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Institute of Public Auditors of India
223, 2nd Floor, 'C' Wing, AGCR Building,
I.P. Estate, New Delhi – 110002
Ph. No. 91-011-23702330, 23702290, 23702318, 23702369
E-mail: ipai.hq@ipaiindia.org ; ipai.hq@gmail.com
Website: www.ipaiindia.org

About the Institute of Public Auditors of India (IPAI)

The Institute of Public Auditors of India (IPAI) was established in 1996, with the Comptroller and Auditor General of India as its ex officio patron, primarily with the objective of spreading public awareness on accountability in governance and tapping the experience and expertise of audit and accounts professionals in assisting public authorities to improve accounting, auditing and financial management practices.

IPAI has established its credentials in the areas of internal audit and investigative examination, regulatory inspections, monitoring and evaluation of programmes/schemes/projects, internal controls and governance appraisals, management consultancy on behalf of the Union and State governments, autonomous organizations and local bodies.

IPAI has a presence across the country through its nineteen Regional Chapters located at Agartala, Ahmedabad, Allahabad, Bengaluru, Bhopal, Bhubaneswar, Chandigarh, Chennai, Guwahati, Hyderabad, Jaipur, Kolkata, Lucknow, Mumbai, Patna, Ranchi, Shimla, Srinagar and Thiruvanthapuram. This network helps IPAI to take up coordinated assignments on regional and all-India basis with oversight from the IPAI Headquarters. Each Chapter is equipped to undertake consultancy assignments and organize training programmes.

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List of abbreviations / Acronyms

CAG	Comptroller and Auditor General of India
DDA	Delhi Development Authority
DILRMP	Digital India Land Record Modernization Programme
GIS	Geographical Information System
L&DO	Land & Development Office
MoHUA	Ministry of Housing & Urban Affairs
NOIDA	New Okhla Industrial Development Authority
SVAMITVA	Survey of Villages and Mapping with Improvised Technology in Village Areas

FROM THE DESK OF EDITOR-IN-CHIEF

India spans a total area of 32,87,469 sq. km., including 1,20,849 sq km area under unlawful occupation of Pakistan and China.[1] Management of this territory by the Central and State governments has significant implications on governance of public interest and public finances. Many of our land management problems are rooted in our colonial legacy. This includes the hostile neighbors raising claims and contentions on our legitimate assertions of territorial sovereignty but issues of Line of Control, Line of Actual Control, and International Border etc. are not subject matter of our study.

The IPAI Editorial Board is happy to present this monograph (28th issue) seeking to thematically analyze and bring together relevant material on the governance of lands and highlight outstanding issues from a public accountability perspective. The themes covered are as follows:

Current legislative and institutional framework and its evolution: What are the roles and responsibilities of the Union and State governments and their departments and agencies? How are the land ownership and other rights attached to lands transferred and legally protected? What are the systemic problems? We provide a brief overview of how the concepts of individual, community and sovereign/State ownership of land has evolved over centuries with special emphasis on the colonial legacy of land administration and agrarian tenancy reforms aimed at giving land to the tiller.

Land Acquisition: Evolution of the legal mandate to the governments to forcibly acquire private lands for public purposes and associated problems such as (i) finding the right balance

[1] The area includes 78,114 sq.km. under illegal occupation of Pakistan, 5,180 sq. km. illegally handed over by Pakistan to China and 37,555 sq.km. under illegal occupation of China. https://www.mospi.gov.in/statistical-year-book-india/2018/171

between public interest and private interests, (ii) relief and rehabilitation of large communities displaced by land acquisition for large public projects, (iii) unnecessary land acquisitions benefitting vested interests, (iv) diversion of acquired lands for not-so-public or rather private purposes, (v) litigation on the quantum of compensation to former land owners, (vi) payment and accounting of the compensation. The problems have often been raised by Audit and we draw attention to some glaring examples such as the CAG Report on acquisition and allotment of lands in NOIDA, Uttar Pradesh.

Disposal of public lands: Public lands are 'allotted' to private parties under different legal covenants such as outright sale conferring 'freehold' rights or short to long term lease conferring 'leasehold rights' or limited rights such as mining of underground resources for specific periods. Audit has found instances where the governments have acted arbitrarily, against public interest, facilitating private gain. Two prime examples are the CAG Reports on allocation of coal-bearing areas and the (acquired) public lands allotted for housing/commercial/industrial purposes in NOIDA, Uttar Pradesh.

Survey and Land Record Management: Error-free, tamper proof and effortlessly accessible land records are needed for professional land management. Under Schemes like DILRMP and SVAMITVA, the government aims to map every square meter of the country and create a digital repository of all land parcels, each identified by a unique AADHAAR-type identity – ULPIN or Bhu-AADHAAR - using advances in geospatial mapping technologies through remote sensing satellites and drones. National Generic Document Registration System (NGDRS) aimed at 'One-Nation One-Registration Software' for uniform process of registration and 'anywhere registration' of deeds & documents in the country is yet another initiative on the anvil. We provide an overview of the land survey and record management activities to highlight the immense benefits and outstanding issues.

Gains from reliable digital land records are aplenty. It helps spur economic growth through efficient and authentic real estate transactions. The judiciary can be unclogged of the burden of lakhs of cases relating to land disputes.

A reliable registry of charges and encumbrances attached to the real estate facilitates lending. Lenders can easily verify title to the lands and attached charges to facilitate lending and hence economic growth, reduce banking frauds and resultant losses. Enhancement of bank credit through better record keeping of titles and charges have important fiscal and macro-economic implications.

Government can minimize leakages of public revenue by authentication of farmers credentials and entitlement to government's schemes of income support. Better targeting of (i) the amount of fertilizer subsidy, (ii) direct cash transfers to farmers' bank accounts, or (iii) payments for procurement made from farmers at guaranteed minimum support prices to farmers' bank accounts can be ensured by linking their entitlements to authentic record of their land holdings.

The monetization of surplus land held by governments and their parastatal bodies would also be facilitated.

Encroachments of public lands can be monitored through a system of randomized inspections ordered by faceless systems to cut discretion and collusion of dishonest public officials.

Accounts, audit and finances of parastatal bodies handling public lands: The CAG Reports on NOIDA and DDA and the findings of the Committee on Natural Resources (2011) highlight the outstanding need of timeliness of finalizing the accounts of the parastatal entities managing public lands, transparency in proper disclosures in accounts and public reporting, utilization of surplus funds and strengthening audit including by entrustment of their audit to the CAG. This is an important dimension of parastatal governance.

What did the CAG Reports say?: We have attempted to curate and summarize / highlight important findings/recommendations of the CAG concerning land management. As far as possible, the material contained in the CAG Reports has been thematically sliced to place in appropriate chapters, say on acquisition and disposal - the most prominent areas of audit scrutiny. Special mention may be made of the CAG Report on land disposal in Jammu & Kashmir under the now quashed Roshni Act and land acquisition/allotment by NOIDA (Uttar Pradesh).

Lessons emerging from the CAG Reports: CAG Reports have covered land management issues like vacant lands, encroachments, unauthorized use, breach of terms by leaseholders, improper maintenance of land records, irregularities in land acquisition, fixation of rent, realizable value and compensation; and inappropriate use of discretionary land alienation policies. It is important to keep in mind that the CAG only conducts a test check of limited transactions as per the scope and objective of audit scrutiny. Most serious of all CAG comments have been on manifest abuse of discretion by public functionaries in allotment of lands, alluding to possibility of corruption or gross negligence. The law of evidence, judges and law enforcement agencies all have a massive challenge at hand to prosecute corruption public servants and those who seek to influence them for mutual gain detrimental to public interest. What is 'in public interest' itself can have different interpretations. One can safely paraphrase Justice Burrough's famous quote to say that "Public interest is a very unruly horse, and when you get astride, you never know where it will carry you". The vice of unfettered discretion, usually associated with the kings of yore, continues to afflict governance. Instances of arbitrary use of discretionary powers in absence of published rules or by flouting rules, abuse of discretion by public functionaries whether for direct or indirect personal gain or for any other reason, acting in bad faith, acting in a non-transparent manner where no secrecy is required, are all examples of acting against public interest. Various reforms have

been made to regulate discretion; systems of quotas and declared preferences, first-come-first-served system or selection through coin flips or lotteries where no differentiating criteria is available to make selection have been laid down.

Recommendations: In the concluding chapter, we have attempted to distill some broad lessons emerging from the CAG reports and some systemic suggestions, which merit attention of policymakers.

We hope that the analysts and practitioners of governance and public finance would find this compendium useful. An academic work is always open to comment / criticism and we welcome readers' feedback for effecting continuous improvement in the body of work done by the Institute of Public Auditors of India.

SUBHASH CHANDRA PANDEY

1. LEGISLATIVE AND INSTITUTIONAL FRAMEWORK OF LAND MANAGEMENT

As per Census-2011, India spans a total area of 32,87,469 sq. km., including 1,20,849 sq km area under unlawful occupation of Pakistan and China.2 The pattern of land utilization in 2015-16 as per Statistics compiled by the Ministry of Agriculture was as follows:3

Land Area type	**Land area size (lakh sq km**	**As % of total geographical area**
Total Geographical Area	32.87	100.0
Reporting area for land utilization statistics	30.78	93.6
Forests	7.19	21.9
Land not available for cultivation	4.40	13.4
Other uncultivated land excluding fallow land	2.56	7.8
Permanent pastures & other grazing lands	*1.03*	*3.1*
Land under misc. tree crops & groves (not included in net area sown)	*0.31*	*0.9*
Culturable waste land	*1.23*	*3.7*
Fallow Lands	2.67	8.1
Fallow lands other than current fallows	*1.13*	*3.4*
Current fallows	*1.54*	*4.7*
Net area Sown	**13.95**	**42.4**

[2] The area includes 78,114 sq.km. under illegal occupation of Pakistan, 5,180 sq. km. illegally handed over by Pakistan to China and 37,555 sq.km. under illegal occupation of China. https://www.mospi.gov.in/statistical-year-book-india/2018/171

[3] AGRICULTURAL STATISTICS 2019 https://eands.dacnet.nic.in/PDF/At%20a%20Glance%202019%20Eng.pdf

Land Area type	Land area size (lakh sq km	As % of total geographical area
Total cropped area	19.71	59.9
Area sown more than once	5.75	17.5
Agricultural Land/Cultivable land/Culturable land/Arable land	18.16	55.2
Cultivated land	15.49	47.1

Out of total geographical area, land use statistics was not available for 6.40 percent area. About 22 percent was forest land and 13.5 percent was not fit for cultivation, used for Residential/Commercial/Industrial/Mining/Infrastructure purposes. The remaining area was categorized as agricultural land, whether actually cultivated or not. About 42.55 percent of total land was actually sown/cultivated in 2015-16. Net Area Sown was 13.95 lakh sq km while total Cropped Area was 19.71 lakh sq km showing a Cropping Intensity of over 141 per cent. Since it is less than 200 per cent, there are pockets of agricultural lands yielding only a single crop in an agricultural year.

Agriculture (crops and horticulture excluding animal husbandry), which accounted for almost half of the country's Gross Domestic Product at the time of Independence, now accounts for just about one-tenth of annual economic output. Therefore, preponderance of agricultural land use, growing population, a large population remaining dependent on agriculture, rising urbanization and rising non-agricultural economic growth all point to the growing need for freeing the agricultural land for non-agricultural purposes and a long-term trend in appreciation of price of non-agricultural lands. Some portion of land still being shown as 'agricultural' or 'forest lands' might have been diverted for other purposes awaiting changes in the official records. 'What constitutes 'forests' – natural or manmade – remains a matter of debate in the environmental parlance.

This calls for a national policy on land use and nationally coordinated efforts to ensure optimum utilization of existing public

lands before acquiring more private lands.

Under extant Constitutional arrangements, the Parliament has the power to determine the national borders or the territories of any State or Union Territory. The Indian territories may be redefined based on any legally binding agreement entered into by the Union government with a foreign government. The territory of India may be reorganized as different States or Union Territories. (For example, the territories of the State of West Bengal stood redetermined when the Parliament approved in 2015 agreements between India and Bangladesh for redefining the borders by exchange of some interlocked enclaves. It involved not just exchange of territories but also the people residing there who got an opportunity to change their citizenship status. The June 2015 Act of Parliament operationalized the provisions made in the 1974 Land Border Agreement as well as in the 2011 Protocol.)

Once the national, State or UT territories have been legislated by the Parliament, the management of the subjects of 'land' and 'land revenue' in those defined territories falls within the executive domain of State Governments and legislative domain of State Legislatures[4]. In case of Union Territories, these subjects fall within the competence of the Union government and Parliament to handle with the exception of Puducherry. Puducherry is a Union Territory where the Lt. Governor and the Puducherry Legislature have been expressly empowered to function like a State Government.

The National Capital Territory of Delhi is also a Union Territory with Legislature but the three subjects of 'Police', 'Public Order' and 'Land' which are handled by the government and legislature of a State or Union Territory have been retained by the Union government and the Parliament.

Thus, land management is legally the responsibility of the

[4] Entry 18 and 45 of the List II— State List., SEVENTH SCHEDULE of the Constitution of India

Central Government in NCT of Delhi and in the Union Territories without Legislature alone. In the rest of the country, the responsibility is cast on the State/UT government/legislature. However, under exceptional arrangements, the Union government/legislature have assumed responsibility for certain special classes of lands governed by special mandates like the Enemy Properties (under Ministry of Home Affairs) and Waqf Properties (under Ministry of Minority Affairs).

Entry 42 in Concurrent List authorizes both the Union and the State Governments to compulsorily acquire (permanent deprivation of ownership on payment of compensation) or requisition (compulsory renting on payment of rent) any property for public purposes. The Central Government may delegate the task to the State Government under Article 258(1). Land for development of National Highways and Railways are acquired under the National Highways Act, 1956 and the Indian Railways Act 1989, respectively. For other public purposes, lands are acquired under the Land Acquisition Act, 1894. The Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 has made important changes in the procedure of land acquisition and determination of compensation to landowners and other affected persons.

While the Ministry of External Affairs is responsible for demarcation of the land frontiers of India, the Department of Border Management, Ministry of Home Affairs is responsible for management of International Land and Coastal Borders excluding the subjects specifically allocated to Ministry of Defence and Ministry of External Affairs. Focus of our study in this monograph is on current problems in land management and their roots in our colonial legacy. This includes the disputes about contested assertions of territorial sovereignty with neighbouring countries as well but issues of Line of Control, Line of Actual Control, International Border are not subject matter of our study.

Ministry of Housing and Urban Affairs is responsible for

management of the properties of the Union lands except those belonging to the Ministry of Defence, the Ministry of Railways and the Department of Atomic Energy and the Department of Space. MoHUA also administers the Urban Land (Ceiling and Regulation) Act, 1976.

The land use planning and construction activity in urban areas is regulated by urban local bodies (like the Municipal Corporations, Municipalities, Notified Town Area Committees, Town Panchayats, Nagar Palikas etc.) under legislative authority drawn from State Municipal Acts. In addition, there are now 61 special urban areas (cantonments) which are governed by the Cantonment Act. The 1924 Act was revamped and superseded in 2006. These areas have mixed population: both military and civilian. There were 56 Cantonments at the time of Independence and 6 more were notified by 1962, Ajmer being the last. The Union government appears inclined to end "archaic and colonial practices" by gradually giving up municipal control in predominantly civilian areas. Accordingly, the YOL Cantonment in Himachal Pradesh was recently denotified on 27th April, 2023. The military area will be designated as a Military Station and the civilian areas will merge with Gram Panchayats. Such excision of civilian areas from cantonments for merger with adjoining rural areas brings the civilian population benefits of schemes like the Mahatma Gandhi National Rural Employment Guarantee Scheme and National Rural Health Mission.

As more and more rural areas get commercialised/urbanised, the urban-rural divide in the governments, departments and agencies handling their management is posing newer governance challenges. Some areas may develop vested interests in remaining officially 'rural' even though these are not just adjacent but deep inside big cities. 'Lal Dora' lands in Delhi and 'villages' in Delhi-NCR make an interesting study of what is rural and urban in terms of differential regulations and its costs to broader public interest.

The Department of Land Resources, Ministry of Rural

Development deals with National Land Use and Wasteland Development Council, land reforms, land tenures, land records, consolidation of holding and other related matters (like taxes, duties, statutory levies connected with land); Wastelands and Desert Development; and all matters connected with acquisition of land for purposes of the Union.

An important institutional element for large urban and industrial areas is master planning of these areas backed by a law. A Master Plan is a statutory tool to guide and channelize the growth and development of an area. It is notified under a Town & Country Planning Act or Urban Development Authority Act. Country planning deals with those areas outside the town limits and are part of the region. Country Planning has its genesis in the term Town and Country Planning which is planning for land use to balance economic development and environmental quality. The Town and Country Planning Act, 1947(England) created the framework for this system. Green belts subservient to agricultural use were added in 1955 by a Government circular. The system has basically remained the same since the first Act of 1947 which repealed all previous Acts including the first Housing and Town Planning Act,1909 followed by the Housing and Town Planning Act, 1919, the Town Planning Act, 1925 and Town and Country Planning Act , 1932. The discipline of Town and Country Planning(T&CP) focuses on planned and orderly growth of 'town' and 'country' through formulating, implementing and enforcing the statutory Development Plans. Peri urban/ fringe areas witness haphazard growth as either the T&CP Act does not provide for 'country' planning or the systems are not effective.

The Ministry of Environment, Forest and Climate Change has been assigned the responsibility *inter alia* of 'Survey and Exploration of Natural Resources particularly of Forest, Flora, Fauna, Ecosystems etc.', 'National Forest Policy and Forestry Development in the country, including Social Forestry', 'Forest Survey of India' and administration of the Forest (Conservation) Act, 1980. The Ministry also administers the Indian Forest Service,

an All-India Service. Thus, demarcation of 'forest lands' to which the provisions of the Forest (Conservation) Act, 1980 would apply is an important land management function entrusted to this Ministry.

The National Wasteland Development Board (NWDB) was set up in the year 1985 under Ministry of Environment and Forests with the principal aim of bringing wastelands in the country into productive use through a massive programme of afforestation and tree plantations. In July, 1992, the Board was reconstituted and placed in the newly created Department of Wasteland Development under Ministry of Rural Development. Subsequently, the Department of Wasteland Development was renamed as Department of Land Resources in 1999. Out of the Department's total budget of Rs.2419 crore for 2023-24, the provisions for Prime Minister Krishi Sinchai Yojna and Computerization of land records are Rs.2200 crore and Rs.196 crore, respectively.

The Ministry of Mines has special role and responsibility for management of mineral bearing areas except coal & lignite (the Ministry of Coal), petroleum and gas (the Ministry of Petroleum and Natural Gas) and atomic minerals (the Department of Atomic Energy). The Ministry deals *inter alia* with

- Legislation for regulation of mines and development of minerals within the territory of India, including mines and minerals underlying the ocean within the territorial waters or the continental shelf, or the exclusive economic zone and other maritime zones of India as may be specified, from time to time, by or under any law made by Parliament.
- Regulation of mines and development of minerals other than coal, lignite and sand for stowing and any other mineral declared as prescribed substances for the purpose of the Atomic Energy Act, 1962 (33 of 1962) under the control of the Union as declared by law, including questions concerning regulation and development of minerals in various States and the matters connected therewith or

incidental thereto.

- All other metals and minerals not specifically allotted to any other Ministry/Department, such as, aluminium, zinc, copper, gold, diamonds, lead and nickel.

Lands under special mandates – Evacuee and Enemy properties

After the setting up of the Dominions of India and Pakistan under the Independence of India Act, 1947, the persons who left any place (Evacuee) in the State for any place outside the territories forming part of either India or Pakistan, the property left behind them (Evacuee property) was kept under the control of designated public officials. who were made incharge of the administration and management of the evacuee property.

The Department of Internal Security, Ministry of Home Affairs deals with the implementation of the Administration of Evacuee Property Act, 1950 and the Acts governing administration of the evacuee properties and Enemy Property Act, 1968 (as amended) except waqf properties. In Jammu and Kashmir, the office of Custodian General of Evacuee Property was created under the Jammu & Kashmir State Evacuees (Administration of Property) Act, Svt.2006 .

Enemy Property

After the Indo-Pakistani War of 1965, the Enemy Property Act was promulgated in 1968 to take over the custody of properties belonging to the Pakistani nationals who were citizens of undivided India before the 1947 Partition and left India to settle down in Pakistan. They were terms enemies of India and the Act authorized a public official called the custodian for enemy property for India to take over the control of left behind properties of these enemies. The Enemy Property (Amendment and Validation) Ordinance, 2016 amended the Enemy Property Act,1968 and the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 to allow the Custodian to issue orders, after making such inquiry as he deems necessary, to declare that the property of the enemy or the enemy

subject or the enemy firm described in the order, vests in him under this Act and issue a certificate to this effect and such certificate shall be the evidence of the facts stated therein.

The Union government informed the Lok Sabha on January 2, 2018 that a total 9,280 enemy properties had been left behind by Pakistani nationals, and 126 by Chinese nationals, the total value of which is approximately Rs 1 lakh crore. The law as amended in 2016 now authorizes the government to assume ownership of these 'enemy properties' and to sell or otherwise monetize these properties.

Lands under special mandates – Waqf Properties

Ministry of Minority Affairs deals with all matters connected with waqf properties as per the Wakf Act, 1995. (The Mussalman Wakf Validating Act, 1913, the Mussalman Wakf Validating Act, 1930, the Public Wakfs (Extension of Limitation) Act, 1959 and the Wakf (Amendment) Act, 1969 have been repealed.)

A Waqf Property is a property permanently dedicated for religious and charitable purposes by a person professing Islam. The Waqf Act, 1955 defines "waqf" to mean the permanent dedication by any person, of any movable or immovable property for any purpose recognised by the Muslim law as pious, religious or charitable.

The Central Waqf Council is a statutory body under the Ministry of Minority Affairs. It was established in 1964 under the Waqf Act, 1954 for the purpose of advising the Central Government, the State Governments and the State Waqf Boards on matters concerning the working of Boards and the due administration of waqf properties.

With a view to protect vacant Waqf land from encroachers and to develop it on commercial lines for generating more income to widen welfare activities, Central Waqf Council has been implementing schemes of yearly grants-in-aid or loans from the

Central Government since 1974-75. Loan assistance is provided through the respective State Waqf Boards under the scheme for Development of Urban Waqf Properties by constructing commercially viable buildings on Waqf lands such as commercial arcades, Marriage halls, Hospitals, Cold Storage etc. On the recommendation of the Joint Parliamentary Committee on Waqf, a Central Sector Scheme of "computerization of the Records of State/UT Waqf Boards" was launched in 2009. The work is in progress in 18th State Waqf Board.

Lands under special mandate – Special Economic Zones

A number of large land parcels have been declared Special Economic Zones (SEZs) for development of manufacturing and logistics infrastructure with the primary objective of promotion of exports. The SEZs are conceptualized as industrial estates where the more restrictive and burdensome 'normal' regulations applicable to industry elsewhere are not applicable and better public services are made available to industries resident in SEZs. The special treatment to industrial units located in SEZs – sort of two systems in one country -is covered by the Special Economic Zones Act, 2005. SEZ Developers /Co-Developers and Units enjoy Direct Tax and Indirect Tax benefits as prescribed in the SEZs Act, 2005.

The SEZ Units are only required to achieve Positive Net Foreign Exchange to be calculated cumulatively for a period of five years from the commencement of production. A designated duty free enclave to be treated as a territory outside the customs territory of India for the purpose of authorised operations in the SEZ. Some other benefits accorded to SEZ units are: No import licences required; Full freedom for subcontracting; No routine examination by customs authorities of export/import cargo; Domestic sales subject to full customs duty and import policy in force; Exemption from customs/excise duties for development of SEZs; Exemption from Central Sales Tax (CST); Exemption from Service Tax (Section 7, 26 and Second Schedule of the SEZ Act); Supplies to SEZ are zero rated under IGST Act, 2017; Income Tax exemption

on income derived from the business of development of the SEZ in a block of 10 years in 15 years under Section 80-IAB of the Income Tax Act. Sunset Clause for SEZ Developers has become effective from 01.04.2017.

SEZs have definitely contributed to boosting exports but to what extent this has added to overall industrial capability of the nation remains debatable. The proportional share of 'Industries' in the country's Gross Domestic Product has remained stagnant at around 16 per cent. That is a rough pointer to shifting of industries from non-SEZ to SEZ areas. We later discuss a CAG Report highlighting how some allottees of SEZ lands misused the scheme to get land allotted at meagre prices and then make profit by selling it without setting up any industrial unit.

Lands under special mandates –Minerals and mineral oil bearing areas, forest lands and salt lands

Mines and Minerals (Development And Regulation) Act, 1957, Oil Industry Development Act, 1974 and Forest (Conservation) Act, 1980 are Central Acts impinging upon management of lands covering minerals and mineral oil bearing areas and forests requiring special regulatory regimes for sustainable national economic development. These Acts bring into picture the Central government and its agencies though for the primary purpose of recording land ownership the matter remains with the State government.

The Indian Salt Act 1882 and the Salt Cess Act, 1953 created a taxation and regulatory regime for salt manufacturing. (Thanks to the historic Daandi March by Gandhiji protesting the salt tax and using the movement to galvanize public opinion against the British Rule (1930), salt tax was abolished in 1946, re-introduced as a cess in 1953 which was abolished in 2017. Common salt is not taxable under GST. However, the office of Salt Commissioner, Department for Promotion of Industry and Internal Trade carries the responsibility of managing about 60,000 acres of salt lands in different States. Plans are on anvil to assess and monetize these

lands and a policy for the auction of *salt land*s is being worked out.

Institutional arrangements for land management in States

In the States, all matters related to land are primarily handled by the Revenue Department, reminding us of its colonial origin as the Department responsible for collection of (agricultural) land revenue. Land revenue is now an insignificant resource for State finances.

The Revenue Department is typically the oldest administrative organ of the government with a key role in the overall administration in the State and carrying the legacy of the British colonial rule. Its functionaries (say Divisional Commissioners, District Collectors, Tehsildars, Kanungos, Patwaris, Lambardars in States like Punjab and Haryana and their variants in other States) control the coercive power of the State and hence popularly seen as the face of the government / SARKAR[5]. The Department's primary function is maintenance of land records and collection of different dues of the government. However, the District Collectors have wider responsibilities beyond this, of maintaining public order and overseeing/coordinating all developmental/welfare activities of all government departments. Recovery function extends to dues other than government dues also (like bank dues) where the law empowers the government to recover certain dues in the same (coercive) manner as the land revenue.

For purposes of general civil administration, treasury, land revenue, land records maintenance, the whole State or Union Territory is typically divided into Divisions (headed by Divisional

[5] SARKAR, the popular term for government is a relic of the Mughal era when the Empire was divided into SUBAs (later evolved into Provinces and States). The *subahs* were established by badshah (emperor) Akbar during his administrative reforms of years 1572–1580; initially they numbered to 12 (Kabul, Lahore, Multan, Delhi, Agra, Avadh, Allahabad, Bihar, Bangal, Malwa, Ajmer and Gujarat). 3 more (Berar, Khandesh and Ahmadnagar) were added after his Deccan conquest. SUBAs were divided into *Sarkars*, or districts. *Sarkars* were further divided into *Parganas* or *Mahals*.

Commissioner), Districts/*Zila* (headed by District Collector/ District Magistrate) and Sub-Districts carrying different nomenclature in different States. (It is named as SUBDIVISION Assam, Bihar, Jharkhand, Manipur, Meghalaya, Mizoram, Sikkim, Tripura, West Bengal, Lakshadweep, TALUKA in Goa, Gujarat, Karnataka, Kerala, Maharashtra, Tamil Nadu, Dadra and Nagar Haveli and Daman and Diu, Puducherry, MANDAL in Andhra Pradesh and Telangana, CIRCLE in Arunachal Pradesh and Nagaland, and TEHSIL in the rest of the country).

The Sub-Districts of a District are geographical divisions for the purpose of land record maintenance. There is another hierarchy of Community Development Blocks created post-Independence for developmental administration. Block is a district sub-division for the purpose of Rural Development and Panchayati Raj Departments. A Sub-District may have one or more Community Development Blocks.

The Revenue Department is the primary custodian of all the records of land and the rights associated with the land but not necessarily involved in active management of land use, especially non-agricultural lands. Large parcels of lands may be actively managed say by Department of Urban Affairs or Industries or Forest or Mines. In most States, large areas of lands have been entrusted to Area Development Authorities (like DDA in Delhi and NOIDA in UP) under special laws which are tasked with responsibility of detailed record keeping of land parcels and associated rights within the large area entrusted to them. To that extent, the record keeping mandate of the Revenue Department gets whittled down.

Each State has a Board of Revenue comprising senior functionaries of the government. The Board is the apex body to supervise the work of land administration in the State and carry out several administrative responsibilities. The Board has been assigned special quasi-judicial status to adjudicate in land related matters akin to an Administrative Tribunal. It has important role in implementation of Land Reform Act of the State. In some States,

the Minister in charge is the apex appellate authority in the government. Though access to regular judiciary to address any grievance is not barred, usually the High Courts prefer not to intervene unless the matter stood adjudicated by officer-in-charge Sub-District, District, Division and the Board of Revenue through a system of appeal to higher fora.

Depending on the workload, need for specialization, separate offices and agencies have been created to handle land acquisition, land survey and settlement, land record computerization.

Also, there are separate offices usually under a separate Department for 'Registration of deeds and documents' –especially relevant for registration of transfer of immovable property. 'Registration of deeds and documents' is in the Concurrent List of the Sch. VII of the Constitution. 'Registration Act 1908' is a Central Act. States can amend it with assent of Hon'ble President. States also have the powers to make Rules and to prescribe the rates of fee. The Registration Act, though a Central Act, specifically empowers the State Governments to implement its various provisions by appointing registering authorities. The property transfer registration process is sought to be harmonized across the whole country under a national programme - National Generic Document Registration System (NGDRS). This is discussed in more details later.

The system of land record management and land revenue collection varies across the country, largely due to colonial legacy. The history of land tenures and titles is outlined in the next Chapter. (For example, in States like Punjab and Haryana, the land revenue settlement between the State and cultivators is at the village level, not with individual cultivators. The districts are divided into Sub-Divisions, Tehsils or Sub-Tehsils, Kanungo Circles, Patwar Circles and finally into the lowest land unit of Revenue Estates. A Revenue Estate (typically a village) is the lowest unit of land administration for the purpose of collection of tax named 'land revenue' where the tax due is individually assessed by a Patwari but all the proprietors

are by law jointly responsible for payment of land revenue. In each estate there are one or more lambardars, typically local strongmen/elders usually having a hereditary social status, who act as the village level recovery agents of the State.)

2. LAND TENURES AND TITLES: HISTORICAL PERSPECTIVE

In this monograph, we have aimed at examining the management of lands in general and conversion of 'public lands' into 'private lands' and vice versa under specific legal regimes. This involves public policy on acquisition of private lands for public purposes and its utilisation in public interest or its monetisation for raising resources for welfare and development.

'Ownership' of land is a legal concept. A particular portion of land may be free for use by general public or under exclusive possession of some persons and entities claiming to regulate entry of 'outsiders'. The questions needed to be addressed are; What is meant by 'ownership of land'? Who owns a particular piece of land? What rights does it confer and on whom? Who can claim to exercise rights over land? Who protects those rights? Are the rights asserted/recognised on absolute and perpetual basis?

The rights over use of land in favour of some persons/entities are recognised by the community, the ruling sovereign or modern nation State. Typically, the right recognised is overground right, right to cultivate the land or construct any structure subject to regulations. The right may or may not extend to everything that may be discovered underground except water. The right is typically hereditary and follows certain rules of succession and inheritance.

The systems of land ownership and other rights attached to particular parcels of land - how these are legally recognised, transferred and protected - have evolved over centuries. History of anything is result of academic inferences based on study and interpretation of diverse sources whose authenticity and the manner of their interpretation remains open to contest. What is briefly

summarised here is part of school text books[6] and it is beyond the scope of this article to go into underlying academic rigor on sources and interpretation.

Prevailing academic consensus is that hunter-gatherer nomadic communities did not have any reason to be attached to any piece or land and even when agrarian communities settled into cultivation and animal rearing evolved, there was no concept of individual claims to own/sell/gift/transfer lands. Land belonged to the tribe/community and individuals enjoyed hereditary rights to its peaceful enjoyment.

Later, armed conflicts and strong monarchies emerged claiming to own the lands through conquest in war, inheritance or matrimonial gifts. The idea of pre-eminent domain of the king, of the sovereign political power evolved. The kings would 'grant' parcels of lands to their loyal commanders expecting to receive loyal support in war and frequent offerings in cash and kind. Land grants would also be made to promote learning, other public services especially 'Dharma' in general or particular sects/denominations as religious endowments. There is historical evidence of different types of land grants by kings where the grantees and their heirs could enjoy the land and income earned from the land in perpetuity with or without the right to alienate/transfer any rights attached to the land to others.

A quote attributed to MANUSMRITI translates to: "Land belongs to him who first cleared the timber and a deer to him who first wounded it." Typically, the barren land made cultivable for the first time would be free from liability to pay 'tax/rent' to the king.

Land was granted to priests and officials in lieu of salaries and remuneration. This method had the advantage of putting the burden of collecting taxes and maintaining law and order in the granted lands on the recipients i.e., the priests and other officials. It also brought new land under cultivation. However, the land

[6] *https://egyankosh.ac.in/bitstream/123456789/32681/1/Unit-2.pdf*

recipients could neither cultivate themselves nor collect revenues. Hence, the work of cultivation was given to peasants or sharecroppers, who were attached to the land but did not legally own it.

In the north and eastern India, the rural economy has been predominantly feudal under Sultnate/Mughal/British Rule as a major portion of surplus production from the land was appropriated by an elite group claiming hereditary rights to collect 'land revenue' for the sovereign even though they did not participate in the production process in any way. These intermediaries alone were recognised in official records of the ruler as de facto landlords while the majority of actual cultivators of agricultural lands remain nameless in official records. The situation was somewhat better for them in the western and southern parts.

For example, the Chola administration had an elaborate system of land tenure system run by a well-organized department of land revenue which carefully surveyed and classified land into tax paying and non-taxable. The taxable land was further classified according to its natural fertility and the crops raised on it. Chalukya administration also collected different land taxes (siddhaya, dasavanda, niruni-sunka and melivana) paid directly by the cultivators. Siddhaya was a fixed tax levied not only on land but also on houses and shops. Dasavanda referred to one-tenth portion of tax payable to authority out of the yield from the land. Niruni-sanka was the water cess to be paid by the fanner and Melivana was tax levied on ploughs. In Kakatiya Rule of Warangal, land was divided into dry, wet and garden areas for the purpose of different rates of tax that was collected both in kind and cash.

Land Tenure System in Delhi Sultanate period:

The Delhi Sultanate classified the lands into three categories- iqta land i.e. land assigned to officials as iqtas, khalisa land i.e. crown land which is the land under the control of the Sultan and whose revenues were meant for maintenance of royal household, and finally Inam land (madad-i-maash) or Waqf land,

which were lands assigned or granted to religious leaders. A prominent feature of the Delhi Sultanate was systematization of agrarian exploitation and enhancement in land revenue. For example, during the Ala-ud-din Khalji's regime (1296-1316), land revenue was increased to extortionate levels of upto 50% of gross production! Muhammad Tughluq (1325-1351) established an agriculture ministry called as diwan-i-kohi to bring barren land under cultivation and thus improve farming.

Land Tenure System in Mughal period:

During the Mughal rule, 'revenue farming' was prevalent where the highest bidder was posted as the revenue collector giving him undue power over the tiller of the land. The Mughals left the land to the cultivators at first in exchange for the usual taxes. Often, former small rulers were employed as tax collectors and were given 10% of the collected amount as remuneration for this work. They were even allowed to keep the land they had held before and were exempted from paying taxes but were strictly controlled to prevent them from collecting more taxes than their lawful share.

Emperor Akbar (1556-1605) implemented radical changes in revenue collection system for which lands were extensively surveyed, classified and recorded for different types of taxation from different categories of cultivators. Main systems of revenue assessment were Zabti or Dahsala System; Batai, Ghallabakshi or Bhaoli System; Kankut and Nasaq. Large portion of the empire land was assigned to certain class of people as a part of land grants, which was known as jagirs. Though this was a temporary assignment, some permanent land grants were also given such as madad-i-ma'ash i.e. grant for subsistence. Jahangir introduced a system of altamgha grant, which could be annulled only by the order of the emperor. There was another kind of land grant known as aimma which was to be made to the Muslim religious leaders. Being more or less permanently installed, the grantees often sought to acquire zamindari rights within their grants and elsewhere.

After Aurangzeb's death in 1707, the power of the central

government decreased rapidly, and its control over the tax revenues was lost. To maximise revenues, tax collectors' posts were leased to the highest bidders in exchange for fixed sums. On the basis of their knowledge of the local conditions, the tax collectors were free to extort as much as possible from the rural population and keep for themselves the difference between the collected taxes and the amount to be remitted. These "assignees" were the first intermediary step in the direct tax relations between the government and cultivators.

The transfer of tax collection rights, known already in pre-Mughal period, for specific regions as remuneration for services rendered, became so common that, under Aurangzeb's reign, 90 % of all tax revenues fell to such privileged parties, and only 10 % to the ruler. These grants of land with the right to collect taxes from it were also conferred on favourites. The conferment of such jagir transferred all the rights the government held, i.e., taxes, claims to uncultivated land, police power, etc., but no claims to the cultivators' land. Whenever tax collectors became landlords in the course of time, this was due to their reclaiming wasteland or their confiscating the land of people who owed taxes.

Towards the end of the Mughal era, a type of "right" to land developed which was in the hands of some parasitical rent collectors who did not perform any work. But this refers to the government's tax rights, not to a direct claim to landed property, or land utilization, on peasants' land. Their old saying 'Taxes are the king's wealth, the land belongs to me' was still valid.

Land Tenure System in British period

British rule brought about a complete transformation in the country's land tenure system. The East India Company faced initial difficulties in trading operations because the demand of British goods in India was insignificant. The exportation of gold and silver from England to pay for Indian goods was soon prohibited. The Company found a solution by securing money from India to pay for Indian goods. It collected taxes from the Indian rulers which in the

beginning brought revenues of only 10% of the levied taxes, but, since the control over the amount of levied taxes became lax at the end of the Mughal period, its revenues increased.

Due to historical reasons, different systems of recognition of rights on lands and collection of land taxes evolved in different parts of the country. Every cultivable land was categorised to either Zamindari (landlord based), Raiyatwari (individual cultivator) or Mahalwari (village based) system of revenue collection.

Lord Cornwallis introduced 'Permanent Settlement' in 1793 in Bengal and Bihar. The main objectives behind establishment of Permanent Settlement were: a) Conversion of Zamindars and revenue collectors into landlords. b) Reducing the status of cultivators to mere tenants and deprivation of their rights. c) Creation of political allies for the British. d) Sufficient financial security for the British administration. e) Minimum expenditure for revenue administration. f) Suppression of the peasantry by the zamindars.

The British assumed that all the land belonged to the State and was thus at their disposal. They registered the local tax collectors, who were called zamindars, as owners of the land in their district. The right to the land conferred on the zamindars was alienable, rentable and heritable. This arrangement was a complete novelty in India. The privilege of utilizing land had become a saleable good. Those who had been cultivators until then were reduced to the status of 'occupancy tenants.'

The detrimental consequences of recognizing the tax collectors as landlords and of introducing the legal institution of saleable private landed property soon became evident and considerable changes occurred in the demographic and economic situation.

The industrial revolution in England brought about a change in the British policy towards India. The objective was no longer to import from India, but to sell English products in India. Large scale export of cheap products manufactured by mechanical looms to India led to collapse of the indigenous textile industry. To secure a

subsistence, weavers migrated to the rural areas and tried to secure land on lease so that they could farm. The monopoly of controlling the means to secure livelihood shifted power unilaterally into the hands of the zamindars who were able to extort more and more taxes as the demand for land increased. This led to indebtedness and often to the loss of occupancy rights and relegation to tenants-at-will.

The great discrepancy between the fixed amount of taxes to be remitted and the increasing revenues made the zamindars wealthy. Soon they no longer took the trouble of collecting taxes themselves but sub-leased this office to others while they themselves lived on the remainder of the amount claimed as taxes after paying to the sub-assignees their due. The difference between the revenues and the amounts to be remitted was so big that even the sub-assignees tried to sub-lease. After some time, it became quite common to have 10 to 20 intermediaries, more or less without any specific function, between the government and the farmers, and they all had a share in the cultivation yield.

In addition, abwabs as supplements and fees for the most curious reasons were introduced; for example, for using an umbrella, for permission to sit down in the zamindar's office, for being allowed to stand up again, etc. Moreover, the "begar", unpaid work which the tenants were forced to perform on the zamindar's land, took larger proportions. On the average, it amounted to 20-25 % of the lease. These developments may be regarded as consequences of the changes in the land tenure brought about by the "Permanent Settlement," as more and more cultivators became indebted, lost their occupancy rights, and experienced a decline in their status to tenants-at-will or agricultural labourers.

In Madras and Bombay presidencies, zamindars with large estates did not exist. Hence, under the land tenure system known as ‘Ryotwari settlement’ a settlement was made directly with actual cultivators. This helped in growing income from land due to periodic revisions of revenue and also protected cultivators from oppression of zamindars, which was rampant in the Permanent

Settlement areas. Exorbitant land revenue fixation, government's right to enhance land revenue at its own will, payment of revenue even when the produce was partially or totally destroyed and finally, replacement of large number of zamindars by one giant zamindar i.e. the State less willing to accommodate were some of the drawbacks of the Ryotwari system.

The fact that land could be used as collateral made it possible to borrow money to pay taxes in the ease of crop failures. As a result, more and more farms passed into the hands of moneylenders who were, often more others than the better-off cultivators in the village. In due course they ceased to cultivate their land themselves and resorted to sub-leasing it, instead. Finally, the ryotwari region was no longer a region of self-cultivator. More than one-third of the land was leased and in many districts the leased land was more than two thirds. The great demand for land owing to the population growth made it possible to let others work for oneself.

A third land settlement system which was practiced in some of the areas under the British such as Gangetic valley, north-west provinces, parts of central India and Punjab, was modified version of zamindari settlement wherein revenue settlement was made village by village or estate by estate with village chiefs or head of the families. In North India and in the Punjab where villages with joint land rights were common, an attempt was made to utilize this structure in the Mahalwari system. Taxation was imposed on the village community as theoretical landlord, since it had the land rights. The village community had to distribute these taxes among the cultivators who owed taxes individually and jointly. Everyone was thus liable for the others' arrears. A village inhabitant, the lambardars collected the amounts and remitted the collected amount. Here, too, tax assessment was revised at intervals.

In the Mahalwari region as well, sub-leasing and indebtedness became more and more common. Indeed, it was not possible to transfer the land to people who were not from the locality, but the landed property certainly became concentrated in

the hands of a few wealthy people, whereas the others lost their rights. A constantly increasing number of people became landless. While in the middle of the 19th century there were still no landless, in 1931 and 1945, 33 and 70 million landless labourers respectively were registered. Others succeeded in renting some land, but on less favourable terms. Share-tenancy, in particular, increased greatly. This kind of land and revenue settlement led to undesirable effects on Indian agriculture and economy, such as rural indebtedness, rise of money-lenders, growth of agricultural labourers, destruction of handicraft industries and finally stagnation and deterioration of agriculture.

The 150 years of British land policy, economic changes and population growth ushered a complete change in the land tenure system in India. Whereas formerly, the cultivators possessed the right of use of land and the government had the right to impose taxes, now the rights got split into many parts. A large number of cultivators lost their valid land rights and their status was reduced to being unprotected tenants and labourers. The tax collectors became landlords and large landowner with a stratum of intermediaries without any specific productive functions, emerging. land passing into the hands of moneylenders. This caused deterioration in financial conditions of farmers who lived in abject poverty.

Land reforms in independent India: Land to the tiller, land ceiling and consolidation of holdings

The Colonial Rule led to a drastic break with the past, enhancing the scale and intensity of exploitation of the village communities besides introducing a new, and almost entirely parasitic intermediaries between the State and the tax paying masses engaged in agricultural production.

The British period witnessed a major restructuring of State-subject relations in respect of rights over land. During early and medieval times, cultivators just broke the land and cultivated as much they needed. During drought and famine they frequently

abandoned the land and moved to other places. Hence, the land ownership was not a permanent concept. They were taxed by the rulers of the day based on the number of the cattle and area of the land cultivated. After the famine of 1783, many cultivators abandoned the villages and migrated elsewhere, and some land was sold by the owners. Slowly prominent farmers came into the possession of large lands, and they acquired the status of proprietors of the village estate and were recorded as such during the settlement of 1840-41 by the British Raj. These estates came to be known as zamindari or pattidari tenures, most influential and the largest estate-holders among them in due time became zaildars and lambardars. The British began to use them as localized dispute ombudsman and gave them some moral policing rights. During the settlement of 1840-41, the tenants were classified into three classes: (a) those who had held land continuously for many years at a fixed rent and were not liable to ejectment, (b) the tenants in bhaiachara (brotherhood) villages who paid rent at the same rate as the members of brotherhood and who so long as they paid this rate were never ejected, (c) and those who cultivated from year to year under fresh agreement. These tenancies were further classified during 1863 settlement and a definite status was fixed on different classes of tenants. The ordinary division into tenants with or without right of occupancy was adopted. Thus, the concept of the formal permanent ownership of the land became legalized and formally documented.

Another major change brought by the British was increased monetization of agriculture. The British obliged land revenue intermediaries to collect the taxes not in kind, but in cash. Since the peasant had little experience, or understanding, of a cash economy, this put a further burden on the peasant, who now also had to face the unscrupulous grain traders and usurious money-lenders, who took full advantage of the highly diminished status of the Indian peasant in the colonial dispensation.

Among the key issues that the makers of the Constitution had to deal with was India's feudal set-up, which had severely

affected the country's social fabric in pre-Independence India. Land ownership was concentrated among a select few, while the rest struggled to make ends meet. To bridge this, many State governments decided to introduce radical land reforms like abolition of zamindari system to bring the cultivators directly in relationship with the State – 'land to the tiller'. Governments also sought to introduce ceilings on permissible Land Holdings for individuals.

Uttar Pradesh, Madhya Pradesh, Bihar, Madras, Assam and Bombay had introduced zamindari abolition Bills by 1949. These states used the report of the Uttar Pradesh Zamindari Abolition Committee Chaired by Shri Govind Ballabh Pant as the initial model. Land reforms in several states were initiated with dual objective of efficient use of land and ensuring social justice.

These legislative measures were successfully challenged in courts by zamindars because the right to property was a fundamental right under Articles 19 and 31 in the original Constitution brought into force on 26th January 1950. To counter the judicial challenge, the Right to property was downgraded - under the first Constitutional Amendment in 1951 - to an ordinary legal right with the State empowered to forcibly deprive owners of their rights on land with due compensation as per law. Constitutional Amendments were also introduced to grant immunity from judicial scrutiny to the land reform laws of various States. Article 31(a), 31(b) and Ninth Schedule were added to the Constitution. Laws by the government could no longer be challenged and the State was empowered to make laws and acquire any estate or land. There were six main categories of land reforms:

- Abolition of intermediaries (rent collectors under the pre-Independence land revenue system)
- Tenancy regulation (to improve the contractual terms including the security of tenure)
- A ceiling on landholdings (to redistributing surplus land to the landless);

- Attempts to consolidate disparate landholdings;
- encouragement of cooperative joint farming;
- settlement and regulation of tenancy.

A distinguishing feature of Indian agriculture is preponderance of unorganized small farmers. With succession not being based on primogeniture, population explosion has resulted in fragmentation of land holdings. As per latest Agriculture Census 2015-16[7], total number of operational holdings in the country had increased from 138.35 million in 2010-11 to 146.45 million in 2015-16. Total operated area had decreased from 159.59 million ha in 2010-11 to 157.82 million ha in 2015-16. The average size of operational holding has declined to 1.08 ha in 2015-16 as compared to 1.15 in 2010-11. Out of 14.6 crore operational holdings in 2015-16, 68.5% were less than 1 hectare(Marginal), 17.6% between 1 Ha to 2 Ha(Small), 9.6% between 2 Ha to 4 Ha (Semi-Medium), 3.8% between 4 Ha to 10 Ha(Medium) and 0.6% Large holdings above 10 ha. Out of 14.6 crore operational holdings in 2015-16, 68.5% were less than 1 hectare (Marginal), 17.6% between 1 Ha to 2 Ha(Small), 9.6% between 2 Ha to 4 Ha (Semi-Medium), 3.8% between 4 Ha to 10 Ha(Medium) and 0.6% Large holdings above 10 ha.

Land reforms also included the assessment of permissible area in relation to a family instead of an individual, and reduced the permissible area to the set limit according to the type of land. In addition to legally capping the amount land holding by the

[7] Agriculture Census in India is conducted at five yearly intervals to collect data on structural aspects of operational holdings in the country. The reference period for Agriculture Census is the Agricultural year (July-June). The first comprehensive Agriculture Census in the country was conducted with reference year 1970-71. 2015-16 Census was the 10th in series. Findings of Phase I Census were released in Oct 3, 2018 giving 'All India Report on Number and Area of Operational Holdings' (http://agcensus.nic.in/document/agcen1516/T1_ac_2015_16.pdf) Full Census Report is available for Agriculture Census 2010-11 (All India Reports on Agriculture Census 2010-11 http://agricoop.nic.in/sites/default/files/air2010-11complete.pdf)

government, the voluntary Bhoodan movement of 1950s and 1960s also led to the donation of the land ownership from rich owners to the landless tenants. Government also undertook aggressive land consolidation.

Land reforms have been particularly successful in some pockets of the country as people have often found loopholes in the laws that set limits on the maximum area of land that is allowed to be held by any one person. The system of sharecroppers is quite prevalent under which absentee landlords enter into informal contracts with local villagers to cultivate their land with understanding on sharing of expenses and profits. Distribution of surplus lands to the landless is yet to be completed in several States. Formalisation of these arrangements meaning the State recognizing the rights of sharecroppers is pending for long. The unfinished reforms still spawn a big chunk of litigation clogging the judiciary

Reforming the Land Tilting system – An unfinished agenda

The agrarian reforms referred above have led to changes in tenure and tenancy status of land 'owners'. The sharecroppers who do not own the land but actually cultivate the land under informal agreements are still beyond official recognition and protection.

Concept of "Registration" of transactions in immovable property was introduced by the British in Bengal (1793) and Bombay and Madras Presidencies (1802). Initially, all 3 functions: Land Survey, Record Keeping, as well as Registration of Deeds were performed by the same officer. With increasing workload the jobs were split. Statutory backing to registration was provides by Act XVI of 1864, replaced by Act III of 1877 and finally by the 'The Indian Registration Act, 1908'. The Act provides for the Crown's witness to the deeds of transfer (sale/gift etc.), to give authenticity to the deeds and prevent the fraud of multiple transactions, preservation of the records of deeds and information of deeds to public. The Transfer of Property Act, 1882 provides that the right (or title) to an immovable property (or land) can be transferred or sold only by a registered document. Unregistered transactions do

not enjoy legal protection.

However, reforming the country's land markets through a fundamental legal and procedural shift in how land titles are awarded has long been on the agenda of government.

Land 'ownership' or other restricted rights for use of particular parcels of land are recognized and protected by the State. Ideally, there should be a legal instrument, called 'title' to the land, which is issued by an authorized officer of the government confirming that so and so has such and such rights in respect of such and such parcel of land. Every landowner, however, presently does not have a legally binding 'title' document.

The Transfer of Property Act, 1882 provides that the right (or title) to an immovable property (or land) can be transferred or sold only by a registered document. Such documents are registered under the Registration Act, 1908. The registration of land or property merely refers to registration of the transfer transaction (whether by mortgage, lease, sale or gift) and not of the land title, the transfer deed is *ipso facto* not a government recognition of land ownership and even bonafide property transactions may not always guarantee ownership as an earlier transfer of the property could be challenged. During transfer transactions, the onus of checking past ownership records of a property is on the buyer, and not the registrar.

In the absence of a formal title document, no single authoritative document guarantees ownership of land in India. The land ownership is indirectly inferred from various documents such as by a registered transfer (sale/gift/mortgage/lease) deeds, record of rights and records of inheritance, property tax receipts, and government survey documents.. The registration merely confirms that the rights vested in A have passed to B. It does not by itself confirm that A had those rights legally recognized and confirmed.

That is why land ownership in India is presumptive in nature and subject to challenge. Disputed land titles bring huge inefficiencies and risks in the real estate market. Execution of new

projects requires clarity on the ownership and value of land. Any infrastructure created on land that is not encumbrance-free can be potentially challenged in the future, making such investments risky.

On October 31, 2020, National Institution for Transforming India or NITI Aayog published a draft Model Land Titling Act and Rules for States on Conclusive Land Titling. Land titling is a generic term used to denote the programmes started by the Union government to empower the citizens and the governments to exchange or trade in land or property rights. The aim of the draft model land title Act is to reduce land related disputes and also improve land acquisition for infrastructure and development projects. It provided for the State as well as the Union government to order, power to order for establishment, administration and management of a system of title and registration of immovable properties.

Enactment of land titling law remains an unfinished agenda in the area of land management.

3. LAND SURVEY AND RECORD MANAGEMENT

As seen from the previous Chapter, there are variations in the legacy of how rights to use/own lands are recognised by the State in different parts of the country; in the relationship of individual cultivator vis-à-vis the State; in the system of assessment and collection of land taxes. Several land reform laws have been enacted with their full and final implementation still ongoing. The judiciary is clogged with lakhs of civil disputes involving claims and counterclaims on lands.

Some major advances (such as the 65 years long Great Trigonometrical Survey of India) were made during the British Rule for extensive survey of the territories of India. The survey technologies have moved from primitive manual methods of measuring land through feet to using remote controlled Total Station Theodolites and now Satellites and drones. State of the art technologies are now being deployed for survey and mapping to create error-free, tamper proof and quickly accessible land records. Pace of computerisation is increasing day by day. Under Schemes like DILRMP and SVAMITVA, mapping of every square meter of the country and creation of a digital repository of all land parcels, each identified by a unique AADHAAR-type identity – ULPIN or Bhu-AADHAAR - using advances in geospatial mapping technologies through remote sensing satellites and drones, is aimed at by the Government. The National Generic Document Registration System (NGDRS), which seeks to provide for 'One-Nation One-Registration Software'; a uniform process of registration and 'anywhere registration' of deeds & documents in the country, is yet another initiative on the anvil. An overview of the survey and record management activities to flag outstanding issues follows.

Survey Tech: Technological advances and policy reforms in

cartographic survey and mapping

The oldest survey technology was to measure land through feet, an imprecise and inconsistent measure. Then came premeasured chains and steel tapes to measure lengths, compasses to measure directions and horizontal angles and theodolites to measure vertical angles followed by Electronic Distance Measuring Tools, Laser and Ultrasonic measuring Tools, remote controlled Total Station Theodolites and Satellites and drones.

Steel tapes were preferred because unlike rope or cloth, steel would not lose accuracy, and unlike chain, it was not heavy and cumbersome. Of course, steel tape measures had to be rolled and stored in a specific way to retain their precision. Total Station Theodolites (TST) allow for precise measuring by only one surveyor through remote control. The manpower requirements have drastically come down.

The satellites and drones are next frontiers of survey technology. Global positioning systems catapulted the speed and accuracy of surveying past the invention of any previous tools or measuring systems. Using a satellite to pinpoint the location of objects on the ground opens up a whole new level of accuracy because line of sight is no longer necessary for measuring. The surveyors need no longer climb to the highest points of area landscapes or measure short distances at a time due to obstacles such as trees or hills, but only need have a clear view of the sky.

The electronic transfer of data has been a major advancement for surveyors. LiDar / 3-D laser scanners produce results in real time. Drones, or unmanned aerial vehicles, are becoming commonplace to collect data that would be difficult or dangerous for people to collect. A drone can speed quickly over treetops and other challenging terrain, collecting data swiftly and easily over large areas. They allow for either panoramic or close-up photo records of land or structures.

India is on the cusp of Geospatial Revolution and a healthy synergy among Government, Industry and Scientific Community

will tremendously boost up economic output. Geospatial information has an important role to play in the sectors like agriculture, environment protection, power, water, transportation, communication and health etc.

Presently, somewhat old data is being used by all organizations such as National Highways Authority of India, Defence, Archaeological Survey of India and Census of India, and the new update on topography is important, as it will help address inter-state issues, rural property rights, urban planning, flood forecasting, public asset and natural resource management

Survey of India has undertaken high-resolution cartographic exercise, first update in 16 years after 2005 topographical exercise. The high-resolution maps will show everything from houses to office buildings, and landmarks in remote villages, and can be used in land disputes.

This information can be used in land disputes, unlike Google maps which cannot be used in legal disputes, and positional accuracy cannot be guaranteed by digital maps. The focus will be on dispute resolution and generating land record databases under programme Swamitva. These maps will be also used by police, paramilitary agencies, strategic and border security agencies.

The troika of Space, Drone and Geospatial Policy will propel Indian economy in a big way. Unlocking of the Space sector for private participation in June 2020, issue of Liberalized Guidelines for Geospatial Data in February 2021 and final approval of Geospatial Policy in December 2022 and Liberalized Drone Rules, followed by Drone Amendment Rules-2022 notified by Ministry of Civil Aviation, all these are transformative, game changer decisions.

The role of private sector would be crucial in strengthening the Geospatial infrastructure of the nation and actual collection and collation of data. The Survey of India will provide the baseline for collection and collation of Data by the private sector for strengthening the Geospatial Infrastructure but private sector

participation has to be consistent with Geospatial Guidelines

Geospatial data is now widely accepted as a critical national infrastructure and information resource with proven societal, economic, and environmental value that enables government systems and services, and sustainable national development initiatives, to be integrated using location as a common reference frame.

Significance of cartographic reforms

The boldness of these reforms can hardly be over-emphasized. This is opening up a sector hitherto regarded as sovereign exclusive preserve of the State. The Survey and Navigation capabilities have aided military powers and the technologies and outputs have been guarded as secrets.

A key reason that Britain ultimately beat its rivals and colonized India (and much of the world) was that its cartographic capabilities soon surpassed everyone else. By the 1760s, military surveyors like James Rennell of the East India Company (EIC) began to create some of first properly surveyed maps of India. The Survey of India was established by 1767 to institutionalize the effort. This was no idle investment by the EIC as it was critical that it maintained a lead over the French and the Marathas. The Marathas were the only Indians that built some cartographic capability but they never quite caught up with the British. This gap was a critical factor that eventually allowed the EIC to subdue the only Indian power capable of beating it.

The Great Trigonometrical Survey of India is considered one of the greatest scientific achievements which not only mapped out the EIC's colonial possessions but, for the first time, worked out the exact curvature of the Earth.

In 1799, Colonel William Lambton proposed a plan to the colonial government of "a mathematical and geographical survey" right across the peninsula using a method called "triangulation". In theory, triangulation was a simple procedure to know the distance

between three mutually visible reference points. Starting with a baseline of two points, and measuring the angles using a surveyor's telescope (the theodolite), the position of the third point could be established. Each of the newly determined sides then became the baselines for two other triangulations. Thus, a chain of triangles could be built up.

The Trigonometrical Survey took 65 years to complete. It mapped the entire Indian subcontinent with "inch-perfect accuracy". The first ever measurement of the tallest peak on earth -- Himalayan peak number xv, subsequently named Mount Everest after the celebrated British surveyor and explorer George Everest - was an offshoot of this effort.

The imperial rulers had enough reasons to support the project. The administration needed geographic information and small-scale maps to better rule the country and exploit its now-mapped resources. The British converted the mapping of India into a monopoly of the Survey of India. This was not surprising as the colonial power would not have wanted either its European rivals or the locals to have free access to information. In contrast, the sector continued to remain open in Britain.

Even as satellite and digital technologies revolutionized the geospatial sector, indigenous capabilities stagnated due to government monopoly. To be fair, some capacity was retained and even enhanced, but by the turn of this century it was clear that Survey of India would not be able to keep up with the explosion of innovation. The real problem was not so much the Survey of India itself but the restrictions on private participation. Thus, Google Maps remained a legally grey area till the sector was finally liberalized.

The cartography and geospatial sector has been of critical economic and geostrategic importance for centuries. Its technological applications range from urban governance and defense to transportation and e-commerce. By opening it up to private innovation and investment, the government hopes that India

will be able to create cutting-edge capabilities for competing with the best in the world.

Land record Management

As discussed in previous chapter, we have a system of presumptive land titling. The land records are maintained, with information on possession and inheritance. Claim to title is made through past transactions.

Under the Registration Act, 1908, registration of property is not mandatory for all transactions. These include acquisition of land by the government, court orders, heirship partitions, and property leased for less than one year. Due to the high cost of registration, and registration not being mandatory, several property transfers do not get registered, and hence, official land records show outdated data about actual, on-ground position. Land records consist of various types of information (such as property details, spatial details, past transactions, mortgage details) and are maintained across different departments at the district or village level.

Since these departments are not seamlessly connected, the data is not updated properly or timely, resulting in discrepancies in land records. For example, a property transaction registered through a sale deed may not be simultaneously updated in the survey department that records spatial information (maps). In the past, surveys to update land records have not been undertaken or completed, and maps have not been used to establish actual property boundaries on the ground. Therefore, in several records, the property documents do not match the position on the ground.

Poor land records also affect future property transactions. It becomes difficult and cumbersome to access land records when data is spread across departments and has not been updated. One has to go back several years of documents, including manual records, to find any ownership claims on a piece of property. Such a process is inefficient and causes delays.

Several land records are prescribed to be maintained at the

village, tehsil and district levels and statements of land holdings, land revenue and rental cropped areas, land use pattern are maintained.

The principal records being maintained are: 1) Village Map: A pictorial form showing the village and field boundaries; 2) Field Books or 'Khasra': It is an index to the map, in which changes in the field boundaries, their area, particulars of tenure-holders, methods of irrigation, cropped area, other uses of land etc. are shown; and 3) Records of Right or 'Khatouni': The names and classes of tenure of all occupants of land are recorded in it.

The need for proper upkeep of land records is increasingly becoming important for public finances and national economy which in turn affects the fiscal management. One of the troubled legacy of governance system sought to be remedied through use of modern technology (digital and space) is absence of error-free, tamper proof and effortlessly accessible land records. This restricts ability to ascertain who has what legally protected rights attached with which parcel of land and associated litigations.. Proper record keeping of the location, defining boundaries, title, record of rights (including details of leases/tenancy rights), possession/encroachment status, charges/liens and other encumbrances attached and present land-use for each piece of land – whether public or private. The system as to be an integrated one because the public or private nature is disputed in many cases. In fact, the need for a proper electronic Registry/Database of charges/encumbrances attached to not just lands but also to the properties built thereon is increasing for smooth conduct of lending on the security of properties.

The work on digitizing land records is still in progress under various government schemes (DILRMP, SVAMITVA, Bhu-Aadhaar) discussed later. In many cases, the agricultural lands have been diverted for non-agricultural purposes on ground but records are not updated to reflect correct usage. Sometimes, land is found falsely registered as agriculture land in the name of fictitious owners

due to benami transactions. Names of all the eligible persons are not found recorded when property passes to several persons are a result of succession or partitions with mutual consent. Many properties continue to be in the name of deceased holders of land rights awaiting names of heirs being substituted.

Some of the specific governance problems connected with land management are discussed below. These issues affect both public and private lands, often inseparably connected in the same subject matter.

Computerization of land records has been going on for over three decades now. The Centrally Sponsored Scheme on Computerization of Land Records was started in 1988-89 with 100% Central financial assistance as a pilot project in eight Districts. The land record computerization process has recently gathered pace with latest tools of Information Technology (Geographical Information System, Cadastral mapping, Photometry, Electronic Total Station, Global Positioning System etc.) being used.

Digital India Land Record Modernization Programme (DILRMP) and Integrated Land Information Management System (ILIMS)

Providing error-free, tamper-proof and effortlessly accessible land records has been a prolonged governance challenge. Land is a State subject and the project for computerization of land records had been dragging on for years due to systemic lack of capacity, will and resources. It has picked up pace in recent years.

The National Land Records Modernization Programme was initiated in the year 2008-09 as a Centrally Sponsored Scheme by merging two Centrally Sponsored Schemes: Computerisation of Land Records & Strengthening of Revenue Administration and Updating of Land Records. Since April 2016, it has been revamped as Digital India Land Records Modernisation Programme (DILRMP), a Central Sector Scheme with 100% central grant with effect from 1st April 2016.

The main aims of DILRMP are to usher in a system of updated land records, automated and automatic mutation, integration between textual and spatial records, inter-connectivity between revenue and registration, to replace the present deeds registration and presumptive title system with that of conclusive titling with title guarantee. Under DILRMP, Rural Development Ministry provides financial assistance to States for computerization of land records, Survey/re-survey and computerization of Registration. This involves preparation of cadastral maps, 'record of rights' tracing changes in the rights and right-holders over time, deeds for registration of land transfers and other land records.

The programme envisages building an appropriate Integrated Land Information Management System (ILIMS) in the country which will inter alia improve real-time information on land, optimize use of land resources, benefit both landowners & prospectors and assist in policy & planning. Essentially the following are currently being carried out under DILRMP:

- Computerization of record of rights
- Digitization of cadastral maps
- Integration of record of rights (textual) and cadastral maps (spatial)
- Survey / re-survey
- Modern record rooms
- Data centres at tehsil, sub-division, district and State level
- interconnectivity among revenue offices
- Computerization of Registration 8
- Connectivity between sub-registrar office (SRO) and revenue offices

[8] https://dolr.gov.in/en/programme-schemes/dilrmp/digital-india-land-record-modernization-programme

- Integration of registration and land records

Computerization of land records is now complete in about 95% villages (35,585 villages remaining out of total 6,57,409 as on 29th April 2023). State-wise progress of DILRMP may be seen on the dashboards available at https://dilrmp.gov.in/# . The page https://dilrmp.gov.in/grading/ shows profile of districts - Platinum, Gold and Silver grading - in implementing DILRMP.

Unique Land Parcel Identification Number (ULPIN) or Bhu-AADHAAR is a sub-scheme under DILRMP

The Unique Land Parcel Identification Number (ULPIN) is 14 digits – Alpha–numeric unique ID assigned for a land parcel based on Geo-coordinates of vertices of the parcel (Latitude/Longitude). This is of international standard which complies with Electronic Commerce Code Management Association (ECCMA) standard and Open Geospatial Consortium (OGC) standard. ULPIN will have ownership details of the plot besides its size and longitudinal and latitudinal details. Unique Land Parcel Identification Number (ULPIN) has, been rolled out in 26 States/UTs.

SVAMITVA Scheme

In a major initiative to use drones and satellites to digitally map the entire rural landscape, Ministry of Panchayati Raj Institutions launched a new Central scheme "Survey of Villages and Mapping with Improvised Technology in Village Areas" (SVAMITVA) on National Panchayati Raj Day April 24, 2020 on pilot basis in 9 States which was extended to all States a year later.[9]

The Geological Survey of India has been tasked to create a network of Continuously Operating Reference System (CORS) stations to utilize modern surveying technology based on global satellite positioning systems and drones for accuracy and real-time

[9] https://dolr.gov.in/en/programme-schemes/dilrmp/digital-india-land-record-modernization-programme

data acquisition.

SVAMITVA is a national scale-up of Haryana's trail-blazing project of mapping villages to create a record of rights for "abadi" (inhabitant) areas using drone survey.

SAVIMTVA will help start-ups companies providing drone technology. Real Time Kinematic (RTK) and Post-processing Kinematic (PPK) drone technologies are to be used for the mapping. RTK use real-time satellite navigation technique to enhance the precision of position data derived from satellite-based positioning systems. PTK technique is used to correct location data after drone data has been captured and uploaded. A number of agri-based startups are coming up and the field is ripe for innovation and employment. Drone-based surveillance has been successfully used for monitoring crowd movement and better traffic management.

The progress of the scheme may be seen on the webpage of the scheme. https://svamitva.nic.in/svamitva/index.html.

Registration of transfer of property: National Generic Document Registration system (NGDRS)10

The Transfer of Property Act, 1882 provides that the right (or title) to an immovable property (or land) can be transferred or sold only by a registered document. Unregistered transactions do not enjoy legal protection. 'Registration of deeds and documents' is a subject in the Concurrent List of the Sch. VII of the Constitution. 'Registration Act 1908' is a Central Act. States can amend it with assent of Hon'ble President. States also have the powers to make Rules and to prescribe the rates of fee. The computerization of the registration process is sought to be harmonized across the whole country under a national programme - National Generic Document Registration System (NGDRS).

In her budget speech (Budget for FY2022-23), the Finance Minister proposed promotion of the adoption of or linkage with

[10] *https://dolr.gov.in/sites/default/files/Monthly_Summary_February_Eng_2023.pdf*

National Generic Document Registration System (NGDRS) with the 'One-Nation One-Registration Software' as an option for uniform process for registration and 'anywhere registration' of deeds & documents.

NGDRS has so far been adopted in 17 states/UTs viz. Punjab, Andaman & Nicobar, Manipur, Goa, Jharkhand, Mizoram, Himachal Pradesh, Maharashtra, Dadar and Nagar Haveli, Jammu and Kashmir, Chhattisgarh, Tripura, Ladakh, Bihar, Assam, Meghalaya and Uttarakhand.

Benefits from improved management of land records

e-procurement from farmers under minimum support prices scheme

To protect the farmers against risk of distress sale due to fall in market price, the government undertakes procurement at Minimum Support Prices. Instances are found where some farmers offer for sale quantities that are far in excess of what produce may be reasonably expected from their farm holdings. It may be recycling of produce already in the market or proxy selling on behalf of someone else not entitled to sell at a State-run Mandi (e.g., farmers from outside the State).

The computerization and digitisation of land records has enabled the e-procurement of wheat and paddy in the states through the minimum support price scheme. It is extremely convenient now for the mandi administration to make an assessment of the food crop sown and the foodgrain produced by individual farmers on the basis of khasra entries. All that the mandi administration has to do now is to plan the arrival of farmers to the mandi by staggering them village wise. And on arrival, check whether the food crop in the khasra entry matches the quantum brought to the mandi by the individual farmer. On satisfaction, payment as per the MSP is credited to the individual farmer's account. Most states now use computerized land records for e-procurement. While transactional efficiencies are evident, there are other benefits as well. The staggered arrival plan of farmers' produce at the mandis can be conveniently planned on

the basis of data related to total acreage under cultivation in the villages. The long queues of tractors crowding the mandis, once a common sight, is not seen these days. The ease of living of the farming community has thus been positively impacted.

Efficient and error-free payments under Pradhan Mantri Kisan Samman Nidhi Yojana (PM-Kisan)

Payments under the Pradhan Mantri Kisan Samman Nidhi Yojana (PM-Kisan) in the states are being done based on computerized land records. Of course, problems remain where official records continue to show the names of previous owners even though there has been change of ownership due to gift, inheritance, settlement through mutual consent in disputed succession cases or partition of property held by Hindu Undivided Families.

Efficient and error-free disbursement of compensation for land acquisition

Projects getting affected due to delay in land acquisition or delay/denial of compensation to rightful ex-owners of land acquired. Proper and updated computerized land records are extremely essential for quick relief and rehabilitation and paving the way for smooth project implementation.

Checking fertilizer subsidy misuse

Union government spends large sums on fertilizer subsidy paid to farmers (earlier paid to manufacturers/importers) and there are instances where farmers buy more than what they need for use in their own fields alone. Hence, entitlements of beneficiary farmers under schemes of fertilizer subsidy and MSP-based procurement (which is meant for farmers not for traders) are being linked to their land holdings. Schemes like PM-KISAN for direct benefit transfer can be rid of several ineligible payments with properly digitized land records.

The subsidy reforms aim to plug leakages in the delivery of subsidized fertilisers and ensure only farmers got them. The government would like to use Aadhaar to identify the buyers, land

records and soil health cards to confirm whether the buyers were indeed farmers and to ascertain the quantity of fertilizer to be sold to them.

The government has recently decided to roll out a modified direct benefit transfer (DBT) scheme for disbursing fertilizer subsidy in seven districts in seven States as a pilot project. Sales of subsidized fertilisers will be capped, taking into consideration their land holdings.

The reform of fertilizer subsidy delivery process started in June 2016 when the government began to tap three databases – land ownership records, soil health cards and Aadhaar, the biometrically linked 12-digit unique identification number. Due to implementation difficulties, the use of land records and soil health cards was temporarily shelved pending rectification of errors in the land ownership records.

Other potential benefits of improved land record maintenance:

The following potential benefits are highlighted:

a) The monetization of surplus land held by governments and their parastatal bodies would also be facilitated.

b) Encroachments of public lands can be monitored through a system of randomized inspections ordered by faceless systems to cut discretion and collusion of dishonest public officials.

c) Area Development Authorities including development of estates can benefit from reliable digital records of land holdings, titles and charges attached thereto for optimum utilization.

d) Minimizing the need of acquisition of private lands due to information gaps, identifying encroachments and planning the rehabilitation of slum-dwellers.

4. LAND ACQUISITION

Evolution of the legal mandate to the governments to forcibly acquire private lands for public purposes and associated problems are highlighted in this Chapter. The issues emerging from our analysis are (i) finding the right balance between public interest and private interests, (ii) relief and rehabilitation of large communities displaced by land acquisition for large public projects, (iii) unnecessary land acquisitions benefitting vested interests, (iv) diversion of acquired lands for not-so-public or rather private purposes, (v) litigation on the quantum of compensation to former land owners, (vi) payment and accounting of the compensation.

We present some major findings of the CAG, in recent past, on land acquisition by different agencies for different purposes.

Land acquisition to develop a new industrial estate in NOIDA, Uttar Pradesh (CAG Report No 6 of 2021)

The New Okhla Industrial Development Authority (NOIDA) was created in April 1976 under the Uttar Pradesh Industrial Area Development Act, 1976 with mandate to acquire lands for industrial development. As per Master Plan-2031 approved in 2006, NOIDA was required to develop an area of 1,527.99 lakh sqm against which it acquired 1,237.58 lakh sqm of land till March 2020.

During 2017-2018, the State Government entrusted the audit of NOIDA to the CAG and appointed the CAG as the sole auditor from the year 2005-06 onwards. The CAG found that only 23 per cent of acquired area was developed for industrial activities by March 2020. Residential development was the predominant activity with 52 per cent land allocation.

NOIDA acquired 80 per cent of land under the Land

Acquisition Act, 1894 and took possession by invoking the urgency clause of the Act, which enabled the Collector to dispense with the rights of landowners in respect of hearing on objections to proposed land acquisition. While NOIDA claimed urgency in acquisition but inordinate administrative delays were noticed in submission of final proposals for land acquisition.

Land acquisition by DDA (CAG Report No. 31 of 2016)

- The National Capital Territory of Delhi is divided into 17 Zones for planned development. The Zonal Development Plan (ZDP) contains, inter alia, site plan and use plan indicating approximate location and extent of land uses proposed in the Zone as well as detailed information regarding provision of social infrastructure, parks and open spaces, circulation system, etc. The CAG found delays in finalization of Zonal Development Plans and deficiencies in the monitoring and periodical review of Master Plan of Delhi (MPD)-2021.
- MPD-2021 had envisaged alternative options for development of areas identified for urbanization through involvement of the private sector for which a land pooling policy was approved by the Central Government in September, 2013 but the policy had not been operationalized by October 2016.
- DDA had no consolidated information/database in respect of land acquired and utilized for various schemes as well as vacant land in hand. The information provided by different wings of DDA relating to vacant land lying with DDA and acquired lands during 2010-11 to 2014-15 was at variance. Joint inspection carried out by audit also did not reconcile with DDA records as the land was found to be short/less.
- The Report brings out lack of coordination between DDA and Delhi Government in acquisition proceedings, release of compensation/ enhanced compensation, receipt of land from Delhi Government, reconciliation of accounts and proper utilization of funds by Delhi Government. Inordinate delay of

more than nine years for transfer of land to user departments after taking possession of land from Delhi Government was noticed.

- The CAG also found delays in completion of land acquisition and release of compensation; non-reconciliation of compensation amount between DDA and Delhi Government; non-receipt of utilization certificate from Delhi Government; non receipt of land even after release of full payment and double payment of enhanced compensation.

Delays in acquisition and non-utilization/under-utilisation of lands acquired for defence purposes (CAG Report No.35 of 2010-2011)

- The Parliamentary Standing Committee on Defence was informed that 58529 acres of acquired land were lying vacant. Out of this, 49,831 acres of land acquired between 1905 and 1990 were lying vacant since its acquisition. An area of 5107 acres of land was found permanently surplus and 1661 acres of land as temporarily surplus.

- In 49 cases on ongoing land acquisition, Audit noticed that 15 cases were 1-5 years old, 12 cases 6-10 years old, 15 cases 11-20 years old and 6 cases over 20 years old. Delay in land acquisition was attributed mainly to late publication of awards and delay in giving/ taking possession of land. Final declarations of awards in respect of 21 cases were awaited even after issue of Government sanctions pertaining to the period from November 1979 to June 2003.

Acquisition of land and development of industrial estates by Haryana State Industrial and Infrastructure Development Corporation Limited (CAG Report no. 2 of 2017)

- Land measuring 7542.76 acres valuing Rs. 4,488.86 crore acquired between January 2006 and April 2013 had not been taken up for development of industrial estates. The Company

incurred extra expenditure of Rs.742.92 crore and Rs.112.61 crore on acquisition of land due to delay in filing of appeals in court and application of incorrect rates, respectively.

- The percentage of recovery of enhancement in cost of land decreased from 43 in 2014-15 to 12 in 2016-17. Due to poor recovery. the overdue amount from allottees increased from Rs. 1,144.56 crore to Rs.1,871.04 crore during the period 2015-17.
- The Company had not made any plans for construction of sheds/ flatted factories in its Industrial Estates during 2012-17. Report noted that 31 sheds planned during 1994 at Gurugram had not been constructed even after a lapse of more than 22 years leading to non-utilization of 1.80 acres land valuing Rs. 24.06 crore. to The objective of boosting the MSME sector as laid down in the Industrial Policy remained unfulfilled.
- The Company acquired 26,794.66 acres of land up to 31 March 2017, out of which 24,760.75 acres (92.41 per cent) fall within National Capital Region (NCR). Of the land acquired in NCR, as much as 7542.76 acres has not been taken up for development so far. Further, out of 43.71 lakh sqm of unsold plots, 10.46 lakh sqm plots (24 per cent) were lying unsold in vicinity of Delhi as on March 2017.

Acquisition, development and allotment of private land for industrial purposes in Kerala (CAG Report No.6 of 2014)

- CAG pointed out wasteful/extra expenditure by three PSUs (KINFRA, KSIDC and KSITIL) on acquisition/development of 5003.78 acres of private land at a cost at exorbitant price of ₹ 763.74 crore for industrial purposes and extending undue benefit to private sector companies.
- Out of the total land, 2,290 acres had been allotted to 558 persons. Even though the allotments were at throwaway prices; 41 persons did not utilize (March 2014) the allotted land measuring 180.57 acres defeating the very objective of setting up of industrial units.

- Kerala State Industrial Development Corporation (KSIDC) acquired a total area of 1096.12 acres of land for setting up of four Industrial Growth Centres (IGC) out of which 447 acres was allotted to entrepreneurs. Of the 258 acres of land acquired for IGC at Malappuram, 243.79 acres remained vacant for 12 years due to non-creation of infrastructure by KSIDC. The joint venture partner (INKEL) was allowed to possess 60.95 acres of land through sub-lease. The MD of INKEL – a private company – who decided to transfer 60.95 acres of land was simultaneously holding the position of Secretary of Industries Department.
- The financial impact of deficiencies noticed in the acquisition, development and allotment of land by the PSUs amounted to Rs.212.02 crore.

5. ALLOTMENT OF PUBLIC LANDS

Public lands are 'allotted' to private parties under different legal covenants such as outright sale conferring 'freehold' rights or short to long term lease conferring 'leasehold rights' or limited rights such as mining of underground resources for specific periods. Audit has found instances where the governments have acted arbitrarily, against public interest, facilitating private gain. Two prime examples are the CAG Reports on allocation of coal-bearing areas and the (acquired) public lands allotted for housing/commercial/industrial purposes in NOIDA, Uttar Pradesh.

Committee on Allocation of Natural Resources (2011)

As a direct outcome of the CAG Report on allocation of 2G Spectrum, the government had set up (2011) a Committee on Allocation of Natural Resources chaired by Shri Ashok Chawla (Chawla Committee). The committee reviewed the status of governmental systems for various natural resources like COAL MINERALS PETROLEUM NATURAL GAS SPECTRUM FORESTS LAND and WATER.

Chapter 9 of the Committee's Report deals with observations and recommendations concerning utilization and monetization of lands under control of the Central governments and its agencies. These are summarized below:-

i. Due to increasing demand for industrialization, urbanization and infrastructure development, land commands a scarcity premium. While India has only 2% of world's total land resources, it accounts for 17% of the global population and 18% of global livestock. The need to utilize the country's land resources with a great amount of care and planning is thus paramount. The land sector is critical for the country

and its economy considering the high stakes involved.

ii. There were many instances of sub optimal use of land due to apparent non transparency and subjectivity in disposal policy of the lands. Hence, a transparent and uniform policy should be framed with respect to alienation of land, which should be followed by all the Government Ministries / Organizations including Government controlled statutory authorities. Similarly, all housing boards under the control of Central Government should have a broad uniformity in their policies and with the presence of a Regulatory Body, it is hoped that sufficient housing at reasonable cost shall become a reality with Government also realizing its true value for money.

iii. Central Government and its parastatal own or possess very large chunks of land, many of these remaining under-developed. These land parcels now command hefty premia and also face the threat of illegal occupation, land grabbing, encroachments and permanent alienation. More transparency in allocation and management of land is needed.

iv. Many Central Government Departments and Central Public Sector Undertakings have framed their own policies with the approval of the competent authority with regard to transfer or alienation of land. Delhi Metro Rail Corporation and Ministry of Civil Aviation / Airport Authority of India also have or are in the process of developing policies to better exploit their land resources. India Railways have also established the Rail Land Development Authority as a statutory authority for development of vacant railway land for commercial use for the purpose of generating revenue through non-tariff measures. Ministry of Shipping (MoS) have their own approved land allotment policy with respect to land owned by port trusts.

v. The major ports span a total area of ~6,300 hectares. Old

records are not readily available for many ports. Paradeep Port is about 50 years old. However, efforts for mutation of land assets in favour of this port by Government of Orissa have been initiated only recently. A land policy of 1989, was later revised in 2004 for major ports. The Land Policy for Major Ports and Ennore Port Ltd. was issued on January 13, 2011 which provided that every major port shall have a land use plan covering the entire land owned and/or managed by the Port. Such plans should be approved by the Board. Any proposal for revision of land use plan shall be published on the web-site of the Port Trust, inviting objections and suggestions, and shall be finalized by the Board after considering the objections and suggestions received. The Land Allotment Policy provides that land can be allotted either on license or lease basis as per approved land use plan/zoning plan. As per the policy, land inside custom bound area shall be given on license basis only. The allotment of land in Custom bound area may be for activities directly related to Port operations or for those which are not directly port related but aid the port activities and sea trade such as for setting up of duty free shops, communication centres, parking facilities, passenger facilities like shopping centres, cyber cafes, health clubs etc. and security related activities. All such proposals should be subject to necessary statutory and administrative approvals. License of land outside custom bound area may be for both port related and non-port related activities, with preference to port-related activities. License of land outside custom bound area also will be governed by the same conditions as are applicable in case of land inside custom bound area. The land outside custom bound area can be leased only in accordance with the land use plan. Land should normally be leased through a competitive bidding process. However, land can be allotted on nomination basis to Government Departments, Central/State PSUs or private parties in accordance with Schedule of Rates approved by the competent authority.

vi. All allotments of commercial space are done by the Delhi Metro Rail Corporation in terms of Cabinet decision of the year 2009.

vii. The Airports Authority of India manages 126 airports with total land holding of 51,000 acres (approximately) at various locations. Out of 51,000 acres of land, 701 acre is under encroachment. At present, there are no codified rules / procedures for allotment. Broadly, land is allotted to various airlines for operational purposes at fixed rates as per Schedule of Rates. The Authority proposes to allot 300 acres of land at 10 airports at market rates for commercial purposes through a competitive bidding process.

viii. The Ministry of Posts and Telegraphs was bifurcated in 1985 and a separate Department of Telecommunications was established under the Ministry of Communications and Information Technology. Two autonomous public sector undertakings (PSUs) i.e., BSNL and MTNL were also created at that time along with Videsh Sanchar Nigam Limited, which was set up to run international services. However, no formal bifurcation of land assets has been done till date. The creation of fixed assets register entails a massive exercise and money has already been sanctioned for hiring consultants to supervise this process. There are 38,000 telephone exchanges in the country, which also have substantial cumulative land resources with them. In absence of details, it was informed by the DoT to the committee that no sale of land or any other resource is being contemplated as on date.

ix. Department of Posts has a substantial quantity of surplus and unused land even as most of the 18,071 post offices operate from rented buildings. There is no declared policy for transfer of land but a policy for granting concessions for the use of land, on a pubic private partnership basis, was at an advanced stage of consideration. (2011)

x. Ministry of Railways owns approximately 4.31 lac hectares of land, of which 90% is directly under tracks, yards, workshops and allied supporting infrastructure. Most of the remaining 10% of land is in the form of a thin strip along the tracks, which Railway has been utilizing or plans to utilize for its expansion for doubling, third line, quadrupling of track, gauge conversion, yard re-modelling and other infrastructure etc. Railways have also identified 1,520 hectares of land so far to examine feasibility of its commercial development by the Rail Land Development Authority, which has been set up as a statutory Authority, under the Ministry of Railways through an Amendment to the Railways Act, 1989, for development of vacant Railway Land for commercial use for the purpose of generating revenue by non-tariff measures. As per existing practice, Railway land is given to developers for commercial development through a transparent bidding process on long term lease basis for development work, without any budgetary resources.

xi. Total defence land in the country is around 17.3 lakh acres, of which, 16 lakh acres is outside the cantonments. Under policy instructions dated July 11, 1986, defense land cannot be declared surplus; if at all any land is to be given, it should only be on the basis of exchange. Prime Minister's Office (PMO) Office Order of August 22, 1997 has further laid down that no alienation of defense land will be permitted without Cabinet approval. An amendment issued in the year 2000 has permitted diversion of defense land for use by Public Sector Enterprises/State Governments/Public Utilities on short term lease basis, which does not lead to alienation. About 11,000 acres of defense land is under encroachments. There is no policy to transfer defence land for private use. Further, it has been clarified that the existing vacant land is required for defense projects; hence, at this juncture, there is no surplus land available for sale or

transfer.

xii. Land and Development Office (L&DO) of the Ministry of Housing and Urban Affairs is responsible for the administration of landed estates of Government of India in Delhi. and the custodian of Central Government's lands, within and outside Delhi. Due to severe scarcity of land, large numbers of requests are pending from Central Ministries requesting for additional land allotment, which have not been able to be satisfied. Similarly, even though the Cabinet had allowed allotment of land to political parties on payment of premium at full market value determined on the basis of rates prescribed by the Government of India from time to time, no allotment was made due to paucity of surplus land. No land is available for private parties also and no such allotment was made during the period of last five years. The Schedule of Rates was last revised in the year 2000. There are three types of leases in respect of old Nazul lands, namely (i) residential, (ii) commercial, and (iii) institutional. Nazul leases are perpetual whereas rehabilitation leases are for 99 years. Except for one case, no allotment of land was done through auction. All allotments of land on perpetual lease hold basis are made by the Ministry.

xiii. Each Ministry / Department/ Organization appears to be following a policy which has been approved internally. There may be instances, where the policies followed for alienation or transfer may not be similar amongst different Ministries / Departments / Organizations. The salient point of consideration is that there should be some uniformity in these policies, in terms of the broad guidelines to be observed while allocating/alienating land. These guidelines should be transparent and objective to enable optimal allocation of land resources available with them

xiv. There is need of a detailed and credible inventory of land resources owned or occupied by the various Central

Government Ministries / Departments or Organizations as also their current status. This information – when compiled - will not only facilitate a transparent and efficient public land management with accountability, but it will also enable the Government to know its own land resources' balance sheet. The inventorization should be accompanied by satellite imagery or GIS mapping. This manner of stock-taking will make land records tamper-proof and reduce the menace of litigation associated with land disputes. It will also act as a safeguard against encroachment or embezzlement of government land, and facilitate law enforcement and public land recovery (in case of illicit allocation or encroachment).

xv. The price discovery of land is difficult as the value depends on many factors such as land use, floor area ratio and location etc. Further, even a clear title can hugely inflate the value of land. Therefore, it is very necessary that all possible steps must be taken before initiating any proposal for alienation of land to ensure that optimum value is realized by alienating such land. This, *inter alia*, also includes the need for change of land use to the most optimal land use in consultation with the State Government, so that true value for money is realised.

xvi. The committee underscored the need for a high-level oversight body. In several cases, the land occupied by government organizations was not found mutated in their name. In some cases of very old land allotments, no land records were available. This may encourage encroachment and malafide allotment or alienation. It is therefore necessary that all land records should be updated to clearly reflect the title in the name of the Central Government organization and there should be some monitoring mechanism in this regard.

xvii. The committee underscored the need for Land Exchange

Management Committee. There may be occasions, when a Central Government Department or Organization may be in need of additional land for valid purposes, but no land is available in the vicinity or else is too costly. Similarly, some other Government Department or Organization may have surplus land, which is lying idle or un-utilized with no need in near future. This surplus land is not only costly to maintain and protect but is also always under threat of encroachment etc. Therefore, there should be mechanisms to allow early transfer of surplus land from one Central Government Department or Organization to another Central Government Department or Organization on mutually agreed terms and conditions. Similarly, there may be occasions when the respective State Government or Local Body may wish to regain a particular piece of land, which is required for their developmental activities. Therefore, there should be a mechanism, which allows Central Government Organizations to exchange lands in their possession with another appropriate land parcel available or on offer by the State Government or Local Body elsewhere. These circumstances necessitate creation of a 'Land Exchange Management Committee', which can approve appropriate terms and conditions for mutual exchanges between Central Government organizations and also between Central and State Government organizations.

xviii. The committee recommended avoiding alienation of land on lease basis and going for transparent e-Auction / competitive bidding for all cases of land alienation especially in case of commercial and institutional properties. Deviations should be with the specific approval of the Cabinet. Existing procedures allow the lands to be alienated or transferred either on long term lease basis or through outright sale. However, it is well known that it is difficult to regain the possession of land already given on long term lease. Further, the annual amount of lease rentals cannot keep pace with

market factors / inflation and hence become progressively insignificant as compared to prevailing market rates after a certain period of time. Thus, it may be more optimal to alienate land through sale rather than a long-term lease. In case of sale, an ascending e-auction methodology could be resorted to, like the one used by NTC for selling its Mumbai properties, which fetched record returns.

xix. There is need for clear instructions to be issued that all land allocation by land development agencies and housing boards, especially with respect to commercial, industrial or institutional properties must be on the basis of a transparent and competitive bidding process. However, the pricing for housing allotments to public at large, especially with respect to lower income groups or middle-income groups must be at actual cost, with transparent and realistic norms for the purpose. Similarly, there may be a clear and transparent policy for allotments to services and utilities, including hospitals, educational institutions and religious places, subject to land availability, under transparent and published zonal plans.

xx. Committee underscored the need for transparency and clarity in policy for land use change or additional FAR etc. Even though, the instances of permitting change in land use by the land development authorities in Delhi may be few, it is felt that the land owner in Delhi does not share anything with the Government for any increase in the notional value of his land on account of any change in land use or enhanced FAR permission. This may amount to undue enrichment of the land owner especially in case of change of land use from 'Agriculture' to 'Commercial'.

xxi. Committee underscored the need for revision in the amount of ground rent or lease money in case of leased out lands.

The disposal of Nazul properties by the DDA is governed by "The Delhi Development Authority (Disposal of Developed

Nazul Land) Rules, 1981. Sub-sections (3) and (4) of these rules provide that the allottee shall be the sub-lessee of the Central Government, unless Nazul land has been allotted on free hold basis either through auction or by tender for residential purpose or commercial purpose. Sub-Section (4) of this section provides that the rate of ground rent in all cases shall be subject to enhancement after a period of thirty years from the date of allotment. However, it seems that this enhancement in annual ground rent is not being done especially in case of very old leased out properties leading to revenue foregone by DDA.

xxii. Since many of the allotments are made on the basis of approved 'Schedule of Rates', the committee recommended periodical updating of these rates, at least once in a year in line with the prevailing market rates.

xxiii. The committee called for complete transparency and clarity in Accounts and terms of handling the assets of the Central Government. There is yet another issue of the share of establishment & administrative expenses of DDA apportioned to the Central Government (Nazul-II). More clarity may be required on the basis adopted for allocation of these expenses as reflected in the table below. In part, this lack of clarity is because there is only a receipts and payments account for Nazul-II and no income and expenditure account or Balance Sheet is available for Nazul-II accounts. This points to the need for more transparency with respect of the accounts of the DDA. As an initial step, an 'Asset Statement' of all the Central Government lands or other assets in the custody of the DDA can be publicly disclosed and placed on its web site. If any of these assets are used by the DDA, payment to the Central Government on an appropriate basis needs to be made, in the same manner as it charges establishment and

administrative expenses from the Central Government.

xxiv. The committee emphasized the need for a Regulatory Body

for land development and housing parastatals. There is need for a Regulator in the Lands & Housing Sector as well. DDA is acting in all capacities, i.e., as a regulator, as well as a Housing Board and a Builder. The Ministry clarified that they are considering the issue relating to appointment of regulators in the area of urban governance, who may, *inter alia*, also oversee land development authorities. The committee recommended a regulator for housing sector to take over the monitoring and oversight functions from DDA. This may be necessary to bring transparency in this sector.

xxv. There is imminent need for having an institutional framework for a centralized and transparent data bank, which should include the complete ownership details, area allotted and possible land uses along with actual status as regards utilization and encroachments etc., in addition to the satellite images and GIS Mapping. This will facilitate a transparent and efficient public land management with accountability. A common centralized depository of all land resources was to be prioritized for NCT of Delhi.

xxvi. It was further suggested that all the properties should be dematerialized on the lines of equity shares. This will not only enable the Government to know the details of all the properties owned by any particular individual, but will also simplify the purchase and sale of all properties without getting into much difficulties / hurdles. This will also not only be a step forward towards the rightful collection of government revenue but will also highlight the benami properties.

xxvii. All the Central Government Departments or Organizations may need to ensure that their land resources are put to their optimum use by striving for not only using the maximum

permissible FAR. available but also the most optimum land use. This may generate the surplus land resources for other alternative uses by the Government to the benefit of the

country.

xxviii. The land market is complex and diverse. Land prices are often the result of multiple interactions of many factors. Availability of all the ownership documents, limitations on transfer, land use controls, nearby land uses, whether leasehold or free hold, availability or absence of utilities and transportation facilities and anticipated economic growth in the area etc. are some of the factors affecting the market price of land. Therefore, unless complete facts are disclosed transparently, it may be difficult to realize value for money for the government. The Central Government should issue an immediate direction that all steps as are necessary must be taken before any proposal for alienation of land is initiated to ensure that optimum value is realized by alienating such land. It also includes the need to have clear title, sale permission, if required and change of land use to the most optimal land use in consultation with the concerned State Government or local body. In view of above, it is imperative that when land is alienated through sale, a transparent auction methodology is used.

xxix. It may be preferable to have a policy for out-right sale of land, unless there are legal constraints on account of original terms of allotment, rather than a long-term lease arrangement, which is difficult to resile or cancel when the lease tenure is about to come to an end. The policy in cases of lease should consider specifying that an amount similar to the estimated sale value of land on the date of transfer shall be received upfront before entering into any long-term lease with nominal amount of lease every year thereafter.

xxx. There is an immediate need for a high-level oversight body to ensure that there is a monitoring mechanism for oversight and monitoring of all cases of land alienation by the Central Government Organizations. The Central Depository of Land Records as recommended in para 33 *ante* should also be

accountable to this high level oversight body. This will bring improved accountability and transparency in alienation of public land assets.

xxxi. There is also an urgent need to have a Land Exchange Management Committee to supervise or permit any exchange of land or transfer of surplus land from one Central Government Department or Organization to other Central Government or Organization after comprehensive scrutiny of the complete facts. This body will also allow the respective Central Government Organization to exchange the particular piece of surplus land with the concerned State Government or Local Body for another appropriate piece of land elsewhere. This land exchange body shall examine each request for land exchange and take a view on merits.

CANR (2011) recommendation on alienation of land by land owning parastatals and housing boards under the control of Central Government

- There should be transparency and clarity in form of guidelines or policy, on all land related issues, with some mechanism to share the notional gains by the land owner for generating funds for public welfare.
- The lease deed for all the lands alienated on lease-hold basis provide for revision in the amount of annual ground rent or lease rent after a certain period, say thirty years. It seems that there is no policy in place for such revisions. This needs to be done in all the cases, especially those cases, where allotments have originally been made on nominal rates. There should be a clear policy prescribing the procedure for revision of rates, and as far as possible, the amount of revised ground rent should be fixed at its optimum value to enable resource generation.
- The Committee feels that there should be more transparency in the Accounts of land-owning parastatals such as development authorities and other organizations involved in

land development and public housing, and these should be put in the public domain so that the public at large also stands apprised as to the efficiency of these bodies. The terms of handling the assets of Central Government must also be fair and transparent with proper Income & Expenditure Account and Balance Sheet.

- The objective of any housing board should be to make housing available at reasonable costs to public at large, especially economically weaker sections or low-income groups. Therefore, these organizations should not be governed by the profit motive, except to the point that it reflects their overall fund management efficiency. It is therefore, suggested that the pricing policy be transparently formulated. However, all commercial and institutional allotments should be at market prices, preferably through competitive bidding. This committee further suggests that the cost audit of the pricing of all the internal land transfers to all housing authorities, including DDA and L&DO, be done by the Cost Accounts Branch of the Department of Expenditure, Ministry of Finance, to ensure the reasonability of the transfer costs. The Cost Accounts Branch may also be asked to indicate the areas with scope for cost control and cost reduction, if possible.

- The Committee noted availability of substantial surplus funds with DDA and suggested its use in performance of its statutory functions. The position on available balances should be periodically reviewed.

- The Committee recognized that a separate dispensation may be needed for the case of educational institutions. Of the plots that are identified for primary and secondary schools under the zonal plans / master plan, a substantial percentage, say 50%, should be earmarked and allotted for Government run schools. Of the remaining plots identified for primary and secondary schools, a small percentage, say 10%, can be

allotted through a transparent reasoned mechanism with the approval of Cabinet on case-to-case basis. The remaining plots should be alienated through the auction process or competitive bidding to pre-qualified bidders in the field of education, as per the existing practice.

Implementation of the 'Roshni Act' in Jammu & Kashmir (CAG Report No.1 of 2014)

- In 2014, the CAG brought to fore a major scam in disposal of public lands under the 'Roshni Act' even as the audit was conducted without full cooperation by the authorities to give all the records and information.
- Under the Constitution of J&K, which was applicable to the J&K, backed by Art 35A and Art 370 of Constituting of India, legislation concerning rights of 'permanent residents of the State f J&K' could be passed by 2/3rd majority of the total membership of each House of the J&K State Legislature[11]. Nevertheless, in 2001, a law (the Jammu and Kashmir State Lands (Vesting of Ownership to the Occupants) Act, 2001 popularly called ROSHNI ACT) was passed by 'voice vote' to transfer ownership rights in respect of encroached government lands to the encroachers themselves so as to raise resources to augment power generation capacity in the State. Hence the name ROSHNI ACT, ROSHNI meaning light). Ownership could be given only if the unauthorized occupants were permanent residents of J&K - natural persons or companies - fulfilling the conditions prescribed under the law.
- The original Roshni Act was amended in 2004 and 2007 with no explicit confirmation of 2/3rd majority supporting it as contemplated for laws involving permanent residents. While the

[11] On 5 August 2019, the Union Government revoked the special status granted to Jammu and Kashmir through a Presidential Order under Art 370 to make the entire Constitution of India applicable to the State. This implied that the Article 35A also stood abolished. The ownership of lands in the erstwhile State of Jammu and Kashmir can no longer be confined to its 'permanent residents' alone.

original Act entitled only those under unauthorized occupation for a prolonged period before the passing of the Act, subsequent amendments diluted it and moved to unauthorized occupation on a cut-off date that was kept open for notification. Notification was delayed for no reasons forthcoming. The government announced that any PERMANENT RESIDENT of J&K who may be in unauthorized occupation of public land on a FUTURE DATE to be notified can pay and claim full ownership of land. Virtually, making such rules and then delaying the notification of the cutoff date was nothing but a standing invitation to permanent residents in the know to go and encroach public lands.

- In 2006, the government had estimated resource mobilization of about Rs. 25,500 crore by selling about 2,58,100 acres State land under unauthorized occupation. However, only about Rs. 76 crore had been realized against a demand of about Rs. 318 crore raised by the end of March 2013 with actual transfer of about 43,520 acres. Of this, major portion (about 42,500 acres) was categorized as 'agricultural land' and transferred free of cost to the encroachers. In hundreds of cases, the price of land was not recovered despite lapse of allowed period of 2 years

- The declared objective of the Act was raising of resources for investment in Power Sector which stood defeated as the implementation degenerated into an exercise in large-scale regularization of encroachment on public lands. 547 cases involving transfer of about 83 acres non-agricultural lands mostly in cities were examined in detail by Audit. It was found that against the total price of Rs.325 fixed by official committees (chaired by Divisional Commissioners in Jammu and Srinagar and Deputy Commissioners elsewhere), the applicants were asked to pay only Rs.100 crore.

- Big family estates built on public lands under unauthorized occupation were shown as split among family members to claim higher rebates in land price. Rates were arbitrarily applied and

rebated even lower than the circle rates fixed for stamp duty purposes fixed by a high-level committee. Even cases disposed off earlier were revived with completely discretionary pick and choose approach in disposal of applications.

- By March 2013, about 2,55,800 acres State lands were reportedly under encroachment. Thus, the whole exercise only abetted further encroachments.
- All this happened because very weak and deficient Rules were approved by the government and implemented in a shoddy manner. It caused immeasurable loss to public exchequer and abetted encroachment of public lands.
- All this was brought out in a CAG Report submitted to the State Legislature in March 2013. Point to remember is that Audit could check only a limited number of cases as all records were not provided.
- The PILs were filed in the High Court seeking High Court-monitored CBI probe in the matter. In November 2018, the Governor's Administration repealed the Roshni Act. The government ordered cancellation of all pending applications seeking transfer of ownership of state land to unauthorized occupants. However, it did not affect the cases where ownership of land had already been transferred probably because the matter was sub judice. The decision was taken nearly a fortnight after the J&K High Court restrained beneficiaries from selling or conducting any transaction with respect to the land transferred to them under the Roshni Act.
- The J&K High Court held the Roshni Act unconstitutional on and ordered cancellation of all State land transfers made under the Act. The CAG Report was pending with the Public Accounts Committee of the J&K Assembly when the Assembly was dissolved. However, the issues raised in the CAG Report about accountability of public servants remains even after the High Court verdict on the Act.

Performance of NOIDA, Uttar Pradesh in land allotment (CAG Report No.6 of 2021)

- The CAG drew attention to the wide-spread corruption, undue favoritism to private firms, arbitrariness, collusion between officials and builders in the functioning of Authority in allotment of plots during the period 2005-2018 leading to loss of thousands of crores of rupees to the Authority/Government, besides causing distress to thousands of homebuyers that has invited severe strictures from Hon. Supreme Court against NOIDA. The CAG pointed out rigging in bids by several developers/builders in collusion with the officials, major irregularities in processing of applications & allotment, allotment to ineligible parties, leveraging net-worth of an entity for multiple allotments, illegal sub-division of plots/transfer of ownership of allottees without ensuring payment of outstanding dues /timely completion of projects etc.

- During 2005-06 to 2017-18, NOIDA allotted 2,761 properties measuring 188.34 lakh sqm under Group Housing - 37.72 per cent, Commercial-8.94 per cent, Sports City-17.07 per cent, Institutional-8.14 per cent, Farm House - 9.75 per cent and Industrial-18.38 per cent categories at the premium (cost) of Rs.39,443.41 crore excluding industrial plots cost.

- NOIDA allotted plots for Group Housing, Commercial and Sports city on competitive bid basis (63.73% of allotments) to the highest bidders against fixed Reserve Price (RP) while Institutional, FH and Industrial plots were allotted at the fixed administrative prices based on the interviews conducted by Plot Allotment Committee.

- Reserve Price of plots for Sports City and fixed price for Farm Houses, Institutional and Industrial purposes was kept significantly lower than the RPs kept for Group Housing or Commercial plots, i.e., after excluding many types of costs which the Authority themselves incur. Thus, NOIDA allotted only 46.66% plots through competitive bidding whereas 53.34

% plots were allocated on subsidised/administrative rates.

- NOIDA also allotted 3 commercial builder's plots (A-1/124, C-03/105 and CC-04/32) of 143250 sqm to three ineligible companies of the Logix Group at the cost of Rs.1680.93 crore in 2010-2011. The companies did not meet the technical eligibility criterion of minimum turnover of Rs.200 crore from real estate activities. NOIDA allotted another plot of sport city of 225 acre in May 2011 to the same ineligible Logix group for Rs.1094 crore. Thus, Logix group of companies with turnover of less than Rs.200 crores from real development activities were allotted 2 GH plots, 3 Commercial builders plots and a Sport city plot at the cost Rs 3246.50 crore during 2010-2011. Logix group had the outstanding dues of Rs 5840 crores as on 31st March 2020.

- Three C Infra Pvt Ltd incorporated in July 2009 and its subsidiaries were allotted 3 GH plots of 3,84,295 sqm of Rs 860.66 crore, 4 Commercial builder's plots of sqm at the cost of Rs 2095.45 crore and two Sport City plots of 20,32,747.72 sqm (502.29 acre) at the cost of Rs 3428.58 crore during 2010-2014. The directors of 3C group of companies and their family members were also reportedly allotted 8 farm house plots of 10,000 sqm each at throw-away prices in 2010-11. The 3C group had the outstanding dues of Rs 4694 crore as on 31st March 2020.

- The CAG assessed that undue benefit of Rs.8,643.61 crore was extended to three developers in respect of the four Sports City plots by allowing them increased Floor Area Ratio (FAR) for development of group housing and commercial projects without any additional charge. In real estate projects, the permissible FAR and Ground Coverage (GC) determines the construction density permitted on a particular parcel of land. As per Building Regulations, FAR of only 0.40 was allowable on recreational area. However, NOIDA allowed fungible FAR and GC, allowed a total FAR of 1.5 (2010-11 scheme) and 2 (2014-15 & 2015-16

schemes) and GC of 30 per cent on the whole plot. After utilising the FAR and GC on sports and recreational categories, the remaining FAR and GC was allowed to be used for GH and commercial categories. Thus, the effective FAR and GC for residential/commercial areas ranged between 4.14 to 6 and 53 per cent to 55 percent against the permitted FAR of 2.75 & 3.5 and GC 40 per cent as per prevailing Building Regulations. The developers (81 allottees/sub-allottees) thus got nearly 800 acres of prime land in the 'sports cities' at one-third of the market rate without any significant sports infrastructure in sight for which 70 percent area was reserved in each sports city project.

- **Undue favour to private firms:** NOIDA allotted 134 plots ranging from 1000-5000 sqm each, covering an area of 2,41,072 sqm at the rate of Rs.7800 per sqm for the corporate offices of the private companies/firms in 2008-09 treating them as Institutions rather than commercial, profit-making firms. The Authority changed the status of these commercial companies to Institutional in October 2008 allowing undue benefit of Rs 6600 per sqm to them. Acquiring the land of farmers at a lower rate, invoking the urgency clause for industrial development and then allotting it at a highly subsidized rate on discretionary basis, brings to fore, undue benefits of Rs 161.75 crore to 134 Private companies and complete failure of governance and management of land resource.

- NOIDA kept relaxing the eligibility conditions for consortium bidding from time to time, which led to financially weaker companies, who were ineligible and had not participated in bidding process, garnering bigger plots disproportionate to their capabilities. As a result, large plots allotted to qualified bidders were sub-divided between developers without any basis including to those who would have ab-initio not qualified to execute the project. As a result, numerous projects were lying incomplete causing untold distress to homebuyers who had invested their entire lifesavings in such projects and accumulation of huge debts towards the Authority.

- **NOIDA allowed transfer of sub-divided plots to third parties which further weakened the commitment of the builders to complete the projects.** 67 allotments made by NOIDA from 2005-06 to 2016-17 have been sub-divided into 113 properties. In 12 cases, the allotted plots were sub-divided into 32 plots. Out of the 32 plots, in 24 cases the value of the sub-divided plots exceeded the net worth of the sub-lessees. Thus, NOIDA's decision to allow sub-division of plots without having any regulatory mechanism in place to ensure completion of projects, served effectively only as a backdoor entry for transfer of valuable property into the hands of ineligible builders.

- **Fresh Allotments were made in spite of outstanding dues:** NOIDA continued to make allotments despite knowledge of default in payments for previous allotments. The possibility of connivance and collusion of the officials of the Authority with the allottees was evident as plots were allotted to Amrapali and Unitech group of companies during 2009-2011 despite significant outstanding dues against them. Resultantly many projects of these allottees remained incomplete besides thousands of crores remaining unrecovered even after ten years of allotment.

- **Mortgage permissions were granted even to defaulting allottees:** Rules permitted mortgaging of commercial plots by the allottee only after making full and final payment and up to date lease rent. In 65 out of 76 cases of allotments made before 01 April 2010 (ten years prior to 31 March 2020), the outstanding amount was Rs14,817.89 crore against the allotment value of Rs 9,302.22 crore. NOIDA had failed to take any action against the builders.

- **Illegal Sale of plots (Transfers) through Change in Shareholding:** NOIDA imposed charges for change in Shareholding of allottees in proportion to changes in shareholding pattern of the companies. NOIDA issued an office order on 27 October 2010 abolishing the CIS charges and the

requirement of deed for registering changes in shareholding pattern of a company as it was stated that the changes in shareholding could not be considered as transfer of property of a company. This government order was ostensibly based on order (11 October 2010). This order facilitated the allottee company to transfer the plot in favour of another set of shareholders, without any charges, who otherwise may not have been qualified for the allotment of plot. The said order was rescinded on 04 February 2020 after initial audit memos were issued to them, to stop tax evasion happening through this route.

- **There were instances of grabbing plots through web of subsidiaries/shell companies:** Noida allotted a GH plot (GH-03/143) measuring 1,00,166.30 sqm to a consortium having Silverado Estates Private Limited (SEPL) as Lead Member and five Relevant Members in June 2011 for Rs 236.09 Crores. On 06 July 2011, the Authority granted permission for sub-division of the plot to two sub-allottees led by SPCs namely Three C Estates Pvt Ltd and Kindle Infra Heights Pvt Ltd both subsidiaries of Three C Universal Developers Pvt Ltd.

- **Questionable allotment of plots for Group Housing:** NOIDA allotted 67 Group Housing plots measuring 71.03 lakh sqm primarily during 2005-2011 at the cost of Rs 14,050.73 crore, which were sub-divided into 113 plots by the allottees with the approval of the Authority. Of these, 71 projects (63%) were either incomplete or partially completed even after ten years of allotment as on 31.3.2020. 49 out of 67 Group Housing plot allotments were made during the period 2008-09 to 2010-11. In 42 out of 49 allotments, only two bids were received, of which in 15 pairs of applicants (for 15 plots valuing Rs 2611.36 crore), the participating bidders were the same or of the same group. In nine of these cases, one allotment was made to each bidder while in the remaining cases the allotments were made to one bidder. The bid prices in all 15 cases were very close to the Reserve Price fixed by NOIDA (Within 102 percent of the Reserve Price in 12 cases). Collusion between participating bidders could not

be ruled out, more so in those cases where alternate allotments were made to each of the participating bidders. Moreover, these allottees did not pay the premium timely and have the dues of Rs1625 crores even after ten years of allotment.

- The outstanding dues of developers/builders increased to Rs 18,633.21 crore as of 31st March 2020, including Rs.7281.89 crores of Unitech Ltd, Rs.2276.67 crore from Amrapali group etc. after ten years of allotment of plots.
- There was suspected rigging of bids as NOIDA allowed two connected group companies i.e. Assotech Limited and Supertech Limited, to participate as lead members of consortium/company for three plots (GH-93/137 of 51000sqm, GH-04/78 of 61430 sqm and GH-01/74 of 249410 sqm. Thus, the sanctity of the tender process was compromised.
- The CAG brought out allotments of plots to ineligible companies observing that in two cases, allotment of plots of more than two lakh sqm worth Rs 471.57 crore was made to Logix group of companies, who failed to even qualify the technical eligibility criteria of a turnover of Rs 200 crore from real estate development activities. In both cases, the turnover of bidder ranged between 52 to 60 percent of required turnover and therefore bids were invalid
- **Allotment for Commercial estates and Sports City:** During 2005-2018, NOIDA made 320 allotments in the commercial properties including Sport Cities admeasuring 48,98,440.47 sqm at the cost of Rs.25,264 crore through 41 closed ended schemes. It includes allotment of 4 plots for sport city for 33,44,193 sqm (826.34 acre) at the lease premium of Rs 5597.92 crore.
- About 80 per cent of total allotments of commercial plots measuring 39,10,376 sqm were made to only three groups viz. Wave group of companies, 3C group of companies and Logix Group of companies during 2008-2011. Major defaults and

deviations against each of these 3 groups and undue benefits extended to them have been detailed by the CAG.

- In three out of four allotments, plots worth Rs 4,500 crore involving area of more than 25 lakh sqm were allotted to ineligible entities who did not even meet the technical eligibility criteria of stipulated net worth, turnover or past experience.

- With a vision to hold marquee sports events on the strength of international level sports infrastructure, NOIDA had allotted 4 Sports City plots admeasuring 33,44,193 sqm (826.34 acre) during May 2011-July 2015 at the lease premium of Rs 5597.92 crore to consortiums of Logix group, 3C group and ATS Home Pvt Ltd. In each plot, 70 per cent (578 acres in all) land was reserved for sports infrastructure including three golf courses of nine holes each, an international level cricket stadium along with tennis courts, swimming pools and other sports facilities. The terms and conditions of the allotment prescribed that sports infrastructure would be completed on priority and residential and commercial projects in the remaining 30 % plot would be completed in phases thereafter.

- The allottees of the Sports City plots failed to develop the sporting infrastructure as envisaged by NOIDA, thereby defeating the whole concept of Sports City. Audit further analysed and noted that the developers did not take any initiative in developing the sporting infrastructure despite huge leverage given to them in pricing of the Sports City plots as discussed below:

- The RP for the Sports City plots were fixed by taking a weighted average of the rates for the three categories of land uses viz. GH, commercial and recreational. In this fixation, the price for recreational land was calculated afresh by the Authority excluding the costs related to internal development, maintenance, future maintenance cost and interest cost. Thus, the rates of recreational land were kept on much lower side. Even the costs incurred by Authority were not recovered on 70

per cent of land in Sports Cities.

- Under the first sports city scheme, newly created the lessee Xanadu Estate Private Limited (DOI-10th March 2011), a subsidiary of 3C group was required to spend Rs.410 crore mandatorily on sports infrastructure. Logix group and 3C group were required to complete the project in phases within five years from the date of execution of lease deed. Logix group was required to complete the construction of the international level cricket stadium in the first phase within three years and the remaining residential and commercial projects within five years from the date of execution of the lease deed.

- The plots for Sports Cities were allotted without preliminary consultation with national/international bodies and without fixing and prescribing the technical specifications etc required for different sports infrastructure -golf course, international level cricket stadium, Tennis centre, Multi-purpose Sports Hall for Gymnasium, Volleyball, TT, Basket Ball etc. They also didn't do any due-diligence and analysed the reasonableness of the rates/bids quoted by the allottees. It was therefore no wonder that none of the envisioned sports infrastructure have been completed in last ten years though the construction of sports infrastructure was to be given priority in Sport City and completed first and only afterwards, other residential and commercial projects were to be taken up. However, the allottees took up the GH projects fist and two residential projects have not only been taken up but completed or partially completed.

- Though the terms and conditions prescribed in Brochures permitted sub-division of the plots meant for only residential and commercial use (30% of the port city plots), the Authority allowed sub-division of the entire plot (826 acres) of the 4 sport city projects into 81 sub-plots thereby destroying the entire concept of development of integrated Sport City.

- The 578 acres of land earmarked for sport infrastructure in 4 sport cities was too sub-divided into 34 sub plots, thereby

making the objectives of Integrated Sports infrastructure like nine-hole golf course in three sport cities in sectors-78/79 and 150, international cricket stadium in Plot SC-02 in sector 150, unachievable.

- Wave Infratech Ltd and Flora & Fauna Land Development Pvt Ltd were also allotted prime commercial properties/builders plots of 6,63,104 sqm (42 percent Builder plots of all commercial allotments) at the cost of Rs 6570 crores in 2010-2011. However, most of these projects were not completed and they have either surrendered the land (454131.63 sqm) in December 2016 or the Authority has cancelled (108421.13 sqm) the allotment (February 2021) due to non-payment of the dues/instalments. Wave Group of Companies had the dues of Rs. 4425 crore as of 31st March 2020.

- **Discretionary allotment of Farm Houses at prime locations on throwaway prices has been questioned by the CAG.** During 2009-2011, allotments of 157 plots were made at prime locations at one-fifth of market prices for farmhouses of 10,000 sqm each aggregating 18,37,340 sqm in an arbitrary and discretionary manner - based on an "interview" by a Plot Allotment Committee - without any transparent bidding process. Many allottees and their related parties bagged multiple allotments plots and front companies were used for allotment of plots through different applications. The CAG Report gives specific details how multiples plots were allotted on the same date to the same companies, promoters and related parties. Acquiring farmers' lands at lower rate and their immediate dispossession by invoking the urgency clause of Land Acquisition Act supposedly for 'industrial development' and then allotting the lands to affluent and influential urban elite for leisure activities ('farmhouses') and that too on discretionary basis at throwaway prices is manifestly questionable abuse of power by public authorities. The allotments are under judicial scrutiny of the Allahabad High Court in a Public Interest Litigation ordered by the Hon. High Court.

Land Management by Delhi Development Authority (CAG Report No. 31 of 2016)

- The CAG highlighted absence of a documented policy/timeframe to prioritize, schedule and plan the land disposal activities and a centralized record/database of number of plots available and disposed of by DDA. Serious delays beyond even 11 years in processing of cases were found.
- Due to non production of requisite records/information, audit could not derive assurance regarding proper valuation of land and fixation of reserve price with necessary due diligence.
- DDA announced 'ROHINI' residential scheme in the year 1981. While announcing the scheme, it was envisaged that the allotment would be made through draw of lots periodically. 16 draws were held between 1982 and 2014. DDA had issued possession letters to 125 applicants. Audit/ test check of records of 24 cases provided to audit revealed certain deficiencies such as delay in holding draw for allotment, deficiencies in submission of required documents; loss of revenue in respect of unearned increase etc.
- Alternative allotment of residential plot is given on the recommendation of Delhi Government to the persons whose land was acquired for planned development of Delhi. Once recommended, DDA was to prepare a seniority list and make allotment of alternative plots through periodic draw of lots. During test check of 17 alternative allotment cases, issues like delay in making alternative allotment; delay in handing over the plot to allottees; allotment of land in excess of the prescribed norms etc. were noticed.
- In the test checked cases of allotment of land by DDA to government Departments, Audit noticed delays in

processing of cases ranging from five to 93 months and allotment of land in excess/short of the norms prescribed in the Master Plan of Delhi. Joint Inspection with DDA representatives revealed instances of land not being used or being used unauthorizedly and land lying vacant as no construction had been carried out by the allottees at the site.

- There were delays and deviations in allotment of Nazul lands for institutional purposes. Deficiencies were also noticed in processing of cases with respect to requirements/ criteria framed for allotment of land to religious societies.
- DDA did not have clear guidelines or policy to decide whether a society was running for charitable purpose allowing discretion in applying standards and criteria. In all the five cases of such allotment under socio-culture category, the applicants did not fulfil all the requirements of the Nazul rules.
- As per approved Guidelines, three per cent to four per cent of land acquired by DDA is to be utilized for commercial use such as for hotels, banquet hall, multilevel parking, office space etc. There was a declining trend in the allotment of commercial plots. The percentage of plots disposed during 2010-11 to 2014-15 ranged between three per cent and 15 per cent of the number of plots put to disposal. Following deficiencies were noticed:

  (i) Delays ranging from 26 to 481 days in intimation to successful bidders as against the stipulated period of 15 days.

  (ii) Allowing higher Floor Area Ratio and ground coverage to the bidders in variance either with the norms of the MPD-2021 or with the Government orders.

  (iii) Reserve price of a commercial plot being successively reduced over the years (whereas all

other commercial plots auctioned during the period in the same area had higher reserve prices.)

(iv) Omission to sign rectification deed, intimation of granting extension of time communicated at the fag end, encroachment of land by the successful bidder prior to making payment of land etc.

Allotment of government lands in Bhubaneswar City (CAG Report no. 4 of 2013)

The Department allotted 464.479 acre land in 337 cases during 2000-12 to individuals, government offices, government undertakings as well as private bodies for establishment of hotels, hospitals, educational institutions. Of this 183.449 acre land were allotted to other than government institutions / organizations.

The process of allotment of land lacked a defined policy and procedure. Absence of any rule or criteria to govern the allotment process gave room for arbitrariness in allotment.

Despite continuous rise of land price in the capital city, non-revision of premium and non consideration of the prevailing market value of the land of the respective areas resulted in a loss of Rs.251.92 crore to Government for the period 1998—2009.

Despite stipulation in the Act and Rules to put the public land (for other than public purpose) into auction, the Department did not apply auction method in case of allotment of 154.437 acre though the prevailing market rate was 4.78 times more than the bench market value, thereby foregoing the opportunity of earning substantial revenue.

6.051 acre encroached land valuing Rs.18.89 crore was regularized in 11 case resulting in a loss of Rs14.15 crore to Government due to allotment at less than the market rate. In addition, although 11.187 acre land valued at Rs.84.21 crore was under the occupation of encroaches as of March 29012, no effective steps for eviction have been taken by the Department.

Monitoring and inspection mechanism in the department was non-existent due to acute shortage of personnel.

Allotment of government lands in Andhra Pradesh (CAG Report of 2012)

Land allotments for commercial purposes were not made in a fair, consistent and transparent manner so as to serve the public interest.

Alienation / allotment of land by the State Government during 2006-11, was characterized by grave irregularities involving allotment in an ad-hoc, arbitrary and discretionary manner to private persons / entities at very low rates without safeguarding the financial and socio-economic interests of the State.

Audit scrutiny revealed that in test-checked cases undue benefit of Rs.1784 crore was given to various entities and persons, due to the difference in the rates at which land was allotted and the market value as recommended by the District Collector / Empowered Committee.

3115.64 acre of land in Jammalamadugu Mandal, YSR district was allotted to Brahmani Industries Limited for setting up a Commercial Airport and Flying Academy, in violation of GOI's policy on setting up of commercial airports, and without verifying the suitability of the site and viability of the project.

10760.66 acre of land in the same mandal was allotted to Brahmani Industries Limited or establishing a green field Integrated Steel Plant, this involved illegal alienation of 674.58 acres of water bodies and allocation of 2 TMC of water from the Gandikota Reservoir, without environmental clearance.

APIOIC irregularly executed a sale deed for 8844.01 acres of land in Anantpur district in favour of Lepakshi knowledge Hub Ltd even before creation of infrastructure by the developer. LKH did not establish any industry nor create any employment, but had mortgaged 4397 acre of allotted land for obtaining loans of Rs.790 crore from the banks.

Government lost revenue of Rs.874.03 crore by alienating 881.32 acres in Mamidapally Village, Ranaga Reddy District to APIIC at a meager cost.

APIIC entered into an arrangement with K Raheja IT Park Pvt Ltd., the terms of which, enabled the letter to sell / mortgage Government land of 220 acres, apart from exposing Government to financial risk.

Government of Andhra Pradesh allotted 250 acres of land to Georgia Institute of Technology based on the orders of the then Chief Minister at Rs.1.50 lakh per acre against the prevailing market value of Rs.18 lakh per acre which gave an undue benefit of Rs.41.25 crore to the Institute.

Revenue of Rs.72.07 crore and Rs.39.60 crore respectively were foregone by Government, although allotment of land in Chillakur Mandal of SPS Nellor district at a very low rates for establishment pf industrial parks.

In 60 cases, alienation cost amounting to Rs.2559 crore was not collected by the District Collectors from the institutions to which land was alienated between 2003-04 and 2010-11.

Land allotment and utilization in Special Economic Zones (SEZs) (CAG Report No. 21 of 2014)

- Out of 45635.63 ha of land notified in the country for SEZ purposes, operations commenced in only 28488.49 ha (62.42 %) of land. The CAG noted a trend wherein developers after getting allocation of vast areas of land in the name of SEZ, notified only a fraction of land for SEZ and later resorted to de-notification to benefit from price escalation. Such practice was pointed out in six States (Andhra Pradesh, Gujarat, Karnataka, Maharashtra, Odisha and West Bengal) where, out of 39245.56 ha of notified land, 5402.22 ha (14%) of land was de-notified and diverted for commercial purposes. Also, many tracts of these lands were acquired invoking the 'public purpose' clause but lands acquired did not serve the objectives of the SEZ Act.

- In four States (Andhra Pradesh, Karnataka, Maharashtra and West Bengal), 11 developers/units had raised Rs. 6309.53 crore of loan by mortgaging SEZ lands. Of these, Rs. 2211.48 crore were utilized for the purposes other than the development of SEZ by three developers/units. Audit noted that the transfers of the Government land to the developers were mostly taking place on transfer of ownership basis. Technically, for a developer/unit-holder, access to land for operating his business should be the key concern rather than having the ownership of the land transferred in his name. In the backdrop of developers not commencing their investments for years together, transfer of ownership of land is saddled with the risk of developers using it for furtherance of their economic interests based on the government land, and or diversion after getting it de-notified, which is not in the interest of the State.

- It appears that the ownership of land acquired by the State Government for a SEZ is transferred to the Developer. It could be considered by MOC&I to lease out the land to the developer/unit-holder on a long-term basis, with the provisions of extension duly built into the lease deed. This may help in controlling the misuse and diversion of SEZ land through de-notification.

- Since the enactment of SEZ Act 2005, 576 formal approvals of SEZs covering 60374.76 hectares were granted in the country, out of which 392 SEZs covering 45635.63 hectares have been notified till date (March 2014).

- Out of 392 notified zones, only 152 have become operational (28488.49 hectares). The land allotted to the remaining 424 SEZs (31886.27 hectares) was not put to use (52.81 per cent of total approved SEZs) even though the approvals and notifications in 54 cases date back to 2006. We also observed that out of the total 392 notified SEZs, in 30 SEZs (1858.17 hectares) in Andhra Pradesh, Maharashtra, Odisha and Gujarat,

the Developers had not commenced investments in the projects and the land had been lying idle in their custody for 2 to 7 years.

- **Allotment of restricted lands:** The Supreme Court of India had ordered (25th July 2001) that forests, tanks, ponds, etc. need to be protected for a proper and healthy environment. Further, the Central Government issued instructions in April 2006 banning construction activity within 500 Yards from Defence Notified Land. SEZ Instruction of October 2010 prescribes restriction on use of irrigated and double crop land for setting up of SEZs. However, 9 SEZs were allotted land which was restricted under various statutes (Defence, Forest, Irrigated land) in Andhra Pradesh, Maharashtra and West Bengal involving 2949.61 hectares of restricted land.

- **Under-utilization of land in processing area:** Analysis of extent of land put to use in the selected operational SEZs revealed that the processing area earmarked for SEZs could not be optimally used for the intended purpose in 18 SEZs involving an area of 4185.19 Ha in eight states. They could use only 16.29 per cent of the land in the processing area as against the norm of 50 per cent. Though many of them were notified in 2006/2007 (except Adani Ports in Gujarat) the percentage of utilization is abysmal.

- Even though the 17 SEZ were notified between April 2006 to August 2008, 3503.69 ha (83.71 per cent) of processing area was not utilized out of the 4185.19 ha of land earmarked for processing. In case of Adani Ports, out of the notified (May 2009) area of 6472.86 ha only 833.77 ha was utilized leaving 5639.09 ha (87.11 per cent) unutilized so far. In two instances, unauthorized allotment of Units was observed in the sector specific SEZ (food) developed by KIADB in Karnataka where the units (M/s Hassan Bio Mass Power company Pvt Ltd and M/s Yakima Filers Private Ltd) were occupying the SEZ area without necessary approvals. Further, 74 Letter of Approval were cancelled. However, the Land admeasuring 32.72 acres of

land could not be returned to the Developer as the units have made lease agreement for 99 years and resultantly occupied the land. Thus, the Units were not willing to vacate the land even after their LoAs were cancelled. The lease period should be co-terminus with the validity period of LoA (five years).

- **Diversion of SEZ land:** In four SEZs, out of the allotted land of 11328.12 hectares, only 6241.03 hectares of land was actually notified (55.09 per cent) for SEZs purpose. The allotted land was acquired by using the government machinery under the "public purpose" clause of Land Acquisition Act for establishment of SEZs by private developers. The remaining 5087.12 hectares was allotted to other private DTA clients or kept with the developer. Thus, 44.91 per cent of the total land of 11328.15 hectares was not utilized for the intended SEZ purpose.

- Out of the notified land, 1667.66 ha of land was subsequently de-notified by the developers reducing the overall non-utilization for intended purpose to 59.62 per cent.

- In the Development Plan Gurgaon-Manesar-2021, provision of SEZ was made wherein non-polluting industrial units associated with high technology and high precision were to be set up. Though the Final Development Plan-2021 was operative, Development PlanT 2025 was notified on 24 May 2011, in which an area of 4570 hectares was earmarked for SEZ. Apart from earmarking land for SEZ in development plan, SEZs like DLF SEZ, Unitech SEZ, Orient Craft SEZ, Metro Valley SEZ etc. were also notified by Government of India. Instead of establishing industrial units in SEZ, the Development Plan 2025 was superseded by Development Plan 2031 notified on 15 November 2012. In the Development Plan 2031, 4570 hectares of land earmarked for SEZ land which included 1458.03 acres of land acquired from farmers for development of SEZ was converted into residential/commercial use on the plea that there were no more takers for SEZs.

- SEZ sectors were converted into residential as well as Industrial sectors. With the conversion of the Zoning Plan, the implementation of SEZ was adversely affected. In fact, Reliance Haryana SEZ Limited (RHSL) requested (January 2012) the State Government that the suggestion of the State Government to de-freeze the area presently earmarked for development of SEZ had come at a time when the RHSL had made substantial investment in the project. The RHSL further stated that in case the State Government decides to de-freeze the area, RHSL would not be able to complete even the development of first phase of 2500 acres of SEZ, let alone expansion to 12500 acres of SEZ. With the de-notifying of this area, the SEZ conceived by RHSL in which State Government was also a major stake holder was abandoned by RHSL.

- Following policies incentivized the developers to utilize the land for other purposes: The State Government removed the limit of the maximum height of the buildings in case of Group Housing Colonies and Commercial Colonies for which the licences were issued by Town and Country Planning Department (TCPD) After this notification, developers were allowed to construct any number of storeys. Resultantly, developers engaged in Real Estate were benefitted.

- Section 5 of Haryana Ceiling on Land Holding Act, 1972 was amended by promulgating 'The Haryana Ceiling on Land Holdings (Amendment) Ordinance 2011' (Haryana Ordinance No.4 of 2011). With this amendment individuals and private companies were allowed to buy unlimited chunks of land for non-agriculture purposes. Subsequently, a notification was issued and the Act was deemed to have been modified retrospectively with effect from 30th January, 1975. Notification with retrospective effect was apparently to benefit the persons who owned land in excess of the permissible limit prescribed in the land ceiling Act. With this amendment, developers who had got SEZs de-notified were able to hold this land for purposes other than SEZ also.

- In July 2013, a policy for conversion of de-notified SEZs into cyber park/cyber city was formulated. Up to 10, 4 and 2 per cent of the area was allowed for the purposes of group housing, commercial and recreational component respectively on payment of applicable charges. Since with the promulgation of this policy, the developers were permitted to use de-notified SEZ land for Group Housing and recreational purposes also, the objective of SEZ policy was defeated.

6. OTHER LAND MANAGEMENT ISSUES

Regulatory framework and managerial issues differ for different types of lands (Agricultural lands, forests lands and other eco-sensitive zones, mining areas, saltpan lands, urban industrial estates etc.). The Central government and Central laws play a major role in the management of lands used for different purposes even though the State government remains the primary custodian of land titles, tenures and documents. A full description of the governing Acts, Rules, Court orders and the operating level government machinery at granular level is beyond the scope of this monograph.

Acquisition and transfer of lands are two important aspects discussed in previous chapters. Here we attempt to review other aspects of land management to highlight some major outstanding governance and public finance issues.

Accounts, audit and finances of landholding parastatal.

The audit of NOIDA authorities was conducted in the face of heavy arrears in preparation of annual accounts and their audit. The Committee on Allocation of Natural Resources (2011) highlighted the need for action plan to utilize the available funds with DDA. (*"Large amount of funds have been accumulated by DDA, which are lying as deposits in banks etc. This is partly due to the lack of land acquisition by DDA during last few years. Another reason could be the transfer price paid to the Central Government for lands which are internally transferred. Since the lands are eventually disposed of at a higher price in the future, this generates surpluses for DDA*".)

Typically, landholding parastatal are cash-rich and manage precious public assets in the form of public lands but timeliness of preparation of their accounts, audit and proper disclosure of

financial position to general public is generally found wanting. This is an area of review on all-India basis.

Land use profile: Need to strengthen and expand land use planning up to national level

In 2015-16, out of total geographical area of 32.87 lakh sq km., land use statistics was not available for 6.40 percent area, about 22 per cent was forest land, about 13.5 percent land was not fit for cultivation (used for Residential/Commercial/Industrial /Mining/Infrastructure purposes) and the remaining was agricultural land, whether actually cultivated or not.

The discipline of Town and Country Planning focuses on planned and orderly growth of 'town' and 'country' through formulating, implementing and enforcing the provisions of Development Plans prepared under statutory provisions. However, not all T&CP Acts have provisions for 'country' planning - regional planning and development resulting in haphazard growth in peri urban/ fringe areas. This necessitates the need for comprehensive and integrated regional planning and development throughout the country in order that agricultural land is conserved , forest areas are protected and water resources judiciously managed. It is therefore imperative to dwell on the National Land Use Policy for the country as a whole by promoting regional planning and development.

Regional planning deals with efficient land use, infrastructure and settlements across a significantly larger area than an individual town/city. A region may be administrative or functional and includes a hierarchy of settlements, associated network and agricultural land, forest areas, environmentally sensitive zones and the like. Regional planning addresses issues related to flood plains, transportation infrastructure, the assigned role of settlements, designating various uses, green belts, setting out regional policies, zoning etc.

To achieve balanced development of the region, Regional Plan is prepared keeping in view the overall settlement hierarchy and allocation of economic activities. Regional Plans have also been

prepared under the NCRPB Act **(NCR Plan, 2021)** ,State T&CP Acts/Development Authority Act (**Goa Regional Plan, Mumbai Metropolitan Region Plan, 2021, Kolkata Metropolitan Region Plan, 2021, etc.**

Due to expanding urbanisation, statutory regional planning exercises at all levels are an absolute necessity. In the past many regional plans like Dandkarnaya region, Damodar Valley region, South East Resource region, Singrauli region , Western Ghats region, Chandigarh inter state region were formulated but did not go far in the absence of legislative backup. Somewhat successful examples of regional planning efforts are the National Capital Regional Plan, Mumbai Metropolitan Region Plan, Bangalore Metropolitan Region Plan, Delhi Metropolitan Area Plan.

The urban fringe/sub-urban areas/suburbs/extended metropolitan regions are important outcomes of fast-paced urbanisation. By and large, the residents of the fringe enjoy the urban services and facilities but usually do not pay for them. Various land uses, i.e. old villages, new residential extensions, commerce, industry, city service and farming are not sorted out into homogenous areas but are intermingled in a random fashion which gives a distinctive quality to the land use pattern of rural urban fringe. The haphazard development of slums, unauthorized colonies, piecemeal commercial development, intermix of conforming and non-conforming uses of land coupled with inadequate services and facilities have become a common features in the fringe. The dynamic change from rural to urban land use is so fast that the resultant need and complex uses coupled with shortage of land have led to speculation and increase in land values.

The urban fringe areas are generally within the jurisdiction of panchayat which has neither the financial resources nor the technical expertise to plan and manage the rapidly developing fringe. The urban authorities ignore the problems of fringe as it falls outside their limit. Thus the city and fringe, although, administratively fall in different areas, for the residents of the fringe

there is hardly any difference between the two and their movement is unrestricted and they use the municipal services without paying for it.

The property and service taxes are relatively higher in the city than in the urban fringe area and, therefore, attracts industries which intensifies development. **Like municipal areas, panchayats have no town planning rules, sub-division regulations and rules for provision of services suited to the dynamic situation of the fringe and haphazard development takes place.** Since land in the city is beyond the reach of middle/low income group people, they look for land outside the city limit.

The speculator who holds the land for quick profit starts selling it by parcelling it unauthorisedly without any services. The buyers who are in urgent need for housing build houses on un-serviced plot whereas others hold the plot without use in anticipation of infrastructure development.

Unplanned development of fringe areas leads to the lack of public facilities- public open spaces, health centres and schools and degradation of environment as the required sanitary and water disposal services are not provided.

In some States, the Real Estate Regulation and Development Authorities set up under the RERA Act 2016 have focussed attention of extended metropolitan areas to check unplanned growth and extension of elementary check like city like clearance from qualified architects for maps of construction coming outside municipal areas.

It may perhaps not be too premature to start thinking about national level land use planning even if initially it lacks statutory backup and is indicative.

Improving institutional capacity for land use planning for 'optimum' utilization' of lands.

Agriculture (crops and horticulture excluding animal husbandry), which accounted for almost half of the country's Gross

Domestic Product at the time of Independence, now accounts for just about one-tenth of annual economic output. Therefore, preponderance of agricultural land use, growing population, a large population dependent on agriculture, rising urbanization and rising non-agricultural economic growth all point to the growing need for freeing the agricultural land for non-agricultural purposes and a long-term trend in appreciation of price of non-agricultural lands. It is also noted that some portion of land officially shown as 'agricultural' or 'forest lands' may already have been diverted for other purposes though official changes in records is awaited. 'What constitutes 'forests' – natural or manmade – itself has been a matter of debate in the environmental parlance.

The latest land use data is of 2015-16 vintage and captures some top-level parameters whether it is agricultural, forest or others, cultivated or not. With success of Digital India, land use statistics can capture many more finer details of land use (such as encroached public land, title confirmed etc.) and more frequently.

The land use planning for agricultural lands primarily relate to changing the crop mix to conserve soil health, water resources, minimizing excessive use of chemical fertilizers and pesticides to mitigate environmental damage (excessive nitrogen, depletion of water table etc.)

The land use planning for urban and industrial areas has high stake for economic growth by minimizing the costs and damage caused by unnecessary land acquisition, optimum utilization of scarce land resources by ensuring high construction density except in some signature national projects, improved logistics and supply chain management. A close review of monetization options for vacant lands held by Railways, Defence Forces, sick/defunct Public Sector Undertakings or salt lands no longer used for salt production can yield substantial budgetary resources to the government to finance welfare and development.

All this calls and a national policy on land use and nationally coordinated efforts to ensure optimum utilization of existing public

lands before acquiring more private lands. It calls for a review of existing institutional arrangements for land use planning and data collection system on land use for improvement.

The land management is a vast subject handled by so many Ministries and Departments across the Union and State government. There is need for a permanent secretariat to analyze the data, trends, technologies and policy options. This could possibly be anchored in the NITI AAYOG or the Inter-State Council.

Preparation of Natural Resource Accounts (including accounting of land and soil resources)

The UN General Assembly passed a resolution in 2016 on the **2030 agenda for sustainable development that *inter alia* requires countries to prepare Natural Resource Accounts** to provide a systematic way **to measure and report on stocks and flows of natural capital.** The **Government Accounting Standards Advisory Board** established in 2002 under the aegis of the CAG is steering this project.

Management of Agricultural lands

42.55 percent of total land was actually sown/cultivated in 2015-16. Net Area Sown was 13.95 lakh sq km while Total Cropped Area was 19.71 lakh sq km showing a Cropping Intensity of over 141 per cent. Since it is less than 200 per cent, there are pockets of agricultural lands yielding only a single crop in an agricultural year.

CAG on protection of public lands against encroachments by DDA

- The CAG highlighted deficiencies in the system of protection of lands. There were major shortfalls in carrying out planned demolition programmes due to inadequate field staff, late reporting of encroachment, non-handing over of land to the Engineering Wing, ambiguities noticed in area under jurisdiction of engineering divisions, incomplete information pertaining to vacant lands, land under encroachment, lands under protection mandate,

encroachments and cases of failure to construct boundary wall.

Land management by DDA (CAG Report No. 31 of 2016)

- Proper and effective planning including proper site surveys, necessary technical studies was important for timely and cost effective development activities. Audit noticed instances of non availability of clear site before award of work; Delay in submission of structural drawings. Failure to take required approvals from various bodies before start of work.; Non approval of revised administrative approvals & expenditure sanctions and non-revision of technical sanctions. Foreclosure of work due to encroachments, agitations and court orders.; Delays in handing over of completed works to the concerned authorities.
- Joint Inspection with DDA representatives' revealed non-utilization of land handed over to user departments.
- Audit noticed improper documentation of public lands and management of leases. No consolidated information/database in respect of Nazul-I lands transferred from erstwhile Delhi Improvement Trust, Land & Development Office, Gaon-Sabha Lands of urbanized villages as well as the details of individual Nazul Properties, leases and their status was maintained by DDA.
- There were also deficiencies noticed in lease administration and conversion of leases from leasehold to freehold. Perpetual lease of 90 years was required to be renewed after specific intervals. At the end of 90 years, land would lapse to DDA or could be made freehold by the lessee. However, there was no mechanism in DDA to watch and monitor the renewal of leases, as some leases were renewed up to second renewal, while others were not renewed at all. The third renewal was not done in any of the test checked cases.

- As per terms and conditions stipulated in lease deeds the ground rent, at the rate of two per cent to 2.5 per cent per annum of the premium determined by Government, was payable in advance, either in two half yearly instalments or annually. However, the demand of ground rent was not raised regularly as per the terms of lease and recovery of ground rent was in arrears, which was not monitored.
- Damages were also to be levied on the ex-lessees/ occupants, in the case of expired/ cancelled leases. For collection of damage charges, Show Cause Notices were to be issued regularly. Audit, however, noticed that there were delays up to 32 years in raising the demand of damage charges on the unauthorized occupants.
- There were commercial activities being undertaken on the vacant land of the L&DO, transferred to DDA for care and maintenance/ land leased out by DDA for residential purposes.

Administration of Nazul Lands by Land and Development Office, Ministry of Housing and Urban Affairs (CAG Report No. 17 of 2021)

Complete information of ground rent due, demanded, paid and outstanding was not recorded in the ground rent register of any of the properties test-checked by audit. L&DO also did not make any efforts to recover the ground rent in time.

Out of 29 properties, ground rent was due for revision in 21 properties but it was either not revised or revised belatedly/ revised incorrectly.

Mandatory inspection of the properties which was to be carried out once in three years (inspections of at least 33 per cent of the properties annually)was conducted by L&DO during the years 2016-17 to 2020-21 barely five to eight per cent. Even where inspections were done, show-cause notices/ breach notices for

violations were not issued on time and efforts to re-enter the property were found lacking.

As regards disposal of applications for conversion, sale permission, mutation, and substitution etc. for which time allowed to L&DO was three months, 61 applications were disposed of within a day. However, 1,199 applications were rejected after more than 1,500 days. Maximum time taken in rejecting and approving a particular application was more than 23 years and 18 years, respectively.

L&DO introduced e-Dharti software for speedy disposal of public services. The Ministry had given assurance to the PAC (59th Report) that computerization work related to Nazul properties would be completed by December 2011 and all other files/ registers would be digitized by June 2012 but Report noted that even after a lapse of more than eight years, the process of digitization was yet to be completed.

For receipt of outstanding dues, demand letters in respect of only 20 properties (out of 29 sampled properties) amounting to Rs.326.54 crore were last issued to the lessees between June 1977 to December 2019 of which L&DO could not recover Rs.325.12 crore (99.57 per cent). Audit observed that in 19 cases, dues towards damage, misuse, interest etc. amounting to Rs.444.08 crore were outstanding.

The unearned increase had been prescribed as 50 per cent of the difference between the present value of land and the last transaction value of the land. Audit observed that in four cases (out of 29), the lessee had sold the properties. However, unearned increase was not claimed after it came to the notice of L&DO.

L&DO has so far not issued any specific instructions to Sub-registrar offices that the properties under the control of L&DO should not be registered without its permission. In the absence of such instructions, the Sub-registrar offices would not be in a position to identify the properties belonging to L&DO for registration purposes.

As per lease agreements, after every transfer of the lease rights, lessee has to intimate the same to the lessor. Audit observed that in five out of 29 sampled properties, lessee sold/ transferred the lease rights to other person without prior permission of L&DO. L&DO neither took any action to get the property vacated from the unauthorized occupants nor initiated action for re-entry.

L&DO was allotting plots to various entities for construction of their building and running their activities. It was seen that in three cases, L&DO had to cancel the allotment of plot and allot another plot in lieu of the same for reasons such as allotment of encroached plot, allotment of smaller plot, etc., which shows that L&DO was not aware of the actual status of the properties vested under its control.

It is the responsibility of the lessee to get the plan sanctioned from the municipal authority/ local body and submit it to the L&DO. Audit found that there was no sanctioned building plan in eight properties out of the sampled 29 properties and L&DO had been demanding the same from the lessee. It was not clear how L&DO conducted inspections without sanctioned building plans.

Scrutiny of 29 properties revealed that in case of 11 properties, the perpetual lease deeds/ license deeds were not executed. In the absence of lease deed, necessary clauses relating to misuse/ unauthorized construction, revision of ground rent, transfer of lease rights and re-entering upon the property cannot be enforced.

For conversion of leasehold properties into freehold, the allottees were required to pay the difference of conversion charges etc. if the land rates were revised. Audit examined five properties which were converted into freehold. Despite revision of land rates in May 2017 effective from 1 April 2000, L&DO did not calculate the difference of conversion charges in any of these cases resulting in non-recovery of dues.

Management of Nazul lands in Vidarbha Region of Maharashtra (CAG Report No.3 of 2018)

Audit of "Encroachment on Government land for non-agricultural purposes" brought out absence of any database of government lands in the State. The monitoring by the Department was weak on account of absence of periodical reports for keeping a check over encroachment; lack of efforts to obtain data/information on Government land and laxity of the Department in taking penal action against encroachers.

Land Management in Kerala (CAG Report No. 6 of 2014)

- The Revenue & Disaster Management Department sought to follow a best practice to form a Land Bank, a repository of details of Government lands, for scientific inventorisation and professional management. The process commenced in 2007 but was incomplete even by 2014. There were several instances of encroachments in government lands in the test checked villages.
- The Government land was under continuous demand from different socio-political pressure groups and powerful individuals and successive governments assigned/leased large tracts of land under different schemes under the directions of the Cabinet. The Government Secretaries were reluctant to produce the records.
- Despite sufficient statutory powers for conservation and management of land, the Revenue Department failed to identify and account for Government land, monitor the use of leased out land, plug violations of lease conditions and collect lease rent regularly. There was no system for periodical renewal of lease and revision of lease rent. The department not only failed to prevent alienation of government lands but abetted the encroachment. Audit noticed such short comings in respect of 338. 60 Ha of land which had a financial impact of ₹ 1,077.74 crore.

Implementation of Land Ceiling and Management of Surplus Land in Kerala (CAG Report No.3 of 2019)

- The CAG pointed out lapses in acquisition, utilization and management of surplus land in Kerala. Issues such as absence of database of ceiling cases and surplus lands, non-identification/non-reporting of land in excess of ceiling limit, non-initiation of ceiling cases, violations of exemption, delay in finalization of ceiling cases and acquisition of surplus land etc. were noticed. Instances of non/short levy of building tax and basic tax were also reported.

Land Records Management in Tamil Nadu (CAG Report No. 3 of 2022)

- Audit reviewed the achievement of computerization in ensuring a conclusive land-titling with title guarantee; effective use of data by Revenue and Registration Departments; and the efficacy of the system in place for ensuring data security, capacity building, Monitoring etc.
- 1.42 crore computerized and validated Natham land records were not brought on-line by March 2021.
- 15 out of 22 Land Record Management Centres LRMCs in the sampled taluks did not have all the envisaged facilities.
- The outcomes of the scheme were marred by significant deficiencies in converting manual records into digital records, abnormal delays in launching online services for Natham Land records and e-Adangal.
- There were deficiencies in data linkage between Registration and Revenue departments, asset management, data security and monitoring of the scheme.
- In 61 per cent of the sampled villages, there were significant differences in the total land area of the village, between the manual and computerized A-Register.

- Continued erroneous classification of 3.22 lakh private land parcels as government land in the computerized land records has put the land owners to hardship.
- Multiple patta numbers assigned to a single land owner in a village and redundant patta numbers hampered the workflow processing of online patta transfers.
- The Resurvey work taken up was incomplete and in its present form could not reach the final stage of Settlement.
- Monitoring at all levels was deficient and especially at the district level, in three sampled districts, the monitoring committee did not meet even once.

Encroachments on Government lands in Tamil Nadu (CAG Report No.8 of 2017)

- A total of 2.05 lakh hectare or seven per cent of the Government land, was under encroachment as of June 2017. Total land retrieved from encroachers during the five year period from 2011 to 2016 was only 5,302 hectare (9.8 per cent) against 54,401 hectare under encroachment as of July 2011 in the eight sampled districts.
- Systems put in place to monitor clearance of encroachments did not function as the High Level Committee at the State level did not meet after February 2010.
- Shortcomings in the enabling statutes (Tamil Nadu Land Encroachment Act, 1905 etc.) to prevent and evict encroachments and non-adherence to the established systems in management of Government lands hampered the efforts to prevent and evict the encroachments.
- The encroachment data was found to be unreliable due to non-booking of fresh 'B Memo', which serves as the first information from Village Administrative Officer to the Tahsildar for checking encroachments. Rampant encroachment of road margins in Chennai, with an average

of 3.4 incidences of encroachments per kilometer of road length, went largely unchecked due to inaction on the part of Greater Chennai Corporation.

- Encroachments on water bodies accounted for 49 per cent of the total objectionable encroachments. Jurisdictional issues and lack of coordination between Revenue and Water Resources Departments contributed to the rise in encroachments on water bodies.
- Instead of alienating or acquiring suitable land, several government agencies took recourse to encroaching water bodies and grazing lands for constructing public buildings.

Management of ALVARA lands in Goa (CAG Report of 2015)

The Colonial (Portuguese) Government had passed a decree in 1917 under which land in Goa could be leased to persons mainly for agriculture. The decree was repealed with the enactment of the Goa Land Revenue Code, 1968 but without affecting anything done under the decree. In 2007, the land revenue code was amended to provide for regularization of the leases as class-II grants. A test check of the records relating to such lands revealed the following:

i. In 104 out of 300 Record of Rights (RORs) of lease lands, the name of private persons was incorrectly shown instead of Government of Goa.

ii. Irregular sale of 11 of lease held lands involving total area of 88.12 hectare.

iii. The Government did not update RORs of 15 reverted lands involving 125.26 hectare.

iv. Lease-held lands involving 43.62 hectare reverted to Government were found to have been sold to third parties.

v. Class-I occupancy rights to the grantees for lease held lands were given at low premium. During the period 2008 to 2011 seven lease held lands were regularized and then reclassified as Class I occupancy under the Goa Land

Revenue Code at a premium based on the market rates of year 1971.

Compensatory Afforestation in India (CAG Report No.21 of 2013)

- The CAG pointed out serious shortcomings in regulatory issues related to diversion of forest land, the abject failure to promote compensatory afforestation, the unauthorized diversion of forest land in the case of mining and the attendant violation of the environmental regime.
- The Ministry's records revealed that against the receivable non-forest land of 1,03,381.91 hectare, 28,086 hectare was received during the period 2006-12 which constituted only 27 per cent of receivable non-forest land.
- The record with regard to transfer of ownership to the State Forest Department was found to be dismal. Out of the 23,246.80 hectare of non-forest land received by States/UTs only 11,294.38 hectare was transferred and mutated in favour of the State Forest Department. Of this 3,279.31 hectare was declared as Reserve Forest/ Protected Forest which was only 14 per cent of non-forest land so received.
- Instances were observed where express orders of the Supreme Court were flouted by Andhra Pradesh State Electricity Board by allowing diversion of forest land in Nagarjunasagar Dam without seeking prior permission of the Supreme Court. In five other cases unauthorized renewal of mining leases in Rajasthan and Odisha were noticed, where the approval of Central Government was not obtained by the State Government as directed by the Supreme Court.
- Numerous instances of unauthorized renewal of leases, illegal mining, continuance of mining leases despite adverse comments in the monitoring reports, projects operating without environment clearances, unauthorized change of status of forest land and arbitrariness in decisions of forestry

clearances are also reported including encroachment of 1,55,169.82 hectare of forest land where Ministry of Environment, Forest and Climate Change did not take time bound action for eviction.

Management of forest lands in Kerala (CAG Report No.6 of 2014)

- The Forest Department did not have consolidated records of land on lease. A considerable forest area (1,19,178.88 Ha) was given on lease to PSUs.
- The department also failed to check and act upon violation of the lease conditions. In the absence of proper records, a Settlement Colony retained 9.63 Ha of forest land.
- The department failed to collect lease rent arrears of ₹ 196.85 crore in 140 cases in respect of 42,130.49 Ha. Lease rent remained unchanged since 1990 though it was to be revised every three years.
- The Department failed to monitor cases where forest lands were leased out or given as grants by the former Maharajas of Travancore and Cochin to private individuals. In two cases, 35.18 Ha and 389.34 Ha of leased forest land was illegally sold and in one case, the last occupant even availed loans by mortgaging such property. The estimated loss was ₹ 215.46 crore.

Management of vacant land in Indian Railways (CAG Report No.24 of 2015)

- Railways owns 4.59 lakh hectares of land (March 2014). Out of this, 47340 hectare of land had not been put to any use (vacant land- 46409 hectare and encroached land- 931 hectare). Audit Review covered the period 2011-14.
- Railways requires an efficient management to watch safe custody of land available with them and also the land encroached by ensuring clear title, prevention of

encroachments and early removal of encroachment of vacant land. This requires maintenance of accurate Land Records.

- Out of 16 Zonal Railways, separate Land Management Cells (LMCs) to keep and maintain land records had not been set up in three Zonal Railways and in 37 Divisions of 13 Zonal Railways. Only three Zonal Railways had LMCs in all of their divisions. Most of the staff posted in LMCs in Divisions was neither trained to deal with land issues nor exclusively deployed on the job resulting in deficient maintenance of land data/ records besides improper monitoring of vacant land.
- Four per cent of total land plans were missing and out of available land plans (16 per cent) had not been authenticated by State Authorities and 20 per cent land plans had not been digitized.
- Out of 16 Zonal Railways, the records connected with land mutation were available in 8 Zonal Railways and there too, only 48 per cent land plans were mutated.
- In respect of basic records such as Land Record Register (LRR), Land Boundary Verification Register (LBVR) and Encroachment Inspection Register (EIR) to be maintained at Zonal headquarters/ Railway Divisions/ field units of Railway Divisions, it was observed that LRR were not being maintained in 37 out of 68 Divisions. The maintenance of LBVR and EIR was also not proper over the Railways.
- Construction of boundary walls along vacant land to avoid encroachments was not well assessed and planned. Details of encroachments were not being maintained, the process for their removal was very slow and efforts made for removing encroachments, under Public Premises (Eviction of Unauthorized Occupants) Act, 1971 were inadequate as encroachment of Railway land was a continuous process.

- The monitoring by Railways and joint inspections by Railways and State Authorities for managing encroachment was not found to be adequate.

Land Management in Major Ports (CAG Report No. 27 of 2015)

- Out of the total land holdings of 77191.14 acres, title deeds were not available for 34943.41 acres representing 45.27 per cent of total land holdings. Out of 12 major ports, not even one port possessed title deeds for their entire land holdings.
- Six ports did not have title deeds for their entire land holdings of 28816.08 acres, while other seven ports possessed title deeds only for partial land (42249.73 acres out of 48375.06 acres) under their possession. Paradip Port Trust (PPT) did not take necessary steps to complete mutation process to obtain title deeds for 186.81 acres of land which stood recorded in favour of old tenants.
- Land under possession of two ports (ChPT and JNPT) included reclaimed land, for which the ports did not obtain title documents after conducting survey to register the land in their name.
- Discrepancies between land holdings as per records maintained at ports and state revenue authorities concerned existed. Discrepancies were also noticed in records maintained by different departments of ports.
- Records maintained by the ports were not accurate and updated to reflect the real position of encroachment, and port managements did not take action to remove encroachments. Audit noted encroachment of land admeasuring 396.44 acres of land in nine out of 12 ports, whereas the ports had reported 273.98 acres of encroached land.
- Policy guidelines issued in 2010 stipulated that ports should computerize entire land management system in a GIS based system. The GIS based system was to capture, store,

manipulate, analyze, manage and present all types of geographically referenced data. Out of 13 ports, only Cochin had introduced GIS based land management system during 2010-2011.

- In five ports, 42 cases were noticed where delay in according approval for renewal of leases ranged from one to 31 years. Ministry did not approve extending the lease period beyond 30 years.
- Approval of tariff proposal for revision of Scale of Rates (SoR) submitted by ports took two years and four months to 11 years and 10 months. The consequent monetary impact could not be ascertained in the absence of approved SoR from Tariff Authority for Major Ports. Kandla Port Trust (KPT) was not able to recover lease rent amounting to Rs. 132.55 crore out of a total claim of Rs.192.09 crore due to delay in submission and approval of SoR.
- The policy guidelines of 1995 and 2004 stipulated that SoR should be revised every five years, and lease agreement should contain relevant provisions to protect port's interest. Therefore, lease agreements by ports should have specific provision to incorporate SoR revision and other aspects. During the course of audit, cases of non-inclusion of revision of lease rent in agreement, occupation beyond permissible area, non-levy of penal interest and subletting of leased area were noticed.
- **Non-compliance of policy guidelines in relation to land use plan** - 11 out of 12 ports did not comply with the direction of preparing or revising the land use plan before 30 June 1995. Instead, 9 out of 12 ports prepared land use plan between 2001 and 2005. Two ports did not prepare their own land use plan and followed the Master Plan prepared by Indian Ports Association (1997) and Kolkata Metropolitan Development Authority, while Kolkata Port Trust / Haldia Dock Complex prepared the land use plan in 1991. In four

cases, it was noticed that the land use plan did not cover the entire area under the possession of the ports. Similarly, all the ports except Cochin Port Trust did not comply with the stipulation of revising the land use.

- **Non-identification of land for future activity** - Though land policy guidelines issued in 1995 provided that each port should identify vacant/idle land for future activities. Land admeasuring 22949.82 acres was identified for future activities by ports, while 13045.56 acres were yet to be earmarked for any future activity. Thus, 35995.38 acres representing 46.63 per cent of total land under the possession of ports remained unutilized.

- **Non-ascertaining custom bond area** - Land policy guidelines also stipulated that the ports should clearly demarcate land under their custody into two categories, viz. custom bond area and outside custom bond area. The custom bond area is generally notified by the Customs Authorities from time to time. Eight ports did not reconcile the same with the area earmarked by the Customs Authorities.

- **Inconsistency in title and land holdings** – Audit found gaps in relation to availability of title deeds and reconciliation with revenue authority records.

Non-repossession of 148.26 acres of land from unauthorized occupation – During 1984-85, land was acquired by the CIDCO for the development of New Bombay Project and transferred to JNPT. In April 2009, CIDCO/NMSEZ erected a boundary wall on JNPT's land and constructed four-lane road with drainage, encroaching 148.26 acres of land of JNPT. Even 25 years after land acquisition, JNPT was not able to conduct joint survey of their land and protect it.

Audit also observed following important cases / instances:

i. Allotment of land on nomination basis, license basis, deviation from policy guidelines, etc.

ii. Inordinate delay in submitting SoR to TAMP

iii. Non-obtaining TAMP approval for land outside custom bond area, and

iv. cases of Non-inclusion of revision of lease rent in the agreement. The latter case related to JNPT, wherein it was noticed that JNPT was not able to revise the lease rent due to non-incorporation of stipulated clause in lease allotment order. Considering the valuation obtained in 2012, the benefit foregone by JNPT would work out to Rs.134.62 crore for three years (2011-12 to 2013-14).

(i) Occupation of land beyond permissible area resulting in loss of Rs. 13.03 crore in CoPT, and

(ii) Non-levy of penal interest of Rs. 12.99 crore for delayed payments of lease rentals and other charges from the lessees/licensees.

Government lands given on lease in Maharashtra (CAG Report No. 5 of 2013)

- The data on leased land was not complete in the Collectorates.
- There was no uniformity in the procedures for allotment of land among the Collectorates and the development agencies.
- There was lack of transparency in grant of land on lease as publicity through advertisement in newspapers, etc., was not resorted to.
- Information received from the Collectorates at Mumbai City, Mumbai Suburban and Pune revealed that out of 1,766 lease cases, 757 leases had expired between 1940 and 2008; while in MCGM in 17 cases leases had expired. No action was taken for their renewal or eviction from leased land.
- Recoveries of various components of land revenue such as unearned income/premium, lease rent, additional lease rent,

redevelopment charges, transfer charges were being effected through executive orders (GRs and memoranda) which were issued without reference to the codal provisions. GR of October 1999 provides for levy of revised lease rent on the basis of market value of land. Claiming the revised lease rent to be high, the lessees challenged the order. The Mumbai High Court laid down certain parameters for fixing the lease rent in August 2004. However, no action for revision of lease rent had been taken.

- Monitoring, co-ordination and internal control measures were inadequate in the Collectorates as inspection of leased lands to ensure compliance to the conditions of lease as well as utility of land for the allotted purpose was lacking. Even in cases where breaches were detected, action was not taken for evicting the erring lessees. Remedial action on the observations of internal audit were pending in Mumbai City. Committee constituted for detection and penal action on breaches in Mumbai City was almost non-functional since its inception. In other districts, no such committee was even constituted.

- Data on arrears of land revenue was not complete. In five cases, while computing the redevelopment charges, the Department under-valued the land.

- Cases of breach of terms and conditions of lease agreements of land were found by Audit. A lessee sold the lease rights of leased land without approval of the Collector to a Co-operative Housing Society which constructed a 16 storey building. The lease had expired in 1991 without action for renewal/eviction. Only a shed had been constructed on a land admeasuring 15,461.23 sq m allotted on lease in 1985 for 30 years. A land admeasuring 16,722.54 sq m was granted in 1978 to a Trust for a 99 years lease on a token annual rent of Re. one for construction of hospital-cum-medical college but only a hospital- cum-research centre

was functioning on it. A land admeasuring 984.76 sq m was leased for 99 years in 1966 for industrial purpose The land was neither developed nor resumed but was repeatedly transferred. Another plot admeasuring 10,206 sq m was leased in 1974 for industrial purpose which remained unutilised till 2006 on the ground that it was under encroachment. However, the same lessee found the very land fit for residential and commercial purpose and secured government clearance for the change in land use from industrial to commercial/residential purpose. Unauthorised sale and transfer of plots in Bandra to developers were noticed by the Collector in respect of 31 out of 48 plots. In none of these cases, action had been taken to resume the land. The Report also brought to fore several other cases where no penal action was taken though due.

- In two cases, land admeasuring 1,86,446.06 sq m was under encroachment, despite a lapse of 19 and 60 years, respectively. Land admeasuring one lakh sq m allotted to Maharashtra Gandhi Samarak Nidhi on lease was not utilised despite a lapse of 19 years. It was encroached upon by 288 slum dwellers.

- In six cases additional lease premium aggregating Rs.272.36 crore due to non-completion of construction within the stipulated period was not recovered. Recovery of lease premium and penal interest totalling to Rs. 9.39 crore for additional built-up area (BUA) was not effected.

- Cases of arbitrary regularisations of breaches, short determination of built-up area or fixing of reserve price for lease without considering prevailing market price leading to revenue loss of over Rs.200 crore and prolonged encroachments for as much as 60 years were noted.

Government of Haryana – Town & Country Planning Department (CAG Report No. 7 of 2022)

- Municipal Corporation of Faridabad allotted land to a developer who after getting NOC from the Forest Department constructed a multi-story building (commercial office spaces valuing Rs182.46 crore) though Punjab Land Preservation Act 1900 banned non-forest use of the land. The Corporation sanctioned the building plans and granted Occupation Certificate ignoring the illegality.

Grant, lease, eviction of encroachment and regularisation of unauthorised occupation of the government lands in Karnataka (CAG Report No. 5 of 2018)

- During 2012 to 2017, nearly 5650.60 Acres of government land was granted/leased. The Revenue Department neither maintained databases relating to lands available for disposal nor of the lands disposed as grants/leases. Lands for grant were identified by beneficiaries themselves. The transparency in disposal of applications also could not be assessed as the applications for grant/lease were not systematically compiled.

- Eligibility criteria of applicants were not met in some instances and set procedures were deviated. 47-21 Acres-Guntas were granted to eleven beneficiaries even without receipt of application for land grant. 132-15 Acres-Guntas granted to 27 beneficiaries despite non-fulfillment of eligibility conditions. 390-38 Acres-Guntas of unavailable/ineligible lands granted in 10 instances. 487-30 Acres-Guntas of prohibited lands such as Phut B Kharab (water bodies, Gunduthopu, crematory, burial ground, etc.), and land within municipal limits was granted to 86 beneficiaries.

- There were issues in grant of price concessions and adoption of Market Value of lands leading to incorrect computation/short-levy of the value of land, non- retrieval of land after expiry of lease periods, non-collection of lease rent, non-usage of land granted/leased for considerable

periods, etc. Rs. 176.01 crore concession in land price granted in 51 cases.

- The Karnataka Public Lands Corporation (the agency meant for protecting land from which encroacher is evicted) failed to provide proper security to the lands recovered after eviction of encroachment. The non-transfer of the encroachment cases to the Specially Designated Court also slackened the process of evictions. Significant number of public complaints on encroachment of government lands were pending for over five years.
- No mechanism existed for periodic inspection and reporting. Joint Physical Verification by Audit with the departmental officers revealed non-usage/partial use/diversion of lands granted/leased in 81 out of 234 cases covering 726-29 Acres- Guntas and not raising-demand of lease rent due (Rs.7.33 crore) in 46 cases. Seven institutions continued to be in use of lands even after expiry of lease periods.

Land management in Kerala (CAG Report No. 6 of 2014)

Aranmula Airport

GoK approved (2010) a greenfield airport - fifth airport in the small State having a length of just 580 km- by the private developer KGS group in the world heritage site of Aranmula. The land belonged to an individual who had illegally possessed 153.31 Ha – including Government land – more than 25 times the ceiling limit prescribed by the Land Reforms Act. He sold a major part (94.94 Ha) of the land to KGS group. The Company purchased additional 39.9285 Ha of land and encroached 24.35 Ha of Government land. The individual and the company possessed 217.59 Ha of land violating six land laws.

The Revenue department failed to prevent or take action against encroachment of Government land, filling of paddy fields, illegal acquisition of land etc. enabling the individual to hold excess land and to transfer a major part of it to the Airport Company.

Registration department permitted to alter the nature of land and boundaries in the sale deeds in respect of 19.05 Ha of land at the time of registration.

Once the land was transferred to the airport company, the industries, transport and the environment Secretaries supported the airport project violating the financial and administrative rectitude. Even though the Transport department was the nodal department for the project, the Industries Secretary over-stepped the jurisdiction, accepting the application for NOC from the airport company and granting in-principle approval without conducting sufficient verification regarding the land with the developer and the impact of the proposed airport on the airports existing/under construction.

Industries department declared 444.72 Ha as industrial area, based on a claim of the company without the knowledge of the Revenue department. The estimated requirement of land for the airport was only 200 Ha and the company held only 159 Ha at the time of declarations. Thus, the Industries department helped the company classifying large extent of land as industrial area to help the company.

The Government's decision to accept shares of the company cast suspicion over its involvement in land deal by unfair means. The transport department accepted 10 per cent equity offered by the airport company free of cost and the airport became a joint venture between GoK and KGS Group Chennai and Government became a partner to all the illegal activities of the company. Environmental department submitted false information to Government of India regarding the objections raised by Legislative Committee on the project, farmers apprehension against the reclamation of paddy field etc. and helped the company to obtain environmental clearance for the project. Audit has recommended an independent enquiry to investigate the issue.

Smart City Project, Kochi

Smart City (Kochi) Infrastructure Pvt. Ltd. was set up as a government sponsored joint venture company with Dubai Internet

City (DIC) and it was tasked with setting up knowledge based IT township in Kochi. GoK had a minority stake of only 16 *per cent* in this company but GoK leased out (in 2007 and 2008) 246 acres of land to this company for 99 years for a one time lease premium of ₹ 104 crore. This was projected as a mega project to transform Kerala into a major IT destination within 10 years and generate 90,000 jobs in 8.8 million sq.ft built up space.

The CAG found that the principles of transparency, discreet and far-sighted governance were sacrificed for ostensive reasons like development of IT industry, providing jobs to pro-poor etc. There was total lack of transparency right from the conceptualisation stage about the justification for a Smart City and the need for creation of a new SPV. The partner for the project was selected in an exhibition at Dubai. The selection was done without giving opportunities to other players in the field. The past track record of partner was also not considered. The allotment of land on long term lease was made in an arbitrary manner. Government transferred 246 acres of land in three parcels on lease without properly assessing the land required for the project and had committed to acquire and hand over additional land for the project in future. The valuation of land for fixing lease rent was much below as compared with the land value considered for registration of land of the adjoining areas. The deal was distinctive as the lessee was granted free hold rights over 12 *per cent* of the total area of the land under their possession at any point of time.

CAG on Defence Estates Management (CAG Report No. 35 of 2010-2011)

- **Large scale discrepancies in land records:** Total holding of Ministry of Defence was 17.31 lakh acres, including about 2 lakh acres inside Cantonments. In 25 stations, information collected directly by Audit or from the correspondence between the Local Military Authorities (LMAs) and Defence Estate Officers (DEOs), indicated that the land area in the records of LMAs was higher by 12769.86

acres in respect of 9 stations and lesser by 9427.77 acres in the remaining stations, compared to the records of DEOs. The existing stations held excess land measuring 81,814.82 acres.

- **Continuing delay in mutation of acquired lands in favour of the Ministry of Defence:** Out of 5.90 lakh acres of land held on records of 11 DEOs in 06 Commands, 0.79 lakh acres (13.39 per cent) were not mutated in favour of the Ministry of Defence. Continuing delay ranged from 1 year to over 60 years.
- An area of 25,888.81 acres of Abandoned Airfields (AAFs) and Camping Grounds (CGs) was lying surplus to the need of armed forces since 1980. Of this, 7,499.39 acres had been encroached upon.
- The area of encroachment of Defence land had increased from 6,903 acres in January 1997 to 14,539.38 acres in July 2009. No inspection of land was being carried out and required certificates were not being rendered by Defence Estates Officers.
- 2500 acres of land valuing Rs. 11,033 crore was on lease (March 2010) for a meagre annual rent of Rs. 2.13 crore which is negligible given the present market value of the land. There were serious and continuing delays in renewal of leases or eviction of lessees. The CAG found instances of unauthorized occupation, unauthorized additional construction, additions/alterations to properties held on lease, lands and buildings leased for residential purposes being used for commercial purposes or even unauthorizedly sold/transferred to third parties. No action had been taken for regularization of unauthorized usage or for resumption of properties.
- **Commercial exploitation of Defence lands:** August 1997 government orders stipulated no transfer/alienation of

Defence land without prior Cabinet approval. The CAG highlighted several instances of unauthorized use for commercial purposes such as running of shopping complexes, clubs, golf course, private engineering colleges, cinema halls, banks, educational institutions, hotels, guest houses, restaurants, petrol pumps, marriage halls, exhibitions, meditation camps. Commercial exploitation of Defence land often turns very opaque as revenue generated by such exercise is credited to the non-public fund (Regimental Fund), which is outside the Parliamentary oversight.

- **Unauthorized use of Defence land for Golf Courses:** There were 97 Golf Courses with 79 of these spanning 8,076.94 acres (August 2009). The government approved norms do not allow golf as an authorized activity but in December 2004, Chief of the Army Staff declared golf as a sports activity and not only a recreational activity, to be named as Army Environmental Park and Training Areas. The facilities were being operated by a private registered body - Army Zone Golf - earning heavy amount of revenue from outsiders allowed to play, and without paying any lease rent and allied charges for use of government assets. Revenues so generated was not credited to government account. Various golf courses and clubs purportedly established for Defence personnel and their families had enrolled civilians also as members.

- **Discontinuing land audit by Directorate General of Defence Estates on the insistence by Army Headquarters** meant that an important internal mechanism to identify mismanagement of Defence land was not allowed to function.

RECOMMENDATIONS: LESSONS EMERGING FROM THE CAG REPORTS

Traditionally economic development of a country is a function the availability of land, labour and capital and their efficient utilization through technological advances, good governance, innovation and entrepreneurship. Land remains the most finite and inelastic resource a country can have. Its value can be enhanced through efficient usage through prioritization and reimagination of demand for land. The governments invariably are the largest landholders anywhere in the world – both *de jure* and *de facto* - in terms of capacity to influence land use and land market.

We wish to draw attention to the recommendations on land management contained in the reports of two committees appointed by the Union government in 2008 and 2011.

Committee on State Agrarian Relations and the Unfinished Task in Land Reforms (2008)

This was constituted after a National Council for Land Reforms chaired by the Prime Minister was set up. The Committee was divided into seven sub-groups and each focused on an important dimension of land reforms and submitted a fairly exhaustive report. It made comprehensive recommendations regarding Land Acquisition, Forest Lands, Bhoodan Lands, land ceilings legislation and distribution of land, land rights for the Nomads and Women, Tenancy, Sub-Tenancy and Homestead Rights etc. Some of the recommendations that led to initiation of legislative changes are listed below:

On land ceilings legislation and distribution of land (i) There is an urgent need to re-visit the land ceiling limits in different categories to be implemented with retrospective effect. The State

should be free to revise its ceiling limits provided that they do not exceed the ceiling already fixed even on regional and sub-regional basis. (ii) Absentee landlords or non-resident landowners should have lower level of ceiling. (iii) Introduction of Card Indexing System for preventing fictitious transfers in benami names. This card should be related to allottee's Voted I/D Card or PAN. (iv) Discontinuation of exemptions to religious, educational, charitable and industrial organizations. The religious institutions should be allowed one unit of 15 acres. (v) Research organizations and Agricultural Universities should be allowed more than one unit on customized case to case basis. (vi) Withdrawal of the general exemptions to plantations, fisheries and other special categories. (vii) Imposition of criminal sanction on failure to furnish declaration on ceiling surplus land. (viii) Filing of Review petitions against cases decided by fraud or misrepresentation. (ix) Disposal of cases by Divisional Officers-cum-Tribunals and ensuring immediate surrender of excess land after judgment. (x) Bar jurisdiction of the Civil Courts. (xi) The Benami Transactions (Prohibition of the Right to Recover Property Act) of 1989 should be amended so that evasion of ceiling laws through fraudulent land transactions can be monitored. (xii) Revision in definition of landless poor person to include one who owns no land. (xiii) Not more than two acre of wet land and five acre of dry land should be allotted. (xiv) Computer based tracking and monitoring of ceiling surplus land. 29 (xv) A group should be set up composed of Gram Sabha members and revenue functionaries to identify benami and farzi transactions. (xvi) Redistribution of the land acquired but not being used for the purpose. (xvii) Adoption of single window approach for redistribution of ceiling surplus.

On Government Lands (i) The list of beneficiaries in fresh assignment should be selected by the Gram Sabha with mutations to be carried out before the grant of the patta. (ii) The definition of landless for the Government lands should be the same as that in the ceiling law i.e. person owning no land and maximum 1 acre wet and 2 acre of dry land should be assigned. (iii) The term Wastelands

needs a fresh look and redefined. Along with it, all the kinds of land which are categorized under it should also be identified and quantified in terms of the sustenance they provide to populations in non-cultivable manner. This task should be undertaken under the Wastelands Division of the Ministry of Rural Development. (iv) Committee suggests that the Panchayat should be made in-charge of the well defined wasteland in the purview of a Panchayat. (v) It is also interesting to note that the Committee suggests grading of population tied to the wasteland in terms of their literacy, exposure non-tribal and other professions.

On Land Acquisition The Committee recommends for revisiting SEZ Act comprehensively and putting a ban on exemptions on diversion of land in scheduled areas and also transfers of common property and agricultural land for SEZ/STZ purposes. (ii) Land should be restored to the owners if it is not used for the purpose acquired. (iii) Fertile land should not be acquired and public purpose to be redefined to include public utilities. (iv) There should be compensation for all the persons living within the zone of displacement and should cover the entire community at the market rate. (v) There should be time bound rehabilitations and resettlement of communities earlier affected by development projects, mining projects, industrial projects and protected areas (National Parks and Wild Life Sanctuaries)

Committee on Allocation of Natural Resources (2011)

It was set up as a direct outcome of the CAG Report on allocation of 2G Spectrum. One of the chapters of its report was devoted to allocation of lands by Central government and its parastatal. It made recommendations on several areas of concern like need for some uniformity in land alienation policies of different Ministries and Organizations in terms of the broad guidelines to be observed while allocating/alienating land; need for Central Depository of Land Records; taking all realistic steps for optimum realization and need for a high-level oversight body; Need for Land Exchange Management Committee; Avoiding alienation of land on

lease basis and e-Auction for competitive bidding; Need for transparency and clarity in policy for land use change or additional FAR etc. ; Need for revision in the amount of ground rent or lease money in case of leased out assets; Need for periodical or at least annual updating of Schedule of Rates; Complete transparency and clarity in Accounts and terms of handling the assets of the Central Government; Need for the Regulatory Body for land development and housing parastatals etc.

Reports of the CAG

As highlighted in some detail in the preceding chapters, a series of CAG Reports have covered land management issues like vacant lands, encroachments, unauthorized use, breach of terms by leaseholders, improper maintenance of land records, irregularities in land acquisition; fixation of rent, realizable value and compensation; and inappropriate use of discretionary land alienation policies.

Epilogue

The desirability of documenting the follow-up action on the above-mentioned reports of the government-appointed committees (2008 and 2011) and the various CAG reports can hardly be over-emphasized. The recommendations of the Ashok Chawla Committee (2011) had been examined by the Group of Ministers on corruption headed by the Finance Minister and the GoM had accepted 69 of the 81 recommendations. In May 201212, it was decided in a meeting chaired by Hon'ble Prime Minister to pursue these 69 recommendations. Further progress is not ascertainable.

No doubt changes have been made here and there in the land management system and several reforms are on anvil but it is desirable to officially take stock of the extent of recommendations acted upon or pending or not found appropriate for whatever reason. These reports seem to have become dated without much follow up reported in public domain. It would be useful to carry out a formal,

[12] https://pib.gov.in/newsite/PrintRelease.aspx?relid=84504

structured review of the recommendations contained in these Reports so that the valuable insights and recommendations emanating from these Reports are acted upon to improve land management and establish accountability in dealing with public resources.

It is apt to note that the CAG only conducts a test check of limited transactions as per the scope and objective of audit scrutiny. One cannot either draw the comfort that rest everything is alright or rush to 'just the tip of iceberg' innuendos. However, what one can safely conclude is that there is need to review systems and procedures elsewhere for same or similar flaws.

Most serious of all CAG comments have been on manifest abuse of discretion by public functionaries in allotment of lands, alluding to possibility of corruption or gross negligence. The CAG Reports based on official records can only allude but fixing criminal liability requires competent investigation and trial.

Only small fries and novices get caught 'red handed' accepting chemically tainted wads of currency notes, smart scamsters have developed hi tech ways of concealing the money trail lost in a web of dummies. Through sophisticated devices of separating the persona dramatis in time, space and web of dummies, the linkage between kickbacks and particular decisions of corrupt public servants becomes difficult to prove in a court of law. Likewise, the charge of influence peddling may be difficult to prove when advanced communication technologies and web of intermediaries are at play. The law of evidence, judges and law enforcement agencies all have a massive challenge at hand to prosecute corrupt public servants and those who seek to influence them for mutual gain, detrimental to public interest. What is in public interest itself means different things to different people. Justice Burrough famously said (Richardson v. Mellish) "Public policy is a very unruly horse, and when you get astride, you never know where it will carry you". It seems to fair to say the same for 'public interest'!

The vice of unfettered discretion, usually associated with the kings of yore, continues to afflict governance. India had some thriving republics - government by elected officials - before these were gobbled by hereditary monarchies. Both republics and monarchies can suffer from the vice of arbitrary use of discretionary powers, operating without published rules or flouting rules, abuse of discretion by public functionaries whether for direct or indirect personal gain or for any other reason, acting against public interest, acting in bad faith, acting in a secretive manner where no secrecy is required if intentions are honest. Reforms have been made to regulate discretion. There are systems of quotas and declared preferences, first-come-first-served system or selection through coin flips or lotteries where no differentiating criteria is available to make selection. The smart ones who believe that rules are for fools still keep designing and finding loopholes do what they want.

All this has time and again surfaced when it comes to land management. New lands are acquired in 'public interest' but then the lands are not used in public interest. Lands are acquired for creation of public amenities even though public land is already available nearby and the project location can be shifted. Additions/alterations to the parcels of lands being acquired are made because vested interests want it. Road alignments and project locations are changed to suit the vested interests who have been buying lands cheap over years in anticipation of some upcoming government project or some highway. Vested interests may accumulate huge inventory of agricultural lands and then influence the decision makers to change the permitted landuse from agricultural to residential or even commercial.

All this is made possible because the system remains opaque. Sunlight is the best disinfectant. Is it too much to expect that for every land acquired by any government, there should be a system of disclosure of change of ownership in say 5 or 10 years preceding the acquisition? A simple solution like this can have salutary effect in minimizing motivated acquisitions.

Same applies to allotment of land. Every discretionary allotment of land must be reported to public through an established public disclosure system.

The public disclosure system can cover periodic reporting of land parcels under encroachment. Such a system would mean that some public official has to physically visit and file a written report on the status of all public lands. If there is any concern that the public official can be coerced, intimidated or induced to misreport, countermeasures are possible. One countermeasure is to have a system where any member of public can anonymously report encroachment. The other countermeasure is to have a system of random allocation of inspection duties (rather than having same public official 'in charge' of inspecting an area. Once Bhu-AADHAAR system is fully rolled out, it would be possible for the IT system administrators to randomly pick some land parcels and assign them for inspection and report to random officials. Something similar has already started in Direct Tax administration with Faceless Assessment of Income Tax Return. The same idea can be replicated in encroachment monitoring.

Public lands ought not be used as a source of patronage but moving away from the criminal abuse of discretion by public authorities, there are other lessons emerging from the CAG Reports.

The governments ought to have a harmonized land use policy that enhances efficiency in land use across the country. This may not require copy book policy formulation but a policy structure that puts national, state and local priorities in right order and minimizes conflicts and contradictions. In this process, considerations of ecological balance, environment and efficient urban habitats need to be given due weightage. Often land acquisition for one purpose, say road building, leads to land degradation, disturbed land contours, blockage of natural drainage of water, flooding and public health issues. Similarly ,a new land use may result in disrupting existing land usage and additional inefficiency in urban spatial design resulting in traffic bottlenecks,

pollution etc.

Before going for fresh land acquisition governments ought to have reliable and undisputed inventory of land already within its ownership or control. This is definitely a week area whereby government owned lands fall into the hands of vested interests, are heavily encroached or used sub-optimally. There must be a hierarchy of land uses to minimize demand for land acquisition. For example, national security may have over-riding priority followed by infrastructure followed by education and public health. These can be demonstrated by appropriate public disclosures about master plans of areas.

Current land use needs constant revaluation to open avenues for better utilization of land by either relocating current usage or multifunctional usage. Current silos in regard to land usage and administrative control may need to be reviewed. This also would call for cogent redevelopment strategies by releasing land parcels from existing usage and diverting it for better usage in terms of hierarchy of needs. In this context, developing patterns of offsite working, remote participation, multiple usage of the same facility at different points of the day can be factored in.

Land acquisition process was historically loaded against small landowners and executed in a predatory manner. The changes in the land acquisition law have perhaps swung to the other extreme where land acquisition process can be held hostage by a minority of vested interests. This needs to be rectified through more participative and reward sharing arrangements whereby land alienation of current owners is duly balanced by sharing benefits of revised land use and urbanization.

SVAMITVA and BHU-AADHAAR schemes are big advancement in governance system when the whole country is digitally mapped and each square meter or whatever other standard unit area is assigned a unique identification code. It is desirable that SVAMITVA scheme is not confined to only rural areas and accelerated as fast as the States cooperate. Spinoffs of unique

addressing system are limited only by imagination. Enormous benefits of unique addressing system for governance and business will include valuable inputs for distribution of population, homesteads, farmed areas, wetlands, forests etc. and better planning / implementation of projects. Such a system will be useful in monitoring of unauthorized constructions and encroachments as well. Petty corruption and local vested interests that patronize such activities can be checked through randomized selection of inspections by higher authorities.

Unclogging the judiciary: The drones and satellites can only help create authentic records of location. Who owns what rights on a particular piece of land cannot be decided by technology service provider. The real constraint lies in the huge pendency of disputes and discrepancies about authenticity and completeness of land records. It is a big burden on the administrative system and courts. So, the rather broken mechanism for resolving title disputes needs to be fixed in parallel. Courts are clogged with civil suits and appeals where substance of the matter relates to land disputes. There are significant judicial arrears arising out of unfinished land tenancy reforms ('land to tiller'; consolidation of land holdings and land ceiling laws). The impact that a credible registry of land titles on judicial arrears would have, is difficult to estimate but would certainly be helpful. This would leave the judiciary to focus on other areas where 'justice delayed is justice denied' is frustrating the people. There is no ready central repository of statistics on cases pending with Tehsildars/Sub-Divisional Magistrates, District Magistrates, Divisional Commissioners, Revenue Ministers and Revenue Boards. Special Tribunals and other judicial reforms are required to deal with huge arrears of land related cases.

Centre has somewhat limited role in these transformative reforms as land is a State subject. It provides some financial assistance and shares best practices across States. Some additional measures are needed to speed up progress. For historical reasons, the land laws rooted in colonial legacy differ widely across States. Post-Independence laws for implementing abolition of zamindari

system, 'land to the tiller', land ceiling, land consolidation, rights of share-croppers, reforming land revenue system have been differently implemented and stuck in the pile of judicial arrears.

With over 95 per cent computerization of land records, we are indeed headed for some great system enablers. Need to speed up modernization of land records system can hardly be over-emphasized. Together with schemes like PM-KISAN and new agri-reforms laws incentivizing digital payments and online trade of agri-produce will strengthen the process of gradual formalization and digitalisation of economic activities will boost officially recorded economic growth.

However, bolder reforms are still pending about land use which can further accelerate economic growth. So far Centre has worked with model laws, financial incentives (like reform linked allocation of additional borrowing or scheme funding) and ranking/grading of States/Districts to spur desirable reforms in a nationally coordinated manner. States are competing for example in annual ranking in terms of Ease of Doing Business in the spirit of cooperative federalism. Ease of registering property, ease of verifying title and ease of recording and verifying charges on immovable property are contributory factors for promoting Ease of Doing Business for Businesses and Ease of Living for ordinary citizens.

What more can be done to speedup more fundamental reforms in land management? It may perhaps be desirable to consider bringing land use planning to the Concurrent List in the Constitution just as the Education and Forests were moved from the State List to the Concurrent List in 1976. (Incidentally, such a recommendation was formally made by the Ashok Chawla Committee in 2011 in respect of WATER.)

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INSTITUTE OF PUBLIC AUDITORS OF INDIA

223, 2nd Floor, 'C' Wing, AGCR Building, I.P. Estate, New Delhi-110002
Ph.: 91-011-23702330, 23702290, 23702369
E-mail: ipai.hq@gmail.com,
Website: www.ipaiindia.org

INSTITUTE OF PUBLIC AUDITORS OF INDIA

223, 2nd Floor, 'C' Wing, AGCR Building, I.P. Estate, New Delhi-110002
Ph.: 91-011-23702330, 23702290, 23702369
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