP Act overlooks the aspect of compulsion involved in acquisition of properties, it is inquitous. In this regard they are supported by courts of law.

Recommendation

The Committee firmly believe that RAIP Act be amended without any delay so as to provide for payment of solatium in cases where any requisitioned property is sought to be acquired. However, till such an amendment is made, the Committee recommend that owners of the property should be given an option to receive compensation either on the pattern of Requisitioning and Acquisition of Immovable Property Act, 1952 or Land Acquisition Act, 1894.

Conclusion

5.52 The Committee note that section 11(2) of the Land Acquisition Act, 1894 provides for determination of compensation through negotiation. However, the State Government have not encouraged Collectors to enter into negotiated awards perhaps because of the inherent potential of subjective approach being followed by individual Collectors.

During evidence the Secretary, Ministry of Defence stated that the Ministry are keen to follow the method of determining compensation through negotiations as major policy change and they will definitely try it out in their future efforts for acquisition.

Recommendation

5.53 The Committee feel that the land Acquiring Department should explore possibility of entering into a negotiated award as contemplated in Section 11(2) of the Land Acquisition Act. They believe that by entering into negotiated awards the long drawn out legal process for enhancement of compensation and payment of interest for the intervening period, which add up to a considerable amount, can perhaps be avoided. The Committee, therefore, recommend that when the process of land acquisition proceedings is initiated, a Committee comprising the Representatives of the Acquiring Department, and the Land Acquisition Collector concerned should be constituted to hold negotiations with interested persons for settlement of the amount of compensation.

Conclusion

5.54 The Committee are deeply concerned about the long and unhappy delays in the actual disbursement of compensation to the land owners. The Committee are of the view that at present the requisition or acquisition of land is in itself a trauma for the land loser and his family. They are also conscious of the fact that once the Government acquires the land which is the only means of his/her livelihood, then the trauma multiplies with every passing day.

Recommendation

5.55 The Committee desire the Ministry to take all steps considered necessary so as to improve the situation wherein disbursement of compensation to land losers is made after protracted delay. They

recommend that as a first step, the Ministry of Defence should seek from the DEOs in the field formations a statement of outstanding cases of payment of compensation to land losers on declaration of the awards and thereafter draw up a programme to liquidate all such outstanding compensation within a fixed time-frame.

The Committee also expect the Ministry to devise a scheme with a view to keeping a close watch over the actual disbursement of the compensation to the land owners.

Conclusions

5.56 The Committee find that according to Section 7 of the Rajasthan Land Cultivation Act and provision of Rajasthan Land Revenue Act Rajasthan Government is the owner of all lands in Rajasthan. An agriculturist, under Section 10A of the Rajasthan Revenue Act and the rules made thereunder, can utilise the land for non-agricultural purposes with the permission of the State Government.

The Committee have further been informed that where the private land in Rajasthan classified as agricultural within Municipal/urban limits is acquired, the concerned land holder (agriculturist/khatedar) would claim for compensation as admissible on agricultural land at the prevailing market value for the corresponding agricultural land in the vicinity/area. After acquisition, the land can be utilised in this case by the Ministry of Defence for non-agricultural purposes on conversion only for which the state Government, who is the owner, is entitled to recover conversion fee on the prescribed rates for residential areas in that vicinity. Where agricultural lands of private land holders are acquired for Ministry of Defence apart from the compensation payable to the concerned land holder under the Land Acquistion Act, State Government also claims a specified amount to compensate for permanent loss of revenue from such lands.

This policy according to the State Government has been in operation with the concurrence of the Ministry of Defence for the past more than 10 years. The amount of compensation payable to the land holder for acquisition of his land and to the State Government as conversion charge for permanent loss of revenue are both deducted from the amount deposited by the requisitioning agencies for acquisition of such land.

5.57 In this connection the Committee would like to point out that Defence Estates organisation who is the field agency for acquisition of land, are expected to be fully aware of and conversant with the provisions of the Rajasthan Land Cultivation Act and Land Revenue Act which mandate additional heavy payment on account of conversion charges from the Department acquiring of private land in Municipal limits in areas as notified within the Master Plan/City Improvement Authority and if there is no notified areas, lands within a radius of 1km. from the Municipal limits and abadi areas within villages. Such

acquisitions also contravene the policy guideline that the sites selected for acquisition should be away from the township so that the land acquired is not expensive.

Recommendations

5.58 The Committee would recommend that instructions may be issued to all Command/Formations/local Defence Estate organisations to comply with the guidelines laid down for selection of sites for acquisition.

5.59 The Committee expect the Ministry of Defence to ensure that the field level officers of Defence Estate Organization are fully conversant with the rules and regulations of various State Governments governing acquisition of land

CHAPTER VI

REQUISITIONING OF PROPERTY

6.1 The Committee enquired from the Ministry of Defence which method in obtaining possession and use of land viz. acquiring, requisitioning or hiring in the long run, was more economical. The Ministry of Defence in a note furnished to the Committee have stated:

> "When the occupancy right of the land of an individual is taken by another individual on payment of rent by mutual agreement, it is a case of hiring of the land. Lands belonging to other governmental organisations are also taken over on hire by the Ministry of Defence e.g. lands belonging to the Railways are in occupation at various places for the use of the Movement Control Units.
>
> When the occupancy rights of land are obtained irrespective of the concurrence of the holder of the land, but by exercise of statutory authority under the RAIP Act, (earlier the Defence of India Act too) it is requisitioning. If lands are required at certain locations but the right of certain occupants to receive compensation is not clear or the number of persons involved is large to negotiate or the concurrence of all the persons cannot be had or the persons entitled to alienate the rights of occupancy cannot be settled without dispute, the lands are requisitioned. The occupancy rights are secured by the requisition.
>
> In respect of requisitioned lands, the Government also has a right to put the land to any use, subject only to a liability to pay compensation for damages, if any, at the time of release of the land from requisition, if it is released. Hence, the site can be used for construction purposes, for ranges or for training, or for anything which could even change the lay of the land. Lands taken on hire cannot be altered to our Defence requirements by construction, or otherwise. The land is hired only if it is envisaged to be used for short periods and no permanent assets are expected to be created on that. All the lands occupied during the course of movement and occupation by Forces during military operations can be regularised only by hiring as there is no retrospective requisition or acquisition.
>
> In the case of acquisition of the land the total cost of the property together with solatium is paid. The Government is free to

use the land thereafter in any way. In the matter of requisition only rental compensation and compensation for damage that is done during the period of occupancy are paid. The cost of the land is not paid. Recognising the factor that land value appreciates, the rent paid is even less than the interest on the capital value of the land. From the point of utilisation and expenditure, requisitioning is a cheaper option for the Government than acquiring. But, the social cost is quite different. The individual whose land is taken over, on requisition, is deprived of the full cost of land. He gets only a rent. He is unable to re-establish himself if he is only a cultivator, by purchasing land to start cultivation and to build a house for himself, if he is dispossessed from his house. This is harsh. Hence, people are against requisitioning their properties. In the case of hiring which is done with mutual consent, no owner will be willing to part with his land for a mere rent for an indefinite period as his capital gets blocked. Although requisitioning is the cheaper alternative, in the long run acquisition is a better and socially acceptable alternative."

Time limit to hold a property on requisition

6.2 In a note to the Committee, the Ministry stated that there was no upper limit to the period for which a property could be held on requisition under the DI Acts and the RAIP Act. Properties had continued on for decades on requisition. But, an amendment introduced to the RAIP Act in March 1985 fixed 17 years as the upper limit of holding on to a property under requisition.

6.3 The Committee desired to know whether any requisitioned property was still being retained by the Defence Authorities beyond the period of 17 years as specified in the RAIP (Amendment) Act, 1985. The Ministry of Defence informed that no requisitioned properties had been retained beyond the period of 17 years specified in the RAIP (Amendment) Act, 1985.

6.4 Asked to explain the rationable for a period of 17 years for holding a property on requisition, the DGDE of the Ministry of Defence stated during evidence:

"The Act was first amended in 1970 to provide that the requisitioned property should be acquired or derequisitioned within a period of three years. But the Government could not take a decision within a period of three years on all cases. Various Departments of the Government held properties. Then they went before the Parliament in 1973 to get the Act further amended to change the period from three years to five years. At the end of the 5 years period viz. in March, 87, since decision on all properties had not been taken the Act was amended to provide for 10 years in 1975, and likewise, later in 1980 to 15 years that took us to

1985. They went before the Parliament again in 1985 to get the period amended by revising the period by 2 years. The Minister also gave an assurance the period would not be further amended. Like that, the period came to 17 years. There is no other sanctity for the period of 17 years."

6.5 The Committee pointed out that requisitioning of property is normally held in case of emergency threatening the security of the nation, natural calamities, etc. and sought the justification from the Ministry for keeping provision of a long period of 17 years for holding on to the requisitioned property. The Ministry of Urban Development in their note to the Committee stated:

> "It is considered that a period of 17 years for requisitioning a property for an office of the Union Government or other Public Purposes of the Union is not unduly long because it may not be possible to create permanent structures for projects and temporary establishments; and (ii) the purpose for which the property has been requisitioned may necessitate requisitioning for fairly long periods."

6.6 The Committee enquired why the Ministry of Urban Development persisted for the period of seventeen years as stated in their written reply. In his evidence before the Committee, the Additional Secretary of the Ministry of Urban Development stated:

> "To be very frank, we wanted to get a list as far as our Ministry is concerned where the lands have been requisitioned for the purpose of our Ministry, where the completion of projects may have been taken a much longer period. I have not been able to lay my hands on any such project because as far as our Ministry is concerned, we have been requisitioning property mainly for office purposes or residential purposes. When we did assert that though the five years will be inadequate and seventeen years may continue, we had in mind the projects like may be in rural development area and defence projects about which we do not have adequate information. I concede that as far as the purposes for which our Ministry has requisitioned lands, seventeen years may not be necessary."

6.7 Replying to a query, the representative of the Ministry of Urban Development stated:

> "As regards the operation of the RAIP Act, though we are the nodal Ministry, authority has been delegated to the various Ministries, etc., where authority has been delegated, we really do not monitor what is happening."

6.8 Explaining the requirements of requisitioned properties, the Director General, Defence Estates stated:

> "When the Defence of India Act came to an end, certain properties that we were holding, we wanted to continue to hold them. Those properties comprised both land and buildings by Armed Forces, Navy, etc. at various places. The 1947 and 1952 Acts provided for extension upto 1958. But by that time, neither the Defence Ministry nor the other Ministries had come to a decision that we could either acquire or relinquish those properties. Meanwhile the Defence of India Act 1962 came in and the Army required new locations to quarter the Forces and a lot of land was requisitioned. When that Act was repealed in 1968, we had not reached the stage where all these lands could be held or something could be given up.
>
> Initially, a decision was to be taken within three years. But since a decision did not emerge till 1973, Government came before the Parliament for extension upto 1975. Again, by 1975, Government had not taken a decision. We again came before the Parliament and requested for extension upto 1980. Again we asked for extension up to 1985 and then 1987. This is how the period of seventeen years came."

6.9 Giving views of the Ministry of Defence on requisitioning period, the Additional Secretary stated:

> "A period of five to ten years may be maximum period. It is desirable that the Act be amended."

Revision of Recurring Compensation

6.10 In a note that the Ministry stated that Section 8(1) of the RAIP Act, 1952 had provided for payment of recurring compensation for the requisitioned property. This had not provided for any periodic revision of the recurring compensation which in fact is a 'rent'. No provision for revision of rent had existed in the Defence of India Act 1939/1962 or the rules made thereunder. an amendment was made in March 1975 by inserting Sub-Section (2) (a) to Sec. 8 of the RAIP Act to provide that where a property had been subject to requisition under the Act for a period of 5 years or longer immediately preceding the commencement of the Amendment Act in 1975 the recurring compensation be reviewed and, thereafter, at 5 years interval. This gave a relief to the dispossessed persons in the form of a more reasonable rent compensating for inflation and the loss of accrued benefit (on account of the development that may have taken place in the vicinity).

Conclusions

6.11 The Committee note that during the Second World War lands and buildings were requisitioned under the Defence of India Act, 1939.

Subsequently, the buildings requisitioned under Defence of India Act, 1939 were continued under requisition under the provisions of Requisitioned Land (Continuance of Powers) Act 1947 (17 of 1947). However to extend such requisitions further in order to meet the demand for lands and buildings for the purposes of the Union, the Requisitioning and Acquisition of Immovable Property Ordinance was promulgated on 25.1.52 to repeal Act 17 of 1947. The Ordinance was replaced by Requisitioning and Acquisition of Immovable Property Act, 1952. No time limit for holding a property under requisition was laid down in the original Act, since the Act itself was enacted for a period of 6 years. The Committee are apprised that at that time the intention was to keep the period limited to a maximum of 6 years. Since the concerned authorities in the various Departments of Government could not take any decision either to acquire requisitioned properties or to release the already requisitioned property within the period laid down in the Act, amendments were made in the Requisitioning and Acquisition of Immovable Property Act, from time to time, to extend the maximum period for which the properties could be retained under requisition.

6.12 The Committee find that as per an amendment carried out in 1985, the requisitioning period was further extended by two years and eventually a period of 17 years has been prescribed as the maximum period for which a property can be kept under requisition, even though the Minister of Works and Housing had given an assurance to the Parliament that all the Departments of the Government were being asked to restore all the requisitioned properties to the owners within two years.

The Committee find no rational justification for this unusually long retention period of seventeen years during which deprive the citizens to use their properties. The Committee find the period of 17 years to be largely towards the citizen. The Committee are convinced that a maximum period of six years will be the reasonable time limit for acquiring or releasing the requisitioned properties. The Committee recommend that the RAIP Act, 1952 may be amended accordingly.

Conclusion

6.13 The Committee find that in order to meet the statutory requirement of release of requisitioned properties within the specified period it is imperative that a proper watch over the release of the requisitioned properties by various Ministries/Departments of the Government is kept.

Recommendation

The Committee desire that the Ministry of Urban Development who are the nodal Ministry for the RAIP Act, should impress upon all the Ministries/Departments to take expeditious action for timely release of requisitioned properties. It should be made clear that it is the responsibility of each Ministry/Department which has requisitioned the properties to ensure that these are acquired only when conditions specified in the Act for

acquisition are fulfilled or released from requisition within the period specified in the Act. The Committee desire that in cases where there is delay and the provisions of the Act are violated, apart from releasing immediately such properties the responsibility may be invariably fixed and suitable administrative action taken against the officers found guilty of negligence or apathy.

Conclusions

6.14 The existing provision in the RAIP Act, 1952 for revision of 'recurring part' of compensation in respect of requisitioned properties, as amended in March, 1975, are that the person whose property has been requisitioned would after five years apply to the Government and get the compensation amount be fixed by mutual agreement. However, if there is disagreement, the Act provides that both the parties will jointly appoint an Arbitrator and the decision of the arbitrator would be binding on both.

The Committee feel that it is unfair to retain the requisitioned properties without just and fair compensation to the people whose properties have been requisitioned. The Committee note that the Ministry of Urban Development have already deemed it fit to provide for revision of rent in the Delhi Rent Control Act every three years. In order to compensate the dispossessed persons for inflation that erodes the real value of compensation the Committee recommend that the RAIP Act, 1952 be amended to provide for revision of the recurring part of compensation after the expiry of every three years.

Recommendation

6.15 The Committee also find it reasonable that in accordance with the principles for payment of compensation enshrined in the Land Acquisition Act, 1894 and additional amount as a percentage of the recurring part of the compensation should also be paid to the land owner as solatium because in the opinion of the Committee the land owner is equally helpless in the matter of requisition under RAIP Act, 1952.

CHAPTER VII

MANAGEMENT OF LAND

Title Deeds, Plans and Demarcation of Boundaries

7.1 The Ministry of Defence in a note furnished to the Committee intimated the following summed up position regarding title deeds, plans and demarcation of boundaries in respect of defence lands inside and outside Cantonments:

"(a) The Defence Lands inside Cantonments

1. Complete records of rights/title are not available in respect of the following categories of lands:

(a) Lands which came into the hands of the Government by right of conquest or Treaty with the then Ruler, or on payment of compensation in the 18th and the major part of the 19th Century.

(b) Permission for occupation of lands at (a) above are given under Military Regulations of the three Presidencies of Bengal, Madras and Bombay. These are now known as 'Old Grants'. These papers are not, generally, available.

2. Leases granted under Cantonment Code 1899, Cantt. Code 1912, Cantonments Land Administration Rules 1925 and Cantonments Land Administration Rules 1937. These are held in the custody of concerned Defence Estates Officer.

(b) Land Acquired

Lands for field firing ranges, military stations, airfields etc. were acquired under Land Acquisition Act 1894, DI Act, RAIP Act 1952 etc. Records of rights along with requisite plans are held by Defence Estates Service in respect of these lands. These lands are also got mutuated in concerned Revenue records as 'Defence Lands'. These documents are available.

(c) Defence Lands outside Cantonments

Title deeds/records of rights in respect of these lands are available except in respect of properties of Ex State Forces which merged in the Indian Army. The Board proceedings

are not very comprehensive in that it does not indicate the full description of the properties.

All defence lands outside Cantonments are recorded in a register known as the Military Lands Register."

Demarcation and verification of boundaries inside Cantonments

7.2 The limits of Cantonments are defined by notification in the Official Gazette by the Central Government issued under Section 3 of the Cantonments Act, 1924. Boundary pillars are erected to demarcate the outer boundary of each Cantonment. The boundaries of all Cantonments are required to be compared annually on the ground with the Gazetted description of the same and a certificate in this regard is required to be furnished to the GOC-in-Chief, the Command together with a report of any pillars damaged or missing and of any encroachment on the boundaries. Defence lands inside Cantonment are placed under the control and management of various authorities *viz.* military authorities, Defence Estates Officer and the Cantonment Board. All these authorities are required to verify annually the lands placed under their management/ control.

7.3 Rule 10 of the Rules for the Acquisition, Custody, Relinquishment, etc. of Military Lands in India (A.C.R. Rules), 1944 enjoins upon the Military Estates Officer after assuming the possession of the land, to call upon the local officer.

(i) to erect boundary pillars;

(ii) to prepare a plan on a suitable scale; and

(iii) to draw of a description of the boundaries.

7.4 On completion of the above procedure the plan and description of the boundaries will be verified by a Committee convened by the local military authority at the request of the Military Estates Officer and consisting of the local military authority, the Chief Revenue Officer of the district, or their representatives, the local officer of the Military Engineer Services and the Military Estates Officer. If the personal attendance of the local military authority is impossible, a senior officer should be deputed to represent him. The proceedings of the Committee will be prepared in quadruplicate; one copy with the original plan and description will be retained by the Military Estates Officer; one copy with a copy of the plan and description will be forwarded by the Military Estates Officer to the local military authority; third copy Military Estates Officer through the Revenue Officer to the State Government; and the fourth copy with a copy of the plan and description will be submitted by the Military Estates Officer to the Defence Department in all plans accompanying the proceedings of a Committee, the area of the land acquired will be stated in English measurement.

When forwarding a copy of the proceedings to the Defence Department, the Military Estates Officer will also forward a certificate to the effect that the necessary entries have been made in the Military Lands Register, or Military Tenancy Register, as the case may be.

However, it is a fact that in a number of cases of acquisition these works are yet to be done.

Outside Cantonments

7.5 Defence lands outside Cantonments are managed by the Head of the Department or the Service concerned for whom the land is held, and by the Defence Estates Officer in other cases. The local officers of the Department, or Service concerned and the Defence Estates Officer, as the case may be are required to carry out inspection of the holdings of the land placed under their management and to verify boundary pillars of at least 20% of the holding every year and of every holding at least once in every five years.

Organisational Structure

7.6 The Defence Estates Organistion is the field agency of the Ministry of Defence for hiring, requisition, acquisition and disposal of immovable property apart from administering the Cantonments and the defence lands.

7.7 In a written note, the Ministry of Defence have stated that "The DGDE oranisation had an authorised strength of 55 Class I officers, 27 Class II officers and 416 Class III staff in November, 1962 when the responsibility for hiring/requisition of immovable properties was entrusted to it. In the next five years 327 Class III staff were temporarily sanctioned in phases. In 1970, after a study by the Staff Inspection Unit of the Ministry of Finance, 128 more Class III posts were created and the temporary posts were made permanent. By 1972, 95 Class I and 59 Class II Officers were authorised. Thereafter, substantial acquisition work also accrued as would be seen from the extent of area added to the defence owned holdings after 1970, 17.49 lakhs acres in 1980 against 16.41 lakh acres in 1970. In 1990 the authorised establishment is 138 Group A, 59 Group B and 871 Group C Staff. The Staff strength of Defence Estates Organisation is inadequate considering the number of acquisition proposals and the high increase in the number of Court Cases (14,520 in July 90)".

7.8 Many land acquisition proposals are implemented through Special L.A. stafff sanctioned for the purpose of the concerned State Governments but paid for by the Government of India.

7.9 The establishment of the Collector of every district has certain staff to perform the duties connected with acquisition of land in the district. However, when large-scale acquisition is undertaken some staff have to be exclusively assigned to deal with the task. The normally authorised staff may not be adequate when a large scale acquisition takes place. If the State Governments find it difficult or are reluctant to create additional staff on their establishment for this purpose, the essential requirement has

to be met by the Defence Ministry. The responsibility for the recruitment, posting, supervision and control of such staff is that of the Collector/State Government while the expenses (pay and allowances, accommodation, transport, office maintenance, telephone etc.) are reimbursed by the Ministry of Defence. Such authorisations and reimbursement of expenditure are not made where the State Government charges in establishment cost as a percentage of the acquisition compensation. Assam, West Bengal, Orissa etc. levy such charge as a percentage rate on the compensation. Special staff were authorised in Punjab, Rajasthan, M.P., Tamil Nadu, Maharashtra etc. Such staff perform the assigned functions.

7.10 The details of staff sanctioned in various Commands for the Special Land Acquisition Officers for Defence land acquisition were furnished. The staff is sanctioned, normally, for periods of six months or one year at a time, on the demand of the Land Acquisition Collector, as accepted by the Director, Defence Estates of the Command. The staff have to continue even when certain land acquisition proposals have ceased to be under implementation in the sense of taking over possession of the lands and disbursement of compensation under the Award. Some element of staff is required to be continued as long as there are land references to be disposed off by the Court and the volume of such work is not within the capacity of the staff otherwise authorised by the State Government to the Collector.

7.11 The present organisational strength in the Defence Estates Organisation of the Ministry of Defence was stated to be inadequate and a need was being felt for augumenting it. On being asked to explain the basis and about the steps being taken for strengthening of the Defence Estates Organisation, the Ministry of Defence stated:

> "The staff for the DEOs was sanctioned, largely on the recommendations of the Staff Inspection Unit of the Ministry of Finance on the basis of workload in 1968—70, when the Unit conducted a work-study of the DEO's establishments. At that time there were very few litigation cases regarding compensation for lands being acquired for defence purposes. Also, there were very few acquisition cases every year.
>
> (2) Presently there are 10,300 cases of litigation in District Courts, 1,459 cases in High Courts and 718 cases in the Supreme Court. The litigations linger on for years. With the existing establishment, the DEOs find it difficult to regularly detail staff to contact the Government Counsels and to arrange production of witnesses (when the land references are considered by the District Courts) and to attend the High Courts/Supreme Court to brief the Counsels. Apart from these activities the staff have also to be regularly deputed by the DEOs to attend various reccee-cum-

siting-cum-costing Boards which the Users order for the utilisation of the existing lands and for formulating proposals for additional lands at various locations. The jurisdiction of some of the DEOs is also very large, with the result that communication and transportation are time-consuming. For example, 2 DEOs cover the whole of Rajasthan; 2 DEOs cover the whole of Madhya Pradesh; 1 DEO the whole of Tamil Nadu and Kerala and 1 DEO the whole of Karnataka. Some DEOs do not have vehicles to move to various locations. They don't have legally qualified staff to attend to litigations, specially as the District Attorneys and the Government Standing Counsels do not render adequate and timely support in dealing with the court cases. The large number of Execution Petitions and Contempt of Court proceedings for payment of enhanced compensation, has been a cause for concern.

(3) The number of offices of the DEOs and the staffing structure require to be reassessed, to ensure timely/effective attention. On the basis of the Establishment Study Team's analysis, the authorised staff will have to be re-worked taking into account the extent of land acquisition, fresh proposals under consideration, and the attention to be paid to the litigations. Department of Expenditure has been postponing the taking up of the study despite repeated requests.

(4) Leaving the task of conducting litigations (on compensation cases) entirely to the District Attorneys and Standing Counsels, who have not shown adequate accountability, has not proved a satisfactory arrangement. Posting of full time legal officers, accountable to the DEO/Director, is bound to ease the situation. All Compensation enhancement cases could then be made the responsibility of the DEO and the Law Officer, relieving the State Government/Collector of such responsibility. For dedicated legal support on matters connected with compensation, it is desirable that at each Directorate and in the office of the DEOs having large number of Reference/Appeal cases, an officer of the Ministry of Law or the Legal Department of the State Government should be provided. These officers could be of the level of Asstt. Legal Adviser/Deputy Legal Adviser of the Ministry of Law who can render and yet on (behalf of Ministry of Law) the statements in defence/appeal and also liaise with the Government Counsel/District Attorney for proper conduct of the compensation cases. Recruiting, as part of the establishment of the DEO/Director, legally qualified persons will not be a satisfactory arrangement as reasonable career prospects cannot be ensured for them. They would soon become a frustrated lot. The Law Officers could be positioned on deputation basis and

withdrawn when there is inadequate work load or given longer jurisdictions, to support 2 or more DEOs."

(5) The sanctioned and posted strength of officers and staff at different levels, during the last ten years is shown below:

Year	Gp A GEO		Gp B ADEO		Gp B		Gp C (14 cate.)		Gp D (8 cate.)	
	A	P	A	P	A	P	A	P	A	P
1981	116	90	29	22	30	29	071	856	339	334
1982	116	90	24	20	31	29	871	867	339	339
1983	116	96	24	21	31	29	871	871	339	337
1984	116	108	24	24	31	31	871	866	339	333
1985	116	116	24	24	31	31	871	866	339	333
1986	116	116	24	24	31	31	871	859	339	327
1987	138	111	24	24	31	31	871	857	339	327
1988	138	134	24	24	35	33	871	851	339	332
1989	138	128	24	24	35	33	871	862	339	339
1990	138	119	24	24	35	32	871	855	339	352

Gp—Group
A—Authorised Strength
P—Posted Strength (Actual)

(6) The reasons for the shortage of officers have been the following:—

(i) The reluctance of the candidates recommended by the UPSC on the results of the Civil Services examination to join the cadre when allocated.

(ii) Resignations of Officers, on getting other jobs, they consider more attractive.

(iii) Delays in holding DPCs for promotions on account of Court Orders.

The shortages of staff in Groups 'C' and 'D' have been only marginal and only due to the lead time involved in completing the due process of appointment.

Inadequate staff/officer strength can be remedied by authorising more personnel, on the basis of a critical study. The Establishment Study Team of the Ministry of Finance has still to complete the requisite study."

7.12 The Committee enquired when and at what level the matter was referred to the Ministry of Finance (Department of Expenditure) for taking up the study for staffing structure of DEO's office on the basis of current workload and what was the outcome. To this, the Ministry of Defence in their note stated as follows:

"(i) In 1986-87, DGDE carried out an in-house review of the staff requirements of the field offices of the Defence Estates

Organisation, on the basis of the agreed "norms" of 1969. Proposals for additional staff on the basis of new work-load on land acquisition and litigation were also included.

(ii) Besides, a work study of the staff requirements of the Regional Directorates was conducted by the Establishment Study Team in 1987-88. The recommendations of this study were accepted and a formal sanction issued in June 88, covering the five Command Directorates.

(iii) A proposal for work study of Gps 'B', 'C' and 'D' staff of the field offices was submitted by the DGDE in January 89 which was referred by the Ministry of Defence (Finance) to the Establishment Study Team in April 89 at DFA level. Since the Staff Inspection Unit (SIU) was pre-occupied with studies of other Defence organisations, they agreed to select a few offices of DEOs for spot studies to finalise their staff requirements. However, due to their other pressing commitments, the SIU could not undertake this task. In September 1990, the SIU sought some basic information before they could take up the spot study at Guwahati, Tezpur and Jorhat. DGDE are of the view that the study should commence from Northern Command and Western Command, bacause of the heavy load of litigation, work; in the Eastern Command, such problems are not acute.

(iv) The ministry of Defence has already taken up a cadre review of the Group 'A' posts in IDES which involves an increase of group 'A' posts from 138 to 229. The proposal has been examined initially by Defence (Finance) and it is being further processed in the light of the observations made by finance.

A cadre review of the subordinate staff is also in hand. A draft propoal in this regard has been formulated and discussed with Defence (Finance). This exercise will also be completed on priority basis."

Delegation of Powers

7.13 The power delegated for according financial sanctions in the matter of requisition and acquisition of property as fixed in 1978, are shown below:

Designation of Officer	*Financial limit*
Assistant Director General/Deputy Director	Rs. 5 lakhs
Deputy Director General/Director	Rs. 10 lakhs
Director-General	Rs. 1 crore

7.14 The Ministry in a note to the Committee stated that present

delegation is not adequate because of the progressive escalation in the cost of lands and buildings, the inflation and the new elements in the compensations to be awarded, from 1984 onwards.

It was also stated that the Formation Commanders were delegated powers to requisition and hire immovable properties. The powers delegated were as under:

HIRING AND REQUISITIONING OF IMMOVABLE PROPERTY COMPETENT ADMINISTRATIVE AUTHORITIES:

Designation of Officer	*Financial Limit*
(a) GOC-in-C/equivalent Naval Commander/AOC-in-C	Rs.50,000/-per property
(b) Commander of a Corps, Division/ Area, Indep Sub-Area or Indep Bde Gp/ equivalent Naval/Air Force Commander	Rs.25,000/-per property
(c) Commander of a Bde, or Sub Area/ equivalent Naval/Air Force Commander.	Rs.5,000/-per property

These powers both for hiring and requisitionship are calculated as follows:

(a) Initial amount of non recurring compensation, if any, plus one year's rental/recurring compensation.

(b) The term 'per property' means immovable property i.e., land/buildings hired or requisitioned at a point of time for the same purpose irrespective of the fact whether the property/ properties is/are owned by one person or more persons.

Practically all the cases of hiring and requisition of properties have been done under these delegated powers as rarely a need arose to raise the case to the Government's level. Thus, the lands shown as requisitioned or hired are practically all under the powers of the Formation Commanders. Those lands are the sum totals of a large number of cases. When such requisitioned lands are to be acquired it is with the specific approval of the Government, as no power has been delegated for acquiring land.

7.15 The Ministry further stated that during the Emergency declared in 1962 and 1971, powers had been delegated to the Formation Commanders to sanction requisition of lands and buildings to meet their locally perceived immediate requirements. After the RAIP Act was amended in 1985 to provide an upper limit of 17 years to hold property on requisition, it was also decided too withdraw the powers given locally. Consequently, decisions on the need to requisition any property were taken at the level of the Government. Even in this regard, decisions to requisition property are taken only in consultation with the Ministry of Urban Development which

is the nodal Ministry in matters regarding the AIP Act. in view of instructions issued by Ministry of Works & Housing on 25th April 1985.

7.16 During evidence, director General Defence Estate informed that delegation of financial powers to Formation commanders for requisitioning and hiring of immovable properties was laid down in 1962.

7.17 Enquired what enhanced delegation of financial powers was currently needed, the Ministry of Defence in their note to the Committee stated as follows:

> "After the cost is estimated on the basis of revised methods and, when the compensation is to be approved (in the case of acquisition by recourse to RAIP Act) the financial power of Joint Director DE/Director DE and the Director General DE should be raised to a margin within 40%, 75% and 100% respectively beyond the cost reflected in the administrative sanction. In the cases of enhancement higher than these, the approval of the Government could be taken.
>
> If the scheme of negotiated Awards, by recourse to section 11(2) of the LA Act, is brought into application, in respect of acquisition in which the financial effect is less than Rs, 10 lakhs, the DEO together with an authorised representative of Department of Defence (Finance) (an AFA) and the Collector could be authorised to settle the compensation. Where the financial effect is between Rs. 10 lakhs and Rs. 1 crore, the Joint Director DE, the Collector and a representative of the Department of Defence (Finance) (a DFA) could be authorised to settle the compensation. Where the amount of compensation exceeds Rs. 1 crore but is less than Rs. 5 crores, the consent award could be negotiated by Addl. DG, DE or the Director, DE, the collector and a representative of the Department of Defence (Finance) (an Add. FA/Director). In all other cases, the approval of the Government should be taken.
>
> In all cases of enhancement of compensation, on the orders of the Distirct Court/High Court/Supreme Court, the enhanced element (including interest) could be deposited in the Court by the Director, DE and the Command Hqrs could authorise payment under "Suspense Head" pending receipt of revised sanction, if no stay order against the judgement of the Court is available could be had on the appeal, if any, filed. Where stay order is obtained, the disbursement will be withheld. The Court may be requested to take adequate security if the amount deposited is to be disbursed when an appeal is pending. When the appeals are disposed of, the payment made from "Suspense Head" could be appropriately adjusted. This will reduce the accumulating interest which is at 15% per annum and also the same need for the attachment of property and its possible subsequent auction which invariably

fetches very small price. Within such a modified approach, it is likely that there will be reduced incidence of Contempt proceedings, which are initiated as a co-ercive measure against the Govt."

Encroachments

7.18 The Ministry of Defence in a note submitted to the Committee stated that encroachments and consequent problems are not exclusive to defence lands. These are there also on the lands of the State Governments/Railways/CPWD/Development Authorities like DDA, etc. and of the local bodies in Bombay, Calcutta, Delhi, Madras etc. and in respect of all large owners. None the less, the Ministry seriously intend to explore all possible avenues of improved management.

7.19 The Ministry informed the Committee that as on 1st January 1990, there were 29,188 encroachments on Defence lands under the management of the DEOs and the Cantonment Boards, scattered all over the country. These involve an area measuring 3715 acres. Some of the abandoned air fields and camping grounds had been placed under the management of the District Collectors and they had leased out some of them for agricultural purposes. These lands were taken back from the State Governments in mid 1950s, along with the encroachments. The encroachments on the camping grounds are mostly by way of unauthorised cultivation of land. Due to changes in the Government policy on leasing out the temporarily surplus defence lands for agricultural purpose, which now envisages leasing of the lands basically to the Ex-servicemen, some of the earlier cultivators of the lands became ineligible. The policy that had been in vogue since 1973 does not permit regularisation of leases in their favour. However, instead of handing over the lands under their cultivation some of the old lesses resorted to litigations interalia contending that such lands were not required for defence use. Some of the encroachments are of a recent origin.

Land under enroachment

Data in respect of encroachments on defence land under the management of DEO/CEO for the years 1980, 1985 and 1990 is as under:—

Year	Total No. of Encroachments	Area in acres
31st Dec., 1980	15392	Not readily available
31st Dec., 1985	26064	3477
1st January, 1990	29188	3715

The total number of encroachments as well as the land covered there-

under has been varying from year to year because some old encroachments are removed and some fresh encroachments are detected.

Data regarding encroachments on the lands held by the Users (Army, Navy, Air Force, Ordinance Factories etc.) is not readily available.

1996 encroachments covering an area of 209 acres were detected during the period 1st January 1989 to 31.12.89.

Factors contributing to encroachments

7.26 (1) In many instances like temporarily surplus defence lands, camping grounds, abandoned air field etc. the Ministry is an absentee landlord. When the federal system of administration was introduced (with the Government of India Act, 1935) lands which were the property of the Government were apportioned between the Provincial and Federal Governments as mandated in Sec. 172 of the Act. Some areas (e.g. camping grounds) which are then in actual occupation of the Army were reserved for defence use. But there was no meaningful management. The Collectors of the districts had given some of these on leases and many got encumbered with encroachments. When there was no air Force presence the abandoned air fields became prey to encroachments. Clusters of encroachments, initially, came up in some places as a result of socio-political problems: eg.

(i) during refugee influx in various areas,
(ii) when people were displaced by natural calamities like floods;
(iii) large number of homeless labourers who came as construction or other workers during the expansion of the Forces from the 60s came to occupy nearby sites;
(iv) with the eviction of occupants of the Servants Quarters and agricultural sites on the resumption of the Old Grant/lease sites for defence purposes;
(v) overstyayal of agricultural lessees/non-renewal of the leases;
(vi) encroachments following restrictions imposed on Old Grant sites on construction/reconstruction;
(vii) lack of adequate vigilance at the stage of encroachment;
(viii) inadequate manpower to keep watch and lack of men and material, and police/magisterial help to enforce law and order during removal of encroachers;
(ix) stay orders being given by Courts, in deviation of the provisions of the PP Act 1971, on the enforcement of eviction orders;
(x) stay orders being given at the Government's level when eviction proceedings are under execution;
(xi) the principle that has come to be socio-politically accepted during the past two decades that rehabilitation of encroachers is an obligation and that rehabilitation should procede removal of encroachment;
(xii) organised colonisation and social resistance; and

(xiii) most of the defence lands are not fenced.

(2) Due to economic problems, labour migrate to urban areas from the rural areas. Such migration is more pronounce in metropolitan cities and industrial towns. This leads to development of slum/jhuggi-jhonpri colonies in the concerned city/town. The adjoining cantonment cannot remain isolated from the said development and the encroachments spill over the adjoining Cantonments. Encroachments in Bombay, Kanpur etc. are due to this.

State Enactments/Cooperation

7.21 As a welfare measure some of the state Governments have passed enactments conferring lease hold/patta rights on the encroachers upto specified date, eg. in Madhya Pradesh. These enactments contain provision for taking action against the officers who may evict the encroachers. The encroachers in the Cantonments claim the same benefits even though MOD's policy does not permit such concessions/regularisation.

Police/State Law enforcing authorities do not bestow adequate enthusiasm in removing the encroachments.

steps taken to prevent unauthorised occupation

7.22 In July, 1983 instructions were issued that all defence land in Cantonments which were prone to encroachments should be identified by the local military authorities and the DEO, by joint inspection. It has been specifically stated in this letters (i) that land around and adjacent to schools, railway stations, cinema houses, bus stops and religious places generally attract encroachers and that preventive measures should be adopted for use of such lands for the purposes compatiable with the type of institution to which the land adjoins.

(ii) In case of encroachments by institutions/places for ostensible religious purposes, if the encroachment cannot be got removed immediately with the assistance of the local civil authorities, the encroached area should be immediately fenced so as to contain the encroachment.

(iii) strips of land in Cantonments should be used gradually for intensive tree planting. Where the area of land is so large that intensive tree planting is not possible without special staff and provision of funds, trees should be planted on the entire exposed periphery of the land to protect it form squatters.

(iv) Inspection of the entire land under their management is to be carried out by the DEOs regularly every year either personally or through their senior technical staff. To ensure this, every visit of the DEO or of his technical staff to an out station should be utilised partly for inspection work.

Instructions also exist for deputing a squad of officials by the DEOs for

the detection and removal of new encroachment on the land under their management. Such lands are required to be divided into sectors which are to be inspected by the squad and the result of the inspection in respect of each survey No. in this sector is to be entered in a register maintained for the purpose.

Removal of Encroachments

7.23 Encroachments from defence lands can be removed by resorting to the provisions of PPE Act 1971. Under the Act the Station Commander, the Defence Estate Officer and the Cantonment Executive Officer have been declared as the 'Estate Officer' in respect of lands under their management. The Act has been amended from time to time so as to confer more powers on the Estate Officer. Encroachment on public lands has been made a cognizable offence and powers have given to the Estate Officer to file an FIR for the arrest of the encroacher in a repeat case. Some encroachments can also be removed by recourse to Sec. 191(2) of the Cantonment Act, 1924.

The major difficulty experienced in the removal of encroachments on defence land is the non-availability of adequate police/magisterial help. The law and order enforcing agencies are normally busy in more important work of maintaining law and order, elections, security of VIPs etc. and they do not attach priority to such work. It has also been the policy of the Government to arrange alternative rehabilitation of encroachers before they are evicted from lands. State Governments do not come forward to undertake rehabilitation of encroachers from defence lands unless substitute sites/cost of accommodation is deposited in advance. The Courts also frequently intervene on the side of the encroachers.

Staff Involvement

7.24 Action against an erring official can be taken only after his involvement, or connivance in abetting encroachments is established. No such case has so for been established against any official.

Review of Encroachments

7.25 The Ministry of Defence, through their letter of 17th October, 1985, has conveyed decision/directions that a review of encroachments on non A-I land (i.e. land not in active occupation of Army, Navy, Air Force) should be carried out Cantonment-wise by a team of officers, comprising the Station Commander and the DEO concerned. This team is required to give recommendations as to which encroachments should be cleared and which may be allowed to continue (regularised) with reasons.

7.26 In regard to details of recommendations regarding regularisation of encroachments made by the Team of Officers, Cantonment-wise, the

Ministry of Defence have in note submitted in February, 1991, stated the position as under:—

"In an internal meeting held in the Ministry of Defence in 1985, a view was expressed that if certain enroachments on lands under the management of the Services/DEO cannot be removed, and are better regularised in situ, suitable proposals could be submitted to the Govt. for necessary action. No definite proposal on these lines for regularising the unauthorised occupancies has been received so far. In the Secunderabad Cantonment, some unauthorised Harijan colonies had come up on defence land. A proposal to regularise these encroachments and to give alternative land by the State Govt. to the Centre was accepted in principle, by the Government of Andhra Pradesh. The proposal is being pursued."

7.27 Explaining the difficulties in the removal of encroachments, the Quartermaster General, army headquarters stated during evidence:

"Basically the mode of encroachment is a subject which is dealt with by the local Governments. In the present situation as it is, we really do not get any guidance or assistance to get the encroachments removed and therefore the question continues to remain, as it is at the moment."

7.28 In a note on the need for further administrative and legal measures required to prevent encroachments on defence land as promised during evidence, the Ministry of Defence have stated as follows:

"Administrative vigilance to enclose and protect Government lands appears to be the basic pre-requisite for protecting defence land from encroachment. The cost of maintaining such vigilance would be very high. This is on account of the vast area comprising defence land especially in the form of ranges, training facilities etc. Enclosing such areas with perimeter walls, fences etc. or otherwise guarding them at all times will call for very sizeable investments. Within the limitations imposed by resources, vigorous efforts are made on a continuing basis to prevent encroachments on defence lands. Though the number of encroachments is rather large, the area affected (3715 acres) is a small proportion of the defence land holdings. The vigilance of the defence forces and the rest of the official machinery and the continuing efforts to remove encroachment account for the relatively moderate losses on account of encroachments as far as defence lands are concerned.

(2) As far as further administrative steps for combating the menace of encroachment is concerned, these fall into two categories: preventive measures to thwart new encroachments and punitive steps to throw out unauthorised occupants from defence lands. In the first category, we already have a fairly vigilant and effective machinery for closely watching defence lands from encroachment. A totally foolproof system looks somewhat beyond our immediate capability on account of the substantial

additional costs on materials, equipment and manpower. Nevertheless, efforts would be made to identify specially vulnerable lands for social protective measures. Administrative instructions would be issued to all concerned to identify areas which are prone to encroachment and to keep a special vigil in such areas. Administrative action would also be taken against officials whose negligence might be a contributory factor in permitting encroachment in the first place and for not pursuing timely/ effectively steps for getting existing encroachments vacated.

(3) Removal of encroachers from defence land involves recourse to legal remedies. Presently, the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 is not applicable to properties of Cantt. Boards. A proposal has been made by the Ministry of Defence to amend the Act so as to make it applicable to the Cantt. Boards by inserting a sub-clause (4)2 Section 2(e), as under:

> ...for any premises belonging to or taken on lease by or on behalf of any Cantt. Board constitute under the Cantt. Act 1924 or placed under the management of or vested in any such Cantt. Board...'

The Ministry of Urban Development has been reminded to take further action to amend the relevant Act. Proposals have also been made to empower Estate Officers to requisition and secure Police assistance to enforce eviction of unauthorised occupants and to provide for adequate penalties to encroachers, to deter them from encroachment.

(5) In the prevailing social and economic milieu in our country, removal of encroachments has been rendered difficult not so much on account of inadequacy in the provisions of law as the compelling public pressure on the authorities to refrain from eviction action. In most cases, removal of encroachment would call for provision of some alternative land to the encroachers for their resettlement/rehabilitation. Public authorities, especially the Ministry of Defence, find it hard to locate alternative land to resettle the encroacher nor is it practicable to find resources to acquire suitable land elsewhere to be offered to encroachers. In most cases where eviction action had been initiated, interventions on behalf of encroachers have stalled the proceedings for long periods of time, in some cases running into decades. In the long run, a combination of higher levels of vigilance against encroachments, more rigorous implementation of existing laws, certain modifications to the existing law to fill certain gaps and a climate of opinion in the country favouring effective measures against encroachment will be required to protect defence lands from the perils of encroachment."

Conclusion

7.29 The Committee are informed that after assuming the possession of the land, the Estate Officers are required to carry out the work of erection of boundary pillars, preparation of plan on a suitable scale and drawing of a description of the boundaries of the land under rule 10 of the Rules for

the Acquisition, Custody, Relinguishment etc. of Military Lands in India (A.C.R. Rules), 1944. On completion of the above process, a copy of plan and description of the boundaries of the land after verification by a local Committee consisting of Military authorities and Revenue Officer, accompanying the proceedings of the Committee, is also required to be forwarded to the Revenue Officer of the State Government for record. It has been admitted before the Committee by a representative of the Ministry that in a number of cases of acquisition these works are yet to be done.

Recommendation

7.30 As the verified land plan with boundary description is the elementary requirement for ownership proof of the land belonging to the Defence Services, the Committee recommend that work on the preparation and verification of boundaries of the remaining cases of land acquisition should be taken up and completed on priority basis. The Committee would also like to be apprised within six months of the progress achieved by the local Defence authorities in clearing the arrears in this regard.

Conclusion

7.31 The Committee are informed that the current strength of DEO's establishment is based on the assessment of worked in 1968-70 conducted by the staff Inspection Unit of the Ministry of Finance. The Committee are furtner apprised that the present staff strength of DEO is inadequate in view of present magnitude of land acquisition work including pursual of court cases. The Committee note that presently 10,300 Cases of litigation in District Courts, 1459 cases in High courts and 718 cases in the Supreme Court are stated to be pending. However, despite repeated requests, the Department of Expenditure have not ordered a fresh work study of DEO. The Committee also note that there is paucity of legally qualified staff in DEO to deal with court cases which has resulted in large number of Execution Petitions and Contempt of Court Proceedings for payment of enhanced compensation. The committee view this unfortunate development with deep concern.

The Committee fully endorse the view of the Ministry of Defence that 'for dedicated legal support on matter connected with compensation, it is desirable that at each Directorate and in the offices of DEOs having large number of Reference/Appeal cases, an officer of the Ministry of Law or the legal Department of the State Government, should be provided on deputation basis.'

Recommendation

7.32 The Committee recommend that pending a detailed work-study by the Staff Inspection Unit of the Ministry of Finance (Department of Expenditure), the Ministry of Defence should identify the additional staff requirements of the DEO on the basis of the analysis by Establishment Study Team and other cadre reviews and formulate specific proposals for

necessary financial sanctions. The Committee feel that already much time has been lost and situation has reached a sorry pass. They are of the strong view that there should be a no further delays in according necessary financial sanction for required additional staff. The Committee, therefore, recommend that the Government in the Ministry of Finance Should accord necessary financial sanction keeping in view specific needs of DEO and urgency deserved in the matter. The Committee may be apprised of the action taken in this regard.

Conclusion

7.33 The Committee feel that delegation of financial powers laid down in 1962 for hiring and in 1978 for requisition and acquisition of immovable property and delegeted to the Joint Director, Director and the Director General have lost relevance in 1991 because of the escalations that have taken place in the cost of lands and buildings and the consequential increases in the elements of compensation and rent.

Recommendation

7.34 The Committee are of the view that a review of delegation of financial powers to officers of DEO establishment is overdue and therefore, desire that such a review be conducted expeditiously in regard to powers vesting at different levels in regard to all matters of requisitioning and acquisition of properties both under RAIP Act and LA Act. The Committee consider a simultaneous corresponding enhancement in financial powers delegated to Formation Commanders, in the matter of hiring of immovable properties, is also warranted keeping in view the inflationary impact.

Conclusions

7.35 The Committee note with concern that encroachments on Defence Land have been increasing year after year. According to the Ministry of Defence the number of encroachments on Defence Land under the management of DEO/CEO have increased from 15392 in December, 1980 to 29188 in January, 1990 covering an area of 3715 acres. During 1989 itself 1986 encroachments covering an area of 209 acres were detected by Ministry of Defence. Even as old encroachments are removed, new encroachments continue to take place. Consequently, the total number of encroachments as well as the land covered thereunder goes on increasing from year to year.

According to the Ministry of Defence, the area of defence land under unauthorised occupation (3715 acres) is a small proportion of the total Defence land holdings. The Committee, however feel that loss of even a few acres of prime land in metropolitan city like Bombay is a matter for concern as land requirements of Ministry of Defence are increasing and alternative vacant land is not easily available.

7.36 The Committee are apprised that in general encroachments on public land are a result of growing pressure of population in urban areas as

more and more labour migrants from rural areas to metropolitan cities, industrial towns and Cantonments. Moreover, socio-political environment in the country is also responsible for large scale encroachments on public lands. However, in regard to Defence lands, there are certain special reasons which explain the proneness of Defence land to unauthorised occupation. Firstly, the Ministry of Defence being an absentee landlord have no meaningful presence in case of temporarily surplus Defence land, camping grounds, abandoned airfields. Secondly, these lands are mostly unfenced and scattered. The other factors contributing to this situation are lack of administrative vigilance at the stage of encroachment, limited resources and inadequate manpower in keeping watch and ward, and organise colonisation as well as social resistance to eviction. The Committee have also been informed about the difficulties countered in prevention as well as removal of encroachment on Defence land due to non-cooperation of police/State law enforcing authorities, frequent intervention by the Courts on the side of encroachers and the inability of Ministry of Defence in arranging alternative rehabilitation of the encroachers before their eviction, which is mandatory under the policy followed by various State Governments. The Committee also note that specific laws have been enacted in the States protecting the interests of encroachers vis-a-vis authorities seeking to evict them from public lands.

7.37 The Committee note that in order to prevent encroachments, instructions exist for identification of land prone to encroachments in Cantonments, fencing of area under encroachment to contain fresh encroachments, afforestation of vacant strips of land in Cantonments, annual inspection of land by DEOs and deputing of a squad of officials of DEOs for detection and removal of new encroachments onlands under their management in the Cantonments.

7.38 The Committee are concerned to note that encroachments on Defence land are on the increase even though legal provisions have been made for treating unlawful occupation of public premises as a cognizable offence and even though powers have been given to the Estate Officer to file an FIR for arrest of the encroachers in a repeat case. The Committee have a feeling that the Ministry of Defence have not been paying adequate attention to prevention and removal of encroachments on Defence lands. Moreover the view of the Committee that all these years management in Defence land has been accorded low priority over the years, gains strength from this state of affairs.

Recommendation

7.39 In the opinion of the Committee the proposal of the Ministry of Defence to empower Estate Officers to requisition and secure police assistance for eviction of unauthorised occupants and to provide adequate penalties for encroachers, merit favourable consideration by the Ministry of Urban Development. The Committee also desire the Ministry of Urban

Development to finalise early, the proposal of the Ministry of Defence to extend the provisions of Public Premises (Eviction of Unauthorised Occupants) Act, 1971 to Cantonment Boards.

Conclusion

7.40 The Committee are informed that in October, 1985, the Ministry of Defence issued instructions to the effect that if certain encroachments on lands not in active occupation of Services cannot be removed, a review should be carried out Cantonment-wise, by a team of officers as to which encroachments should be cleared and which may be regularised. However, so far no definite proposal on these lines has been submitted to Government, except in case of Secunderabad Cantonment. While the Committee welcome the realistic approach adopted by the Ministry in this regard they regret to observe that there has been no follow-up action.

Recommendation

The Committee desire the Ministry of Defence to examine the legal and other implications of instructions issued for regularisation of encroachments on Defence lands not in active use of Services in the light of different State Laws in operation for the welfare of encroachers and also keeping in view the principle of equity which enjoins upon the Government to follow uniform approach throughout the country.

CHAPTER VIII

LAWS GOVERNING LAND ACQUISITION

8.1 The following legislations are being invoked for acquiring land for Defence purposes:

(i) The Land Acquisition Act, 1894,
(ii) The Requisitioning and Acquisition of Immovable Property Act, 1952,
(iii) Jammu & Kashmir Land Acquisition Act, 1990,
(iv) Jammu & Kashmir Requisitioning and Acquisition of Immovable Property Act, 1968,
(v) If the proposal for acquisition of land involves forest land, the clearance of the Ministry of Environment and Forests is necessary, as per the provisions of the Forest (Conservation) Act, 1980, for diversion of forest land for non-forest purposes.

8.2 The Ministry stated that in the past recourse was also taken to the following laws for the acquisition of land:

(i) The Defence of India Act, 1939 (DI Act, 1939)
(ii) The Defence of India Act, 1962 (DI Act 1962)
(iii) The Defence of India Act, 1971 (DI Act, 1971)
(iv) The Rajasthan Land Acquisition Act, 1953 (Rajasthan LA Act, 1953).

8.3 The DI Acts became inoperative with their repeal. The Rajasthan LA Act, 1953 became inoperative from the 1st January, 1987, when it was substituted with the Central LA Act.

8.4 Following is the list of some Central Laws for acquisition of land for special purposes in the country furnished by the Department of Rural Development:

1. The Coal-Bearing Areas (Acquisition and Development) Act, 1957.
2. The Land Acquisition (Mines) Act, 1885.
3. The Government of India Act, 1935.
4. The Defence of India Act, 1939.
5. The Requisitioning and Acquisition of Immovable Property Act, 1952.
6. The Defence of India Act, 1971 (Later Defence of India and Internal Security of India Act, 1971).
7. The Petroleum and Minerals Pipelines (Acquisition of right of user in Land) Act, 1962.

8. The Indian Railways Act, 1890.
9. The Indian Telegraph Act, 1885.
10. The Indian Works of Defence Act, 1903.
11. The Indian Electricity Act, 1910
12. The Indian Tramways Act, 1886
13. The Resettlement of Displaced Persons (Land Acquisition Act, 1948.
14. The Slum Areas (Improvement and Clearance) Act, 1956.
15. The Urban Land (Ceiling and Regulation) Act, 1976.
16. The Ancient Monuments and Archaeological Sites and Remains Act, 1959.
17. The Atomic Energy Act, 1962.
18. The Cantonment Act, 1924.
19. The Damodar Valley Corporation Act, 1948.
20. The Indian Forest Act, 1927.
21. The Metro Railways (Construction of Works) Act, 1978.
22. The States Re-organisation Act, 1956.
23. The Ancient Monuments Preservation Act, 1904.

8.5 The due process of law for dispossession of land, for awarding and disbursement of compensation, and the judicial reliefs available to the aggrieved/dispossessed persons are thus variable under the different laws. In the context of such a large number of statutes governing acquisition of land and keeping in view the requirements of equity, the Committee enquired whether principles governing award of compensation should not be the same throughout the country and whether the Department of Rural Development favoured to at least have one single Central law to govern acquisition of immovable property in place of the present two statutes, viz. Land Acquisition Act, 1894 and RAIP Act, 1952. The Department replied:

> "The Department fully and strongly supports the view that there should be one single statute to govern acquisition of land/property in the entire country so that land losers receive similar treatment. Besides the L.A. Act, 1894, there is not only RAIP Act, 1952 but there are a large number of other Central and State laws in operation which have provisions with regard to procedure of acquisition and norms of compensation as less favourable than those of L.A. Act, 1894. In some States, there are as many as five different laws for acquisition of land. This creates immense confusion among the land losers and causes hardship to them. Accordingly, the Department has been impressing upon the Central Ministries/States from time to time either to repeal their laws which provide for acquisition of land or amend them so as to,

bring them in line with the Land Acquisition Act, 1894, as amended, which reflects the national policy on acquisition of land in the country. This is all the more necessary because after amendment of the Act in 1984. The scope of "public purpose" has been considerably elaborated and as such practically all categories of acquisitions for whatever public purpose can be covered within its ambit. Therefore, there is no rationale at all for having multiplicity of laws for acquisition of land for public purpose. In the consensus arrived at in the Land Acquisition Conference held in July, 1989 State and Central Agencies were urged to repeal/ carry out the desired changes in their acquisition laws in line with the amended Land Acquisition Act, 1894 positively within a period of one year failing which the Central Govt. may consider making a legal provision in the L.A. Act to the effect that its provisions will prevail over other laws on the subject.

The Department, therefore, strongly feels that multiplicity of acquisition laws work to the detriment of affected land holders and a single acquisition law would serve their interests better."

8.6 Explaining the constitutional position during evidence, the Secretary of the Deptt. of Legal Affairs stated: "The subject matter of this legislation figures in the Concurrent List which means the Union Government cannot prevent the States from making their own laws.

The Union law shall prevail where the State law is repugnant to it. If the President assents to a State law which has been reserved for his consideration, it will prevail notwithstanding its repugnancy to an earlier law of the Union."

8.7 Explaining the objectives of the Land Acquisition Act and the RAIP Act, the Secretary of the Department of Legal Affairs stated:

"The Land Acquisition Act is an Act which can be operated both for the purposes of the Union and State purposes. The Central enactment of 1952 is only for the requisitioning and acquisition of immovable properties for the purposes of the Union. So, there is no way that we can blend these two in their present form. We can examine these acts and see whether we can really combine these two.

On the face of it, one Act is for the purposes of the Union and the other is for any public purpose. They occupy two different fields. Apart from this, these are seven or eight basic differences between the two Acts. (See Annexure)."

ANNEXURE

(See para 8.7 of the Report)

A perusal of the provisions of the Land Acquisition Act, 1894 (herein after referred to as the "1894 Act") and the Requisitioning and Acquisition of immovable Property Act, 1952 (hereinafter referred to as the "1952 Act") suggests, broadly, the following points of differences between the two Acts, as indicated in a note furnished by the Ministry of Law and Justice (Department of Legal Affairs to the Committee:

(1) Both the 1894 Act and the 1952 Act are relatable to Entry 42 of List III-Concurrent List-of the Constitution. The 1894 Act can, however, be amended by the States also. A number of States have come up with such amendments to the said Act. The 1952 Act can only be amended by the Centre.

(2) The 1894 Act deals basically with acquisition of 'land' defined in Section 3(a) thereof. The 1952 Act deals with requisitioning as well as acquisition of 'property' defined in Section 2(g) thereof.

(3) Acquisition under the 1894 Act can be by both the Central and the State Governments. Acquisition under the 1952 Act is only by the Central Government.

(4) Under the Land Acquisition Act, 1894, land can be acquired for a public purpose which has been inclusively defined in Section 3(f) thereof. There are also provisions for acquiring land for companies.

Under the 1952 Act, an immovable property can be acquired for a public purpose, but the said purpose is only restricted to the purpose of the Union under Section 3(1) thereof.

(5) Part VI of the 1894 Act deals with temporary occupation of land. Section 35(1) thereof provides for temporary occupation of waste or arable land for a period not exceeding three years.

Under the 1952 Act, an immovable property can be requisitioned for a period not exceeding 17 years from the date of taking possession of such property.

(6) A temporarily occupied waste or arable land under Section 36(2) of the 1894 Act, can be acquired if the same has become unfit to be used for the purpose for which it was immediately used before such temporary occupation and if the person interested in such land so requires.

Under Section 7(3) (a) and (b) of the 1952 Act, a

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requisitioned property can be acquired if works have been constructed thereon during the period of requisition at the expense of the Central Government, and the said Government decides that the value of or the right to use such works should be secured or preserved for purposes of the Government, or if the cost of restoring the immovable property to its condition at the time of requisition would, in the determination of the Central Government, be excessive and the owner thereof declines to accept the release of such property without payment of compensation for such restoration.

(7) The machinery for enforcement of the two Acts is also different. Under the 1894 Act, powers have been delegated by the Central Government to the State Governments under Article 258(1) of the Constitution to exercise functions under all the Sections of the said Act, except Section 55(1) thereof. Accordingly, the State Governments are the "appropriate Governments" by virtue of such delegation within the meaning of the term used in various Sections of the said Act. Sections 4(1), 6(1) and 8 to 17 of the said Act, refer. Also, it is the State Government and its officers such as Land Acquisition Collectors, who conduct the proceedings, to acquire lands under the said Act. An award is passed by such Land Acquisition Collectors in the proceedings.

Under the 1952 Act, powers to requisition an immovable property are exercisable by the competent authority which is a person or authority authorised by the Central Government by notification to perform such functions under the said Act. The power to acquire the property is exercisable by the Central Government itself. Sections 3(1) and 7(1) of the said Act refer. However, under the 1952 Act, compensation for the requisitioned property or the property acquired is either settled through an agreement between the owner and the Central Government or determined by an arbitrator appointed by the Central Government in accordance with the provisions of Section 8 of the said Act.

(8) The procedure of challenging the award and filing appeal is also different under the two Acts.

Under the Land Acquisition Act, 1894, the award of the Collector is challengeable at the instance of an aggrieved person by a reference to court under Section 18(1) of the said Act. When the court has passed a judgement, an appeal lies under Section 54 of the Act, to the High Court, subject to the provisions of the Code of Civil Procedure, 1908 applicable to appeals from original decrees. A subsequent appeal also lies to the Supreme Court, subject to the provisions contained in

Section 110 of the Code of Civil Procedure, 1908, and in Order XLV thereof.

Under the 1952 Act, an order of requisitioning passed by the competent authority under Section 3(2) can be appealed before the Central Government, vide Section 10(1) thereof.

From an award of the arbitrator under Section 8, determining compensation, an appeal lies to the High Court, within whose jurisdiction the immovable property is situate.

(9) There is also difference in respect of the compensation rigime under the two Acts.

Under the 1894 Act, compensation payable for an acquired land is the market value of the land at the date of publication of notification under Section 4(1).

Under the 1952 Act, compensation for acquisition of immovable property is "just" compensation on the date of acquisition. Such compensation is determinable having regard to the circumstances of each case and provisions of sub-section (3) of Section 8. Sub-section (3) of Section 8 provides that compensation payable for any property so acquired shall be the price which the requisitioned property would have fetched in the local market if it had remained in the same condition as it was at the time of requisitioning and been sold on the date of acquisition.

(10) Under Section 23(1A) of the 1894 Act, an amount at 12% per annum is payable on the market value of the land from the date of publication of notification under Section 4(1) to the date of award of the Collector or the date of taking possession, whichever is earlier.

Under the 1952 Act, the property is already requisitioned and required in such a State, the compensation being payable as on the date of acquisition. No such provision in the Act of 1894 exists.

(11) The 1894 Act provides for the payment of solatium at the rate of 30% of the market value of the land in consideration of the compulsory nature of acquisition, vide Section 23(2).

Under the 1952 Act, there is no express provision for the payment of solatium.

(12) The 1894 Act provides for payment of interest at the rate of 9% per annum on the amount of compensation from the date of taking possession till it is so paid or deposited with the Collector. If it is not paid or deposited within one year from the date of taking possession, then further interest at the rate

of 15% per annum on the amount of compensation is payable till it is paid or deposited with the Collector (Section 34).

There is no express provision in the 1952 Act regarding payment of interest.

The question as to whether the features of the two Acts can be combined in a single Act, in so far as the Central Government is concerned, is a matter of public policy, the Ministry of Law and Justice avers.

(13) The 1894 Act also provides for interest @ 9% per annum for the first year and 15% per annum for the period thereafter on the amount of compensation awarded by the Court in excess of that awarded by the Collector from the date of taking possession of the land till and date of payment of such excess compensation into Court (Section 28).

8.8 In this context, the Additional Secretary, Ministry of Defence stated:

"It is desirable to have only one law. Today, the RAIP Act has served certain useful purposes. If there is an enabling provision in the Land Acquisition Act which enables the Defence Ministry to hold land on temporary basis that is good. But it has got a ceiling of three years now. We are of the view that only one law would suffice."

8.9 The Secretary, Department of Rural Development, stated:

"There should be uniformity in the legislation in regard to the acquisition of land."

8.10 The Additional Secretary, Ministry of Urban Development stated:

"We do feel that there are situations in which land is required for temporary periods and that purpose can be served if there is a specific legislation for requsition authority. How long it can remain under requisition and thereafter it will be acquired or not are separate matters. We feel that in all the situations particularly where requisition is involved the Land Acquisition Act will not serve the purpose of the RAIP Act."

8.11 The representative further stated:

"As far as requisition is concerned we do feel that a specific Act for requisition is necessary.

About acquisiton, one could take other position. I think that if there is a specific provision for requisition in the Act it may serve the purpose."

8.12 Dwelling on the question further the Director General, Defence Estate in the Ministry of Defence stated during evidence:

"We would welcome a single Act.

Coming to the question of requisitioning, we welcome incorporation of an appropriate provision. As it stands now, it provides for a temporary occupation. During the course of defence occupation, it may be necessary for them to occupy certain sites and it may also be necessary for us to hold on to that site for some period. If we bring a provision under the LA Act, we can provide for a temporary occupation. It is there is the RAIP Act and it can be done here also. The principles of compensation which is there in the LA Act are used for the purpose of Union only as far as we are concerned. There should be no problem in adopting that."

8.13 He further stated:

"LA Act was created in 1894. As a provincial Government, the Government was taking decision on acquisition at that time. After the Constitution came into force in 1950, when it became a Concurrent subject by an adoptation order, a new Clause was added as 'appropriate Government' and the word 'provinicial Government' was deleted. After that diarchy system came. The Central Government has by a Presidential Notification under Article 258 authorised the State Government to exercise those powers. Even in respect of RAIP Act also the Central Government has got the power but by a notification powers have been vested in the state functionaries. The source is again Article 258. So, bringing a single Act will not be a problem."

8.14 The Additional Secretary, Ministry of Urban Development, stated:

"We would also welcome. As far as the requisition of property is concerned, after de-requisition whenever it is being acquiried, it is being done under the Land Acquisition Act only. It may be even requisitioned under RAIP Act. If there is only one Act we would welcome it."

8.15 The Secretary, Department of Rural Development, stated:

"We are also for a common single legislation."

8.16 In response to a query, the representative informed the Committee that the Department of Rural Development was not requisitioning agricultural land.

8.17 In the context of preceding discussion, the Committee enquired what was the functioning of a nodal Ministry, the Secretary, Department of Legal Affairs stated:

"A nodal ministry in respect of any subject is one to whom the subject is allocated under the Government of India (Allocation of Business) Rules for transacting the business of the Government. Any problem relating to that subject would have to be referred to

that nodal Ministry. Unless that power is delegated to some other Ministry, the nodal Ministry also issues the notifications, if any, under the Act on the subject."

8.18 Asked why there ought to be a nodal Ministry for the acquisition and requisition of properties, the Secretary of Department of Legal Affairs stated:

"In so far as the Land Acquisition Act is concerned, this has to be assigned to some Ministry or the other. Since matters relating to acquisition of land for purposes of the Union have been allocated to the Department of Rural Development, that Department is considered appropriate to handle this Act."

8.19 In this context of the RAIP Act, Additional Secretary, Ministry of Urban Development informed that:

"At that time (when RAIP Act was enacted) the Ministry of Works and Housing was there mainly for the purpose of office building or residential building. That must be the reason why it was made the nodal Ministry. However in 1985, the Ministry of Defence acquired about 8000 acres of land. (while) Only 25 acres of land was acquired for Postal and Telecommunications. All other cases related only to building for office and residential purpose. That may be the reason why Ministry of Works and Housing was the nodal Ministry."

8.20 In regard to operation of the RAIP Act, the Additional Secretary, informed the Committee:

"Its operation has been decentralised. It is not operated by our Ministry. In 1985, an amendment was proposed to the Cabinet that prior approval of our Ministry may be taken. But that was not approved by the Cabinet. As a result it is being operated independently by the various Ministries."

8.21 Commenting upon the reference of the concept of nodal Ministry in the context of RAIP Act, the Additional Secretary stated:

At the moment, it is not serving much purpose."

8.22 Expressive views of the Government on having uniform pattern for Land Acquisition throughout the Union and the States, the Ministry of Agriculture (Department of Rural Development) in a note furnished after evidence have stated:

"This objective can be served only if acquisition of land, whether for Central or State Projects, is done throughout the country under and in accordance with the provisions of the Land Acquisition Act, 1894. In this background soon after the L.A. Act, 1894 was amended in 1984, it was impressed upon the State Govts. and Central Departments to bring their laws dealing with acquisition of land in

line with the amended L.A. Act, 1894. The consensus in the Land Acquisition Conference held in July, 1989 was also that land should be acquired under the L.A. Act, 1894 as amended in 1984 as its provisions reflect the national policy on acquisition of land in the country. Accordingly, it was also recommended that the laws on land acquisition which deviate from L.A. Act should either be replead or brought in line with the amended L.A. Act within one year failing which the Central Govt. may consider making legal provisions in the L.A. Act to the effect that its provisions will prevail over other laws on the subject. The relevant portion of the consensus arrived at in this Conference is extracted below:—

(1) The operation of a large number of laws on land acquisition within the same area having different procedures and norms of compensation create enormous confusion and hardship to the affected land owners. Different land acquisition laws for different public purposes also stand in the way of efficient and expeditious acquisition of land. After the amendment to the Land Acquisition Act carried out in 1984, the scope of public purpose has been considerably elaborated and practically all acquisitions including those for Companies can be covered within its ambit. Covering specific public purpose/public purposes is not considered necessary. Rather efforts are necessary to repeal the existing laws and make Land Acquisition Act, 1894 applicable to all such acquisitions of land which can be adequately covered by its provisions.

(2) A large number of laws on acquisition of land enacted by the State/ Central agencies having different and more unfavourable provisions both regarding procedure of acquisition as well as norms of compensation etc. than those laid down in the Land Acquisition Act as amended in 1984, still exist. Despite the consensus arrived at in the Conference of Revenue Secretaries in 1984, the concerned State Governments/Central Departments have neither repealed these laws nor brought them in line with the more liberal provisions made in the Land Acquisition Act as amended in 1984. The continued operation of these laws without necessary changes adversely affects the interest of land losers, generates avoidable resentment in their mind and affect smooth acquisition of land. The concerned State and Central Agencies may repeal/carry out the desired changes in line with the amended Land Acquisition Act, 1894 positively within a period one year failing which the Central Government may consider making legal provisions in the Land Acquisition Act to the effect that its provisions will prevail over other laws on the subject.

(3) The amendment carried out in the Land Acquisition Act in 1984 represents the national policy on acquisition of land which harmonises the interest of the State with those of the land losers.

There is no reason why affected land losers in some parts of the country should suffer on account of unfavourable provisions of other land acquisition laws made applicable to them. Such a situation is positively discriminatory to them and defeats the objective of the national policy and the mandate of the National Parliament."

Conclusion

8.23 The Committee note that the subject matter 'Land Acquisition' figures in the Concurrent List of the Constitution, which means that both Parliament and the Legislature of any of the States have the authority to make laws on the subject.

The Committee further note that the Land Acquisition Act, 1894 an Act which can be operated both for purposes of the Union and the State purposes. The 1894 Act, can, however, be amended by the States also. The RAIP Act, 1952 is only for requisitioning and acquisition of immovable properties for the public purposes of the Union. The 1952 Act can only be amended by the Centre. However, the Committee are informed by Ministry of Law and Justice that question of combining the two Statutes can be examined even though there are seven or eight basic differences between the two.

The Commiittee are surprised that even though the Land Acquisition Act, 1894 can be operated for the purposes of the Union as well as the States, there is, apart from the RAIP Act, 1952, a plethora of other Central and State Laws in operation having varying provisions regarding procedure for acquisition, time limits for completion of acquisition, principles for determination and disbursement of compensation, amount for damages, and opportunities for judicial reliefs to the aggrieved/dispossessed persons, thus creating woeful confusion among the unlettered land losers. According to the Ministry of Rural Development the Land Acquisition Act 1894 have provisions with norms of compensation more favourable than those available in other Central and State Laws in operation. The Committee are apprised that as per the Land Acquisition Conference held in July, 1989, the State and Central agencies were urged to repeal/carry out the desired changes in their acquisition laws in line with the amended Land Acquisition Act positively within a period of one year failing which the Central Government might consider making legal provisions in the Land Acquisition Act to the effect that its provisions will prevail over other laws on the subject. They also find that both Ministry of Defence as well as Ministry of Urban Development favour introduction of unified law on the subject.

Recommendation

8.24 The Committee recommend that the Ministry of Rural Development should undertake the task of enacting a common law on the subject of requisition and acquisition of land by the Union as well as

States. However before drafting a Bill for this purpose the Committee would expect the Ministry to first undertake an indepth and through study of the various Central and States/Union Territories. Laws and closely interact with the concerned agencies with a view to finding out those features regarding procedure of acquisition, time limits for completion of acquisition proceedings, realistic market value of land, principles of compensation, speedy disbursement, opportunities for judicial reliefs to the aggrieved, statutory provision for rehabilitation grant, resettlement policy and preference in means of livelihood i.e. in employment opportunities, allotment of commercial plots/space etc. and special provisions for lands in tribal areas where transactions of land have not been recorded properly, whch are most favourable and advantageous to the land loser, whereafter such features as are beneficial to the citizen can be blended for drafting a single unified legislation for the purposes of requisitioning and acquisition of immovable property for the Union as well as States/Union Territories.

CHAPTER IX

REHABILITATION GRANTS/RESETTLEMENT SCHEMES

9.1 The Committee have been informed that in recent years, in addition to compensation, the Ministry of Defence have been called upon to pay large "rehabilitaion" grants, considering the facts of the acquisition case. In some cases the Ministry have sanctioned grants based on the mandatory Schemes prepared by the concerned State Government. In some cases lump sum amounts have been paid to each affected family. The Ministry have no guidelines for sanctioning rehabilitation grants as the same relate to the area being acquired, the density of population thereon, the nature of economic activity being carried out by the displaced persons, the quantums of compensation they would receive from the State Government etc. The rehabilitation grant is handed over to the Collector.

9.2 There is no Central legislation making a statutory provision for the allocation of "rehabilitation" grants to the tennants/owners whose lands are acquired for meeting Defence requirements.

9.3. Enquired how the quantum of 'rehabilitation grants' was determined and the role of the Ministry, both in the determination and disbursement of such grants, the Ministry of Defence in a note to the Committee stated:

> "Certain State Governments have laid down norms for rehabilitaion. Fo example, Maharashtra Government has created an entitlement of an area of 2000 sq. ft. according to the rules made under the Resettlement Act 1976, for each displaced family unit. To provide this useable land, additional land for facilities like roads, drains, open spaces etc. are required. Civic and other amenities also have to be provided at the resettlement colonies. Loans for building houses are also given. The MP Government has got the MADHYA PRADESH PARIYOJANA KE KARAN VISTHAPIT VYAKATI (PUNASTHAPAN) ADHINIYAM (MP ACT NO. 10) of 1985. The Ministry of Environment has issued certain guidelines for relief and rehabilitation in respect of persons affected by acquisition of lands for Irrigation and Hydro-electric projects on the lines of those issued by the Department of Energy."

9.4 The Department of Industrial Development (Bureau of Public Enterprises) have also issued certain guidelines on the relief and rehabilitation measures when lands are acquired to set up industrial undertaking.

9.5 According to the Ministry of Defence the affected people in a State expect uniform treatment from the State Government irrespective of the Agency/Department for whom their lands are being acquired. However, there are variations in the approaches followed by the various States. Even within the same State, the State Government may have adopted different approaches at various points of time. For example in Madhya Pradesh, when lands were acquired in Gwalior Morena during 1984-87 a given scale of relief measures was adopted. In 1986-87 a higher level of rehabilitation measures were demanded by the MP Government for the Beircha ranges.

Later, when lands were acquired in the same district (Indore) for Hema ranges still higher scales of relief were demanded.

The relief and rehabilitation demanded, for the sites to be taken at Baliapal in Orissa for the National Test Range and the extension of Interim Test Range are considerably higher than what was provided when land was acquired for the ADGM School and Centre at Gopalpur-on-Sea, a small amount for re-housing the fishermen families. Liberal relief was given for the people affected by acquisition of land in Karwar for Navy. In this, the Government recognised the fact that Karnataka Government was giving State Government land free for the Scheme.

9.6 The Ministry of Defence informed the Committee that they have a say in the determination of the rehabilitation grant in as much as what is placed at the disposal of the State Government is as agreed to between the Centre and the State. The State Governments normally tend to be very liberal, specially if they are not to share the burden. The Ministry of Defence has no role in the disbursement of the grant or in monitoring the use of the grant.

9.7 Details of the rehabilitation grants sanctioned so far by the Government are the following:

(1) F.F.R. Mahajan, Bikaner	—Rs. 89.54 lakhs
(2) Sea Bird, Karwar	—Rs. 735.60 lakhs
(3) Bircha F.F.R	—Rs. 298.80 lakhs
(4) Hema F.F.R.	—Rs. 320.00 lakhs
(5) Vajra Project (Gwalior)	—Rs. 10.00 lakhs
(6) Ahire Village Khadakvasla	—Rs. 47.49 lakhs
(7) Deesa Air Field	—Rs. 14.20 lakhs

9.8 The Ministry of Defence stated that they can play only such role, statutorily, as may be provided in the L.A. Act. In this context, appropriate modification of the Act would have to be considered by the concerned Ministry in consultation with all related departments.

9.9. Expressing their views on payment of 'rehabilitation' grants in addition to payment of compensation without any statutory provisions to that effect, the Ministry of Agriculture (Department of Rural Development) stated:

> "Even though the Central Government does not have any legislation in the matter of rehabilitation of the persons whose lands have been acquired, some State Governments have enacted legislation in this regard.The case of Maharashtra's Resettlement of the Project Affected Persons Act is cited in this regard.
>
> It would be agreed that when land is acquired compulsorily, people are uprooted from their habitat and their livelihood is disrupted. They are not in a position to find alternative means of livelihood. In view of the growing number of such persons, there is a strong demand from various quarters that persons so displaced should be rehabilitated economically and socially. The Department of Rural Development fully supports this demand. It is only appropriate that the cost of rehabilitationn should be borne by the agency for whom land has been acquired and this cost should form part of the project for which land has been acquired. Resettlement of displaced persons is as much a public purpose as the acquisition of land.
>
> The department, therefore, is of the view that a comprehensive rehabilitation package should be evolved by the Central Government for displaced persons and a separate and comprehensive law on rehabilitation of displaced persons should be enacted."

9.10 During evidence before the Committee, the Secretary, Department of Rural Development stated:

> "In the interest of the displaced persons there should be a rehabilitation policy for the whole nation. Actually the Ministry of Welfare is working out a rehabilitation policy for tribals and the Bureau of Public Enterprises is looking into the industrial undertakings, more specifically the Coal Mines. The Forest and Environment Ministry is also working out a policy paper."

9.11 In reply to query, the Director General, Defence Estates informed:

> "We don't have a rehabilitation scheme. We only have to go by the demand. We ourselves don't make rehabilitation."

9.12 Asked to the State their view on the need for a comprehensive Act for rehabilitation of displaced persons, the Additional Secretary, Ministry of Urban Development stated:

> "We will agree to it."

9.13 Reiterating their stand for statutory provisions a uniform policy to protect the interest of displaced persons, the Ministry of Urban

Development/Rural Development, in separate notes furnished after evidence have stated:

Ministry of Urban Development

"In so far as rehabilitation grant and resettlement policy is concerned, it is necessary that certain central policy in this regard is enunciated to protect the interest of displaced persons particularly those affected by large scale acquisitions. Certain sectoral policy like in the coal sector or for irrigation projects has been drawn up but it is necessary that certain uniformity in this regard is worked out and a policy enunciated."

Ministry of Rural Development

"The Deptt. of Rural Development considers a separate and comprehensive legislation on rehabilitation of persons affected by acquisition of land necessary for protecting their interest. If the resettlement or rehabilitation grant is made available to the displaced persons as per the provisions of State laws/rules, there is likely to be no uniformity and the rehabilitation provisions may differ from State to State and may be less favourable in some States while being liberal in others. States may be inclined to justify a conservative scale of rehabilitation on account of financial constraints. Therefore, in order to avoid any disparity in this regard and to ensure that the affected persons irrespective of their location get adequate facilities for their proper rehabilitation at uniform scale, it would be desirable to have a Central law through which alone national norms can be enforced."

9.14 The Committee note that in addition to payment of compensation as per provisions of the Land Acquisition Act, 1894, for the land acquired for Defence purposes, the Ministry of Defence have been called upon to pay 'rehabilitation' grants on varying patterns and in some cases on basis of mandatory schemes prepared by the concerned State Governments. In this connection, the Committee are informed that some Ministries and Departments of the Government of India have already laid down separate guidelines for relief and rehabilitation of persons affected by large scale acquisition on account of location of developmental projects. However, in the absence of any uniform norms in this regard, the concerned Ministry/ Department adopt wherever necessary relief and rehabilitation measures on the basis of guidelines laid down by another Ministry for working out a rehabilitation package for displaced persons. In the case of Ministry of Defence rehabilitation grants have been made as determined by the State Governments in consultation with the Ministry. However, the Committee find that there are variations in the rehabilitation provisions followed by various States. Even within the same State, different scales of relief have been demanded for acquisition of lands in respect of different projects.

The Committee feel deeply concerned over the lack of statutory resettlement measures and dis-uniformity in approach towards alleviation of hardships faced by the dispossessed persons following acquisition of their lands.

9.15 In order to obviate the existing disparities in the relief and rehabilitation measures for persons affected by large scale acquisition of land for projects and ensure resettlement of affected persons in appropriate manner on an equitous basis, the Committee recommend that there should be a proper rehabilitation policy for the whole of country. They, accordingly, urge the Government to have immediate consultations with the States with the objective of enacting an independant and comprehensive Central law in the matter.

NEW DELHI;
March 5, 1992

Phalguna 15, 1913 (Saka)

MANORANJAN BHAKTA
Chairman,
Estimates Committee.

APPENDIX I

LIST OF MEMBERS OF THE ESTIMATES COMMITTEE (1990-91)

Chairman

Shri Jaswant Singh

Members

2. Shri J. P. Agarwal
3. Shri Anbarasee Era
4. Shri Kamal Chaudhry
5. Shri Anantrao Deshmukh
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24. Shri Tej Narain Singh
25. Shri Taslimuddin
26. Dr. Thambi Durai
27. Shri Nandu Thapa
28. Shri P. K. Thungon
*29. Shri K. C. Tyagi
30. Shri Kailash Nath Singh Yadav

Secretariat

Shri G. L. Batra	-	*Joint Secretary*
Shri B. B. Pandit	-	*Deputy Secretary*
Shri K. L. Narang	-	*Assistant Director*

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* Shri K. C. Tyagi has resigned from the membership of the Committee on Estimates with effect from 30th August, 1990.

APPENDIX II

Statement of Recommendations

Sl. No.	Para No.	Ministry/ Deptt.	Recommendation
1	2	3	4
1	1.38	Defence	The Committee find that verified details of land required under each of these categories is not readily available with the Ministry of Defence. Consequently the Committee are unable to ascertain the shortfall of land required under different categories. The Committee cannot comprehend how any meticulously planning in respect of acquisition of land for defence purpose can be done in the absence of relevant basic data. They, therefore, consider it desirable that appropriate action is taken to maintain such data. The committee would like to be apprised of the action taken by the Ministry in this behalf.
2	1.42	-do-	Keeping in view the high cost of creating additional infrastructure and the need for optimal utilisation of existing resources, the Committee feel that it is essential that the scales of land authorisation for different types of units of establishments of Defence Services are fixed taking into account present realities in regard to land use and availability in the country. The Committee, therefore, welcome the revision of Land Norms and hope that these norms will be kept under review on a periodic basis.
3	1.43	-do-	Some of the Cantonments have been encircled by dense urban agglomeration which, as it is, need appropriate lung spaces. The Committee, therefore, recommend a cautious and selective approach in enforcing the proposed cut in regard to such Cantonments. They would expect the defence authorities to liaise with their counterparts in the civilian administration for this purpose.

1	2	3	4
4	1.46	Defence	From a long term perspective the Ministry must acquire as many permanent ranges as it can afford and the circumstances permit. The Committee desire that a long term programme of land acquisition may be drawn and implemented for this purpose. However, at the same time the Committee quite clearly see the usefulness of carrying out the suggested amplifications in the Manoeuvres, Field Firing and Artillery Practice Act, 1938. The Committee are of the firm view that these amendments will not only ease the problem of the Army in the immediate context but will also provide necessary leeway for rationalisation of the ranges at a future date if so warranted by the requirements of the training.
5	1.47	-do-	The Committee further feel that with the existing procedure it might take an unduly long time to complete the identification and acquisition of land for organisation of ranges. They, therefore, recommend that a Special Team may be constituted for reorganisation of ranges for the Services so that it addresses itself to the totality of the problem from identification to acquisition.
6	1.48	-do-	National Test Range is a vital requirement of the country. Unfortunately, for one reason or another the question of its acquisition has been dragging on for the past many years. The Committee desire that position may be reviewed, at appropriately high level, to resolve this problem through mutual discussion amongst all parties concerned.
7	1.49	-do-	Apart from the Defence Services, National Test Range is being utilised also by the other agencies of the Government. They are, therefore, of the view that if this range is going to be used by various other agencies to a substantial extent, then the expense of acquisition and its maintenance should not be left to be borne entirely by Ministry of Defence, the resources of which are already scarce. The Committee desire that the cost of acquiring and maintaining National Test Range should be shared by users on a proportionate basis or through some practicable formula.

1	2	3	4
8	1.50	Defence	Under the Manoeuvres, Field Firing and Artillery Practice Act, 1938 Army are not liable to pay any rent or any other recurring payment to the land owners for conducting field firing in the notified ranges which are either private or State Government lands. The Committee consider this a legacy of colonial rule. They recommend that the Government should give a fair deal to the land holders who are forcibly dispossesed for a specified duration of the year and give them due compensation including damages for crops. The Committee urge that for this purpose, if necessary, relevant amendments may be carried out in the Act in consultation with the State Governments. The Committee would like to be apprised of the action taken by the government in this regard.
9	1.51	-do-	The Committee note that there have been instances where the Ministry of Defence have failed to take timely action in issuing the necessary notification for continuing temporary occupation of land on lease which has created avoidable problems. The Committee are of the view that the time lag between the expiry of lease and its renewal etc. should be cut to the minimum so as to avoid harassment to the land owners.
10	1.52	-do-	The Committee recommend that where Defence Services intend to extend occupation of any land for a further specific period adequate notice should be given to the affected parties. They also expect such cases to be duly monitored by the DGDE.
11	2.39	-do-	While the Committee would like the Ministry to expedite the final assessment of the three Services in regard to lands which are surplus such as abandoned air fields and camping grounds they would like this exercise to be carried out with some degree of finality. All efforts may be made to transfer such lands to the State Governments concerned and other Departments/Public Sector Undertakings of the Central Govrnment. At the same time the Committee desire that the option of disposing of such lands on a

1	2	3	4
			commercial basis needs to be considered seriously and promptly. They would also suggest that some of these lands may be offered to civilian population living in the adjoining areas and having already encroached upon or having access to these lands through the respective State Governments. In case State Governments do not come forward to take over these lands under a time bound programme and on terms reasonably advantageous to the Ministry of Defence, the Committee are of the view that the Ministry of Defence should feel free to either use them for self-financing housing projects for the benefit of retiring Defence personnel through the Army Welfare Housing Organisations or use it for other commercial purposes with the assistance of agencies like L.I.C. and Housing Urban Development Corporation. The Committee also feel that such lands can also be advantageously utilised for rehabilitation of persons displaced from lands which have been acquired by the Ministry in some other locations in consultation with State Governments.
12	2.40	Defence	The Committee recommend that apart from grass-birs at Gwalior other classified forests being maintained by the Ministry of Defence, as a part of various hill Cantonments, should also be considered for transfer to the Ministry of Environment and Forests. However, they desire the Ministry of Defence to keep on maintaining those forest areas where they have been using the land even partially.
13	2.42	-do-	The Committee recommend to the Ministry of Defence that Old Grant sites and lands which are not needed by the Ministry of Defence and also do not pose any danger to their establishments, may be considered for sale to the original allottees or their successors, subject to the verdict of the Supreme Court on appeals on Pune resumption cases. The Committee expect that the Ministry would undertake such an exercise concurrent with progress of cases pending in the Courts of Law.
14	2.43	-do-	As the Committee have been assured by the Defence Secretary, the Government will take an

1	2	3	4
			early decision on the recommendations of the Study Team in deciding about the alternative uses of land which may become available once Military Farms are closed.
15	2.48 (1)	Defence	That Cantonments be treated on the same basis as other Union Territories/Local Bodies are treated in regard to maintenance grants. That the payment of service charge which is 33 & 1/3% of the property tax leviable in respect of its properties owned by Ministry of Defence within the Cantonments should be brought at par with rates at which municipal bodies are entitled to receive service charges in respect of Government of India properties. Further, the payment of entitled gross amount service charges to Cantonment Boards should be made mandatory.
	2.48 (3)		That the Ministry of Defence must enhance the grant-in-aid to the Cantonments.
	2.48 (4)		That Cantonment Boards should be encouraged to identify area which are financially unviable and commercially utilise such areas in the Cantonments as are not likely to serve any Defence purpose.
	2.48 (5)		That the existing homogenous civic areas from old Cantonments like Shillong, Pune, Barrackpore-be identified for ultimately handing them over to the adjoining civic municipalities.
	2.48 (6)		That in the development of civic functions like sewage, water and power etc. in the Cantonment areas there should be greater coordinated and joint planning with the existing civilian authorities of the respective States.
	2.48 (7)		That in order to ease the housing shortage in the Cantonments, the FSI restrictions, building bye-laws and the land use policy be so reformulated as to ensure: (a) optimum utilisation of the scarce resource of land; (b) expeditious urban renewal of the station; (c) decongestion of crowded locality; and (d) planned and regulated development of vacant/ sparsely populated localities.

1	2	3	4
	2.48 (8)	Defence	The Ministry of Defence should evolve a long-term plan for identification and consolidation of military areas within the Cantonments and their ultimate conversion into Military Stations.
16	3.21	-do-	The Committee desire that the question of rationalising and redeploying land and building resources may be pursued vigorously. At the same time Government ought to ponder over the principle of self-financing in the Defence Services to the extent feasible. This, however, can be possible only if funds generated by the Ministry of Defence by sale of surplus land and other assets are permitted to be ploughed back into the Defence Services Estimates through suitable changes in principles of Finance and Accounting or under an informal arrangement with Ministry of Finance. The Committee urge the Government to consider this suggestion with utmost seriousness.
17	3.23	Rural Development	The Committee feel that the timely completion of land acquisition process and speedy disbursement of compensation to the land owners is most essential and, therefore, urge the Government in the Ministry of Rural Development to impress upon the Ministries/Departments to ensure adequate budgetary allocation so that disbursement of compensation and taking over of possession of land after the declaration of award, are not postponed or delayed for any reason whatsoever.
18	3.24	Defence	The Committee desire that requirement of funds for land acquisition should be examined properly so that precise estimates are made thus leaving little scope for any variation between the budget estimates and the actual expenditure.
19	4.40	-do-	The Committee recommend that the Ministry of Defence should work out appropriate modalities for maintaining active liaison with the State Governments in order to ensure smooth and speedy acquisition of land for Defence purposes.
20	4.41	-do-	The Committee note that Punjab is the only State where Government have prescribed a PERT table for

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			monitoring progress of land acquisition cases. The Committee feel that in order to ensure completion of land acquisition within the statutory time schedule of three years the Ministry of Defence ought to strive to see that the example of Punjab is followed by all other States. The Committee, therefore, desire that DGDE should monitor the land acquisition cases on the basis of a PERT table duly dovetailed with the corresponding PERT tables of the project for which land is being acquired. The Government should also take up the matter with the State Governments for making monitoring through PERT technique mandatory in such cases.
21	4.42	Defence	The Committee further stress the need for encouraging the State Governments to establish State and District level Standing Committees to examine land acquisition proposals, on the pattern of those constituted by the State Government of Punjab.
22	4.43	Rural Deve-lop-ment	To ensure compliance with the over-all time limit prescribed under the Land Acquisition Act, 1894, the Committee desire the Ministry of Rural Development to closely liaise with the State Governments and impress upon those State Governments which have yet to specify time limits for completion of various processes of land acquisition work as per the consensus arrived at in the Land Acquisition Conference held in July, 1989. The Committee would like to be apprised of the outcome as the result of the efforts made by the Ministry in this regard.
23	5.47	-do-	The Committee desire the Ministry of Rural Development to examine the various principles adopted by the State Governments for fixation of market value of the land to determine how far these have given rise to prolonged and costly litigations for enhancement in compensation awarded by Land Acquisition authorities. The Committee also call upon the Ministry to suggest ways of removing the existing deficiencies both in the law and procedure, in the interest of the land losers and the State. While examining the matter, the Committee would like the Government to keep in mind the fact that land for the owner is not only an asset but also a mean of

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			livelihood and when he is deprived of the same, he should be suitably compensated for the same. The Committee would like to be appraised of outcome of such an exercise.
24	5.51	Urban Deve-lop-ment	The Committee firmly believe that RAIP Act be amended without any delay so as to provide for payment of solatium in cases where any requisitioned property is sought to be acquired. Howevet, till such an amendment is made, the Committee recommend that owners of the property should be given an option to receive compensation either on the pattern of Requisitioning and Acquisition of Immovable Property Act, 1952 or Land Acquisition Act, 1894.
25	5.53	Defence	The Committee feel that the Land Acquiring Department should explore possibility of entering into a negotiated award as contemplated in Section 11(2) of the Land Acquisition Act. They believe that by entering into negotiated awards the long drawn out legal process for enhancement of compensation and payment of interest for the intervening period, which add up to a considerable amount, can perhaps be avoided. The Committee, therefore, recommend that when the process of land acquisition proceedings is initiated, a Committee comprising the Representatives of the Acquiring Department, and the Land Acquisition Collector concerned should be constituted to hold negotiations with interested persons for settlement of the amount of compensation.
26	5.55	-do-	The Committee desire the Ministry to take all steps considered necessary so as to improve the situation wherein disbursement of compensation to land losers is made after protracted delay. They recommend that as a first step, the Ministry of Defence should seek from the DEOs in the field formations a statement of outstanding cases of payment of compensation to land losers on declaration of the awards and thereafter draw up a programme to liquidate all such outstanding compensation within a fixed time-frame. The Committee also expect the Ministry to devise a scheme with a view to keeping a close watch over the

1	2	3	4
			actual disbursement of the compensation to the land owners.
27	5.58	-do-	The Committee would recommend that instructions may be issued to all Command/Formations/local Defence Estate Oganisations to comply with the guidelines laid down for selection of sites for acquisition.,
28	5.59	-do-	The Committee expect the Ministry of Defence to ensure that the field level officers of Defence Estate Organisation are fully conversant with the rules and regulations of various State Governments governing acquisition of land.
29	6.12	Urban Development	The Committee convinced that a maximum period of six years will be the reasonable time limit for acquiring or releasing the requisitioned properties. The Committee recommend that the RAIP Act, 1952 may be amended accordingly.
30	6.13	Urban Development	The Committee desire that the Ministry of Urban Development who are the nodal Ministry for the RAIP Act, should impress upon all the Ministries/ Departments to take expeditious action for timely release of requisitioned properties. It should be made clear that it is the responsibility of each Ministry/ Department which has requisitioned the properties to ensure that these are acquired only when conditions specified in the Act for acquisition are fulfilled or released from requisition within the period specified in the Act. The Committee desire that in cases where there is delay and the provisions of the Act are violated, apart from releasing immediately such properties the responsibility may be invariably fixed and suitable administrative action taken against the officers found guilty of negligence or apathy.
31	6.14	Urban Development	In order to compensate the dispossessed persons for inflation that erodes the real value of compensation, the Committee recommend that the RAIP Act, 1952 be amended to provide for revision of the recurring part of compensation after the expiry of every three years.
32	6.15	-do-	The Committee also find it reasonable that in accordance with the principles for payment of

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			compensation enshrined in the Land Acquisition Act, 1894 and additional amount as a percentage of the recurring part of the compensation should also be paid to the land owner as solatium because in the opinion of the Committee the land owner is equally helpless in the matter of requisition under RAIP Act, 1952.
33	7.30	Defence	As the verified land plan with boundary description is the elementary requirement for ownership proof of the land belonging to the Defence Services, the Committee recommend that work on the preparation and verification of boundaries of the remaining cases of land acquisition should be taken up and completed on priority basis. The Committee would also like to be apprised within six months of the progress achieved by the local Defence authorities in clearing the arrears in this regard.
34	7.31	Defence	The Committee fully endorse the view of the Ministry of Defence that 'for dedicated legal support on matter connected with compensation, it is desirable that at each Directorate and in the offices of DEOs having large number of Reference/Appeal cases, an officer of the Ministry of Law or the legal Department of the State Government, should be provided on deputation basis.'
35	7.32	Defence/ Finance	The Committee recommend that pending a detailed work-study by the Staff Inspection Unit of the Ministry of Finance (Department of Expenditure), the Ministry of Defence should identify the additional staff requirements of the DEO on the basis of the analysis by Establishment Study Team and other cadre reviews and formulate specific proposals for necessary financial sanctions. The Committee feel that already much time has been lost and situation has reached a sorry pass. They are of the strong view that there should be a no further delays in according necessary financial sanction for required additional staff. The Committee, therefore, recommend that the Government in the Ministry of Finance should accord necessary financial sanction keeping in view specific needs of DEO and urgency deserved in the matter. The Committee may be apprised of the action taken in this regard.

1	2	3	4
36	7.34	Defence	The Committee are of the view that a review of delegation of financial powers to officers of DEO establishment is overdue and, therefore, desire that such a review be conducted expeditiously in regard to powers vesting at different levels in regard to all matters of requisitioning and acquisition of properties both under RAIP Act and LA Act. The Committee consider a simultaneous corresponding enhancement in financial powers delegated to Formation Commanders, in the matter of hiring of immovable properties, is also warranted keeping in view the inflationary impact.
37.	7.39	Urban Development	In the opinion of the Committee the proposals of the Ministry of Defence to empower Estate Officers to requisition and secure police assistance for eviction of unauthorised occupants and to provide for adequate penalties for encroachers, merit favourable consideration by the Ministry of Urban Development. The Committee also desire the Ministry of Urban Development to finalise early, the proposal of the Ministry of Defence to extend the provisions of Public Premises (Eviction of Unauthorised Occupants) Act, 1971 to Cantonment Boards.
38	7.40	Defence	The Committee desire the Ministry of Defence to examine the legal and other implications of instructions issued for regularisation of encroachments on Defence lands not in active use of Services in the light of different State Laws in operation for the welfare of encroachers and also keeping in view the principle of equity which enjoins upon the Government to follow uniform approach throughout the country.
39	8.24	Rural Development	The Committee recommend that the Ministry of Rural Development should undertake the task of enacting a common law on the subject of requisition and acquisition of land by the Union as well as States. However before drafting a Bill for this purpose the Committee would expect the Ministry to first undertake an indepth and thorough study of the various Central and States/Union Territories Laws

1	2	3	4
			and closely interact with the concerned agencies with a view to finding out those features regarding procedure of acquisition, time limits for completion of acquisition proceedings, realistic market value of land, principles of compensation, speedy disbursement, opportunities for judicial reliefs to the aggrieved, statutory provision for rehabilitation grant, resettlement policy and preference in means of livelihood i.e. in employment opportunities, allotment of commercial plots/space etc. and special provisions for lands in tribal areas where transactions of land have not been recorded properly, which are most favourable and advantageous to the land loser, whereafter such features as are beneficial to the citizen can be blended for drafting a single unified legislation for the purposes of requisitioning and acquisition of immovable property for the Union as well as States/Union Territories.
40	9.15	Defence	In order to obviate the existing disparities in the relief and rehabilitation measures for persons affected by large scale acquisition of land for projects and to ensure resettlement of affected persons in appropriate manner on an equitous basis, the Committee recommend that there should be a proper rehabilitation policy for the whole of country. They, accordigly, urge the Government to have immediate consultations with the States with the objective of enacting an independent and comprehensive Central law in the matter.

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Corrigenda to 9th Report of
Estimates Committee
(1991-92)

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Sl No.	Page	Para No.	Line	For	Read
1.	(i)	-	5	Introducton	Introduction
2.	1	1.1(iii)	1	Campling	Camping
3.	5	1.5	26	Leve	Level
..	.	.	26	essily	easily
4.	18	1,52	4	DGOE	DGDE
5.	40	2.41	12	tiitle	title
6.	44	2.48(7)	7	sparcely	sparsely
7.	56	3.24	10	systemic	systematic
8.	92	5.23	17	alternations	alterations
9.	102	5.48	7	status	statutes
10.	108	6.4	1	rationable	rationale
11.	128	7.29	1	Relinguishment	Relinquishment
12.	128	7.31	2	worked	workload
13.	130	7.38	10	from	for
14.	139	8.12	8	is the	in the
15.	141	8.22	6	replead	repealed
16.	142	8.23	5	an Act	is an Act
17.	143	8.24	2	through	thorough
18.	153	2.48	1	Add in the beginning	As regards maintenance of cantonment Boards, the Committee recommend:
19.	154	3.23	8	of possession	the possession
20.	157	6.12	1	Committee convinced	Committee are convinced