



**PARLIAMENT OF INDIA  
RAJYA SABHA**

**151**

**DEPARTMENT-RELATED PARLIAMENTARY STANDING  
COMMITTEE ON HOME AFFAIRS**

**ONE HUNDRED AND FIFTY FIRST REPORT**

**ON**

**THE ARMS (AMENDMENT) BILL, 2010**

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**(PRESENTED TO THE CHAIRMAN, RAJYA SABHA ON 2 JUNE 2011)  
(FORWARDED TO THE SPEAKER, LOK SABHA ON 2 JUNE 2011)**

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**RAJYA SABHA SECRETARIAT  
NEW DELHI  
JUNE 2011/ JYAISHTHA, 1933 (SAKA)**

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* to be appended at the printing stage.	

**Composition of the  
Department-related Parliamentary Standing  
Committee on Home Affairs  
(re-constituted w.e.f. 31<sup>st</sup> August, 2010)**

**Rajya Sabha**

1. Shri M. Venkaiah Naidu - Chairman
2. Shri Rishang Keishing
3. Dr. N. Janardhana Reddy
4. Shri S.S. Ahluwalia
5. Shri Naresh Chandra Agrawal
6. Shri Prasanta Chatterjee
7. Shri Javed Akhtar<sup>f</sup>
8. Shri Tariq Anwar
9. Dr. V. Maitreyan
10. Shri D. Raja

**Lok Sabha**

11. Shri L.K. Advani
12. Dr. Rattan Singh Ajnala
13. Dr. Kakoli Ghosh Dastidar
14. Shri Ramen Deka
15. Shri L. Raja Gopal
16. Shri Mohd. Maulana Asrarul Haque
17. Shri Naveen Jindal
18. Shri Jitender Singh Malik (Sonapat)
19. Shri Lalubhai Babubhai Patel
20. Shri Natubhai Gomanbhai Patel
21. Dr. Nilesh N. Rane
22. Shri Bishnu Pada Ray
23. Adv. A. Sampath
24. Shri Hamdullah Sayeed
25. Shri Neeraj Shekhar
26. Dr. Raghuvansh Prasad Singh
27. Shri Ravneet Singh
28. Shrimati Seema Upadhyay
29. Shri Harsh Vardhan
30. Shri Bhausahab Rajaram Wakchaure
31. Shri Dinesh Chandra Yadav

**SECRETARIAT**

Shri Tapan Chatterjee, Joint Secretary  
Shri P.P.K. Ramacharyulu, Director  
Shri D.K. Mishra, Joint Director  
Shri Bhupendra Bhaskar, Assistant Director  
Shri Sanjeev Khokhar, Committee Officer

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<sup>f</sup> Shri Javed Akhtar nominated w.e.f. 21 September 2010 *vice* Shri Tiruchi Siva, who has resigned from the Membership of the DRSC on Home Affairs w.e.f. the 13<sup>th</sup> September, 2010.

## PREFACE

I, the Chairman of the Department-related Parliamentary Standing Committee on Home Affairs, having been authorized by the Committee to submit the Report on its behalf, do hereby present this One Hundred and Fifty-First Report on the Arms (Amendment) Bill, 2010.

2. In pursuance of the rules relating to the Department-related Parliamentary Standing Committees, the Chairman, Rajya Sabha, referred\* the Arms (Amendment) Bill 2010 (**Annexure-1**) as introduced in the Lok Sabha on 25<sup>th</sup> August, 2010 and pending therein, to the Committee on 1<sup>st</sup> September, 2010, for examination and report within three months i.e. by 30<sup>th</sup> November, 2010. The Committee sought further extension of time thrice for presentation of the Report on the Bill, the last extension being upto 10<sup>th</sup> June, 2011.

3. Even before the Arms (Amendment) Bill, 2010 was referred to the Committee, it has had occasion to consider at length issues concerning New Arms and Ammunition Policy for Individuals and Arms and Ammunition Manufacturing Policy, notified by the Ministry of Home Affairs and the Advisory issued by that Ministry on 6<sup>th</sup> April, 2010 to all States/UTs implementing the said policy, as also the Ministry's Gazette Notification No. GSR 453(E) dated 21<sup>st</sup> May, 2010, publishing the Arms (Amendment) Rule, 2010 in seven sittings held on 7<sup>th</sup> January, 9<sup>th</sup> February, 4<sup>th</sup> and 23<sup>rd</sup> March, 22<sup>nd</sup> April, 28<sup>th</sup> May and 11<sup>th</sup> June 2010. The Committee considered the Arms (Amendment) Bill, 2010 in nine sittings held on 1<sup>st</sup> & 23<sup>rd</sup> November, 20<sup>th</sup> & 28<sup>th</sup> December, 2010, 5<sup>th</sup> & 24<sup>th</sup> January, 8<sup>th</sup> and 15<sup>th</sup> March, 2011. The Committee heard the official presentation of the representatives of the Ministry of Home Affairs on 1<sup>st</sup> November, 2010 on the Bill and on the 23<sup>rd</sup> November, 2010 on the Arms Policy and Rules and the Advisory dated 6<sup>th</sup> April, 2010 issued by the Ministry of Home Affairs to all the States/UTs relating to 'Grant of Arms Licenses for acquisition/possession of Arms'. As per practice, the Secretaries and senior officers of the Legislative Department and the Department of Legal Affairs were also present in those sittings to respond to the queries of the Members.

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\* vide Rajya Sabha Parliamentary Bulletin Part II No. 47645 dated 1<sup>st</sup> September, 2010.

3.1 The Committee heard some non-official witnesses representing the National Association for Gun Rights India (NAGRI) on the Bill, in its sitting held on 8<sup>th</sup> March, 2011.

3.2 The Committee held internal discussion on the Bill in its sitting held on 15<sup>th</sup> March, 2011.

3.3 The Committee in its sitting held on 25<sup>th</sup> April, 2011 considered and adopted this Report and authorized its Chairman to present the same to the Chairman, Rajya Sabha before 10<sup>th</sup> June, 2011 when the House would not be in Session.

4. The Committee has made use of the following documents in preparing the Report:-

- (i) The Arms (Amendment) Bill, 2010;
- (ii) Detailed background Note on the Bill as received from the Ministry of Home Affairs;
- (iii) The Arms Act, 1959;
- (iv) The Arms Rules, 1962;
- (v) Arms and Ammunition Policy for individuals;
- (vi) Arms and Ammunition Manufacturing Policy;
- (vii) Notification of Ministry of Home Affairs dated 21st May, 2010 regarding amendment of the Arms Rules;
- (viii) Aide-Memoire on Arms and Ammunition Policy prepared by the Secretariat; and
- (ix) Advisory dated 31.3.2010 issued by the Ministry of Home Affairs to all State Governments on 6<sup>th</sup> April 2010.

5. For facility of reference and convenience, observations and recommendations of the Committee have been printed in bold letters in the body of the Report.

**M. Venkaiah Naidu**  
**Chairman**

Department-related Parliamentary  
Standing Committee on Home Affairs

25 April 2011/New Delhi

## CHAPTER- I

### Background

1.0 The Arms (Amendment) Bill, 2010 seeks to amend the procedure for grant of licence for the acquisition, transfer of arms and ammunition to make the same more specific. All matters pertaining to arms and ammunition such as acquisition, possession, manufacture, sale, import, export and transport are governed by the Arms Act, 1959 and the rules framed thereunder namely, the Arms Rules 1962, both of which came into force on 1<sup>st</sup> October, 1962. The Arms Act, 1959 and Arms Rules, 1962 contain provisions for acquisition and possession of firearms by individuals, and for manufacture, sale, transportation, import and export etc. of firearms and ammunition. The Arms Act, 1959 and rules made thereunder also make provisions for punishment for contravention of the provisions of the Act.

1.1 The background note on the Arms (Amendment) Bill, 2010, as furnished by the Ministry of Home Affairs, explains that under the existing provisions, it is compulsory to obtain, under section 3 of the Arms Act, 1959, a license for acquisition and possession of fire arms and ammunition. Section 13 of the Arms Act, 1959, inter-alia, lays down the procedure for grant of such licences which requires the licencing authority to call for the report of the officer-in-charge of the nearest police station on the application for grant of such license. Such police officer is required to send the report within the prescribed time. After making such enquiry as the licensing authority may consider necessary and on receipt of report from the officer-in-charge of the nearest police station, the licencing authority may grant the licence or refuse to grant the same. However, the proviso to sub-section (2A) of section 13 of the aforesaid Act empowers the licensing authority to grant an arms licence where the report of the police authorities has not been received within the prescribed time.

1.2 The Statement of Objects and Reasons of the Arms (Amendment) Bill, 2010 spells out the Government's justification for making amendment in the existing provisions for grant of license for acquisition and possession of fire arms and ammunition, which is as under:-

*“Proliferation of arms and ammunition, whether licenced or not, in the country disrupt the social order and development, vitiate the law and order situation, directly contributes towards lethality of violent acts, and needs to be curbed. It is, thus, imperative to ensure that arms licenses are issued to the bonafide persons by the licensing authority concerned after due verification of their antecedents by the police authority concerned.”*

1.3 According to the Government, in view of the above mentioned reasons, it has become necessary to modify the procedure for grant of license for the acquisition, transfer of arms and ammunition, and make the procedure more specific.

## CHAPTER- II

### Arms, Firearms and Ammunitions

2.0 The Committee has had occasion to discuss at length issues concerning the Arms and Ammunition Policy of the Government in its sittings held on 7<sup>th</sup> January, 9<sup>th</sup> February, 4<sup>th</sup> and 23<sup>rd</sup> March, 22<sup>nd</sup> April, 28<sup>th</sup> May and 11<sup>th</sup> June 2010. The discussion in the Committee was triggered by a letter dated 16<sup>th</sup> December, 2009 written by a Member of the Committee to its Chairman, suggesting that in the changed security scenario, the production, procurement and possession of arms by public in self-defence should be liberalized. The Member drew the attention of the Committee towards the following para of the Statement of Objects and Reasons, when the Arms Bill 1959 was introduced in Parliament:

“The Indian Arms Act, 1878, was intended to disarm the entire nation Even after independence, the law declaring “swords, daggers, spears, spear-heads, bow and arrows” as “arms” has been allowed to continue unaltered on the statute book. The rigours of the Arms Act and rules thereunder continue to make it difficult for law abiding citizens to possess fire-arms for self-defence whereas terrorists, dacoit-gangs and other anti-social and anti-national elements are using not only civilian weapons but also bombs, hand-grenades, bren-guns, sten-guns, .303 bore service rifles and revolvers of military type, for perpetrating heinous crimes against society and the State.”

2.1 Having stated the above objective, the legislation and the rules framed there under gave vast arbitrary powers to licensing authorities making it virtually impossible for an ordinary law abiding Indian citizen to procure an arms licence.

2.2 The Member further stated that it is very difficult in our country to procure and possess arms. The Govt. follows a policy of non-proliferation of arms, which was being pursued by our foreign rulers before 1947, for their own reasons and is not inclined to change the mindset. Changed circumstances necessitate a change in the policy to suit public interest. There should be a feeling of trust and faith between those governing and the governed. It is equally important that the Govt. of the day ensures the security of life and property of the public. He felt that law breakers, terrorists and unlawful outfits have access to all types of sophisticated weapons, while the law abiding citizens are woefully at the mercy of the inadequate, ill armed and sometimes unhelpful law enforcing agencies.

2.3 The Members strongly felt that the people, exposed to risk, should be adequately equipped with weapons for their personal security. In the changed scenario, the production, procurement and possession of arms by public at large should be simplified and streamlined. The possession of Licenced Arms will not magnify the problems but would serve as a deterrent for the ghastly events.

2.4 In that context the Members suggested that the Committee should hold detailed discussion on the 'Arms Policy' and submit a report on the subject to Parliament. Comments of the Ministry of Home Affairs were sought on the letter of the Member. The Ministry of Home Affairs *vide* their OM dated 6<sup>th</sup> January, 2010 furnished their comments. According to the Ministry, the law and order situation as prevailing in 1878 and as of now are vastly different. The social and political situations are also totally different and consequent to getting

independence, the people of India are empowered to elect their leaders and do not require guns to get their grievances redressed. Therefore, in principle, there is no need for a law abiding citizen to arm himself as police and para-military forces are available to address any security concern. The Government in principle felt that free availability of arms would escalate violence in general in the society. The UN Programme of Action on this aspect endorses the above views.

2.5 The Ministry of Home Affairs also submitted that it was aware of the need for review of policy from time to time. However, the principle of non proliferation of arms and ammunition remains a pre-requisite for peaceful socio-economic development, democratic politics and Rule of Law.

2.6 Commenting on the issue, the Ministry of Home Affairs opined that as per the State List of the Seventh Schedule to the Constitution of India, "Police" and "Public Order" are the responsibilities of the State. However, whenever need arises, the Union Government helps the State Governments in providing the additional manpower in the form of Central para-military forces for ensuring public order.

2.7 As per the report of the International Action Network on Small Arms (IANSA), UK, a thousand people die every day in the world by gunshot, and three times as many are severely injured. If the death, injury and disability resulting from small arms are categorized as a disease, it is to be viewed as an epidemic. As a man-made vector of injury, guns are manifestly bad for human health. Under the UN Programme of Action on Small Arms (POA), every country has committed itself to:

- Establish a national agency to coordinate among all the government departments and organisations working on different aspects of the small arms issue. These include Customs, Justice, Defence, Security, Foreign Affairs, Interior, Health, Police, Women, Human Rights, Youth, Environment etc.
- Identify a specific person or office as a point of contact for officials in other countries requesting or providing information on small arms.
- Involve civil society organisations as partners in stopping the proliferation and misuse of guns.
- Harmonise national polices among states within each region; strengthen regional and sub-regional agreements on controlling arms.
- Support the implementation and enforcement of regional agreements and moratoria on small arms.
- Make illicit gun production or possession a criminal offence under national law.
- Establish adequate laws to prevent illegal manufacture and trafficking in diversion of guns to unauthorized recipients.
- Seek out and prosecute illegal gun producers and traffickers.
- Improve the enforcement of arms embargoes.

- Mark all guns at the point of manufacture to enable identification and tracing.
- Keeping comprehensive and accurate records, for as long as possible, on the manufacture, holding and transfer of small arms.
- Assess all applications for export in accordance with strict 'national regulations', consistent with States' existing responsibilities under international law.
- Require end – user certificates for exports and transit of small arms.
- Notify the original supplier nation if guns are being re-exported.
- Disarmament, demobilization and reintegration (DDR) of ex-combatants, including collection and destruction of their weapons. Destroy surplus, confiscated or collected weapons.
- Meet regularly with other countries to report on progress.
- Conduct public awareness campaigns on the small arms problem.
- Increase the international exchange of information on this topic.

2.8 Many United Nations resolutions, decisions, statements and reports have noted that excessive and destabilizing accumulations and transfers of small arms and light weapons are closely related to the increased incidents and intensity of conflicts and high levels of crime and violence. The illicit trafficking and circulation of small arms and light weapons throughout the world is not only a major source of insecurity but also impedes socio-economic development.

2.9 Regarding access of weapons by law breakers, terrorists and unlawful elements and dependency of law abiding citizens on the inadequate, ill armed and sometimes unhelpful law enforcing agencies, the Ministry of Home Affairs stated that it is the Government which has to mobilize resources for para-military forces to counter terrorists and other criminals armed with sophisticated weapons. The Ministry further stated that the manpower in all the CPMFs is being increased, the vacant posts in CPMFs and State police forces are being filled up, training of the personnel of CPMFs and State police forces is being organised regularly and latest weapons and surveillance equipments to combat terrorism are being procured and deployed.

2.10 Commenting on the point that there would have been lesser casualties on 26/11/2008 in Taj Hotel had some of those present had arms, the Ministry was of the view that in terrorist incidents the element of surprise lies with the terrorists. Based on these experiences, it is the endeavour of MHA to improve the functioning of and the coordination amongst the various security agencies, para-military forces and the State police forces so that such instances do not recur or at least the damage done by such instances is minimized to the greatest extent possible.

2.11 In their comments, the Ministry *inter alia* informed the Committee that it was in the process of reviewing the Arms Policy and has sought the comments of the general public and

by inviting comments, the Government has conveyed its openness to any suggestion/amendments in the interest of civil society.

2.12 In the sitting of the Committee held on 7<sup>th</sup> January, 2010, the Member brought to the notice of the Committee that the Ministry of Home Affairs had put on its website a draft of a new Arms and Ammunition Policy, under the Arms Act, 1959 and has sought the comments of the general public till 6<sup>th</sup> January, 2010. The Member expressed his concern on the proposed move of the Government, which according to him affected every Indian, and that the Standing Committee had not been taken into confidence. The Member wanted the Committee to convey its displeasure to the Ministry of Home Affairs over the fact that before putting the draft on the website, they had not briefed the Committee about their proposed move. He suggested that this subject (Arms Policy) should be discussed in the Committee and a report submitted to Parliament as the matter affected every countryman. He also *inter alia* suggested that the draft policy document in Hindi should also be put on the Ministry of Home Affairs website along with the English version and the same widely circulated through the medium of language newspapers. Members of the Committee associated themselves with the views of their colleague.

2.13 In the said sitting of the Committee, the Members wanted to know from the Home Secretary the background which led the Ministry to review the existing Arms Policy and why the Standing Committee on Home Affairs was not informed of the proposed move of the Government. The Chair announced the unanimous view of the Committee that matters relating to 'Arms, Fire Arms and Ammunition' should be discussed in a separate sitting and till such time the Ministry should not finalize the new policy.

2.14 The Home Secretary responded to the concerns raised in the Committee, in the following words:-

"I will bring this to the notice of the Union Home Minister because the Draft Arms Policy, as approved by the Union Home Minister, has been put on the website of the Home Ministry. I agree that we should have brought it to the notice of the Standing Committee and also the Members of the Standing Committee which we shall do in future. I would also bring to his notice the suggestion that you have made that the Draft Arms Policy should not be finalized till the Standing Committee had a discussion".

2.15 The Committee observed that the proposals of the Ministry of Home Affairs should be placed before the Standing Committee first so that it may examine the matter and submit its recommendations and till such time it had not discussed the subject, the Ministry should keep everything connected with the formulation of the policy pending, as the day before was the last date for submitting comments on the draft policy and the Committee Members were not informed. It was further suggested that the draft policy should be put on the Ministry's website in both the languages. Thereupon the Home Secretary told the Committee that he would bring the matter to the notice of the Home Minister.

2.16 Subsequent to that sitting of the Committee, the Home Secretary sent a DO letter dated 14<sup>th</sup> January, 2010 to the Secretariat, intimating as under:-

"The Home Minister has directed that the Hindi version of the proposed Arms Policy be prepared and placed on the website of MHA and that two weeks time be given for the members of the public to give their comments and suggestions. Thereafter, the Ministry of Home Affairs would examine the comments and observations of the various stakeholders and take a final decision on the draft Arms Policy. I am pleased to inform you that the Hindi version of Arms Policy has been prepared and has been posted on the website of MHA on 14.1.2010. A copy of the draft Arms Policy in English and Hindi version is separately being sent to all the Members of the Standing Committee for their comments/suggestions, if any."

2.17 The Ministry of Home Affairs, vide their OM dated 18<sup>th</sup> January, 2010, forwarded copies of (i) Draft Arms and Ammunition Policy for Individuals and (ii) Draft Arms and Ammunition Manufacturing Policy, to the Secretariat for circulation amongst Members of the Standing Committee.

2.18 In the next sitting of the Committee held on 9<sup>th</sup> February, 2010, the Chairman apprised the Members of the contents of the Home Secretary's letter of 14<sup>th</sup> January, 2010. Though the Committee appreciated the action of the Home Ministry in putting the Hindi version of the Draft Arms Policy on its website along with its English version and sending copies thereof (both versions) to all Members of the Committee for comments, it, however, pointed out that what it had decided in its sitting held on 7<sup>th</sup> January, 2010 was to hold a structured discussion on matters relating to 'Arms, Fire Arms and Ammunitions' in a separate sitting and the Home Secretary was advised that till such time the Committee discussed the subject and formulated its recommendations thereon, the Ministry of Home Affairs should not go ahead with the finalization of the policy. The Committee reiterated its earlier decision and directed the Secretariat to convey to the Ministry of Home Affairs that it should not finalise the Draft Policy until the Committee had discussed the aforementioned subject and formulated its recommendations.

2.19 As per the direction of the Committee, its decision was communicated to the Home Secretary *vide* Secretariat's letter dated 9<sup>th</sup> February, 2010.

2.20 Meanwhile, the Home Minister met Hon'ble Chairman, Rajya Sabha and explained to him the matter concerning the Arms Policy. That meeting was followed by a letter dated 16<sup>th</sup> February, 2010 which he wrote to Hon'ble Chairman, taking exception to the decision of the Committee on the ground that drafting and notifying a policy were the prerogative of the executive branch of the Government. The relevant extracts from the letter of the Home Minister are reproduced below:-

" ..... I submit that drafting and notifying a policy are matters that are the prerogative of the Executive Branch of the Government. Hence, I am unable to understand the 'decision' of the Standing Committee and its 'direction' to MHA as conveyed by the Joint Secretary, Rajya Sabha Secretariat. All comments/suggestions received within the stipulated time will be considered before any policy is finalized. We intend to notify the policy shortly. I request you to kindly advise the Chairman of the Standing Committee suitably".

2.21 Hon'ble Chairman referred the letter of the Home Minister to the Chairman of the Committee, along with a related matter, for appropriate consideration, who in turn placed the matter before the Committee in its sitting held on 4<sup>th</sup> March 2010. The Committee considered in detail the letter of the Home Minister under reference. After some discussion, the Committee decided as follows:-

"The subject 'Arms, Fire Arms and Ammunitions' would be discussed by it during the examination of the Demands for Grants (2010-11) of the Ministry of Home Affairs and that the Home Secretary would be asked to make a brief presentation on that subject and also on the Draft Arms Policy. Thereafter the Committee would formulate its recommendations on the subject".

2.22 The aforesaid decision of the Committee was duly placed before Hon'ble Chairman for his information.

2.23 In the sitting of the Committee held on 23<sup>rd</sup> March, 2010, the representative of the Ministry of Home Affairs made a PowerPoint Presentation on the subject 'Arms, Fire Arms and Ammunitions'. The Committee discussed the subject in the light of the presentation. The Chair suggested that the Bill amending the Arms Act should first be brought before Parliament and before doing so, the Draft Amendment Bill should be posted on the website of the Home Ministry for suggestions and comments of the general public. He suggested that after introduction in either House of Parliament, the Bill should be referred to the Standing Committee. The Chair also suggested that after the Arms Act had been amended, the Arms (Amendment) Rules should be notified and laid on the Table of the both the Houses, within a statutory period of thirty days, for Parliamentary approval. In that context the Chair advised the Government not to proceed with the announcement of the new policy and its implementation, unless Parliament had approved the amendments to the Act and the Rules, as in the event of Parliamentary approval not forthcoming, the new policy would become infructuous.

2.24 The Home Secretary responded to the suggestions and observations of the Chair, in the following words:-

"The Government received the suggestions. We will take note of the suggestions which have been made by the Members. The Government will now finalise the rules and thereafter it would place these rules before both the Houses of Parliament. Thereafter, the Parliament will discuss these. It may accept it, modify it or reject it; and that would be the law of the land. So, there is no separate need of bringing it before the Standing Committee now. It will be laid on the Table of the Houses and each House will decide".

2.25 The Chairman of the Committee reacted to the observations of the Home Secretary, as follows:-

"That is why I said, along with modification in the rules, you are proposing amendments in two sections of the Arms Act. Why? What is the hurry? This is my point. Why do you want to make the rules first and bring the amendment last? You can bring it together before the Parliament. When you are changing the two sections of the Arms Act, bring the Amendment Bill, put it on the website, take the suggestions and then bring it to the Parliament. When

Parliament passes it, you can make rules and then laid on the Table of the House. There is no problem. .... So, there are so many lacunae. That is why I said just give your reply in writing as to what exactly is in your mind, and if required, we will call you again".

2.26 In the sitting of the Committee dated 22<sup>nd</sup> April, 2010, the notification of the Arms Policy came up for brief mention. It was suggested by a Member that the facts relating to the notification of the Policy should first be ascertained from the Ministry before further deliberations on the subject were held. A demand was made that the policy should be laid on the Table of both Houses of Parliament and referred to the Committee for detailed discussion.

2.27 As per the direction of the Committee, the Secretariat wrote a letter to the Ministry of Home Affairs enquiring about the factual position relating to the finalization and notification of the Arms and Ammunition Policy. The Ministry of Home Affairs *vide* their communication dated 23<sup>rd</sup> April, 2010 informed as under:-

"(a) & (b) The arms and ammunition policy has been finalized on 5-04-2010 and put on the website of the Ministry [www.mha.nic.in](http://www.mha.nic.in). The changes made are being implemented as under:-

- (i) Amendment of Section 13 of the Arms Act, 1959 in respect of deletion of proviso to Section 13 (2A) and prescribing a period of 60 days as the "prescribed time" mentioned in Section 13 (2), for the police authorities to send their report, is being taken up through preparation of a Cabinet Note for obtaining Cabinet approval and introduction of a Bill in the Parliament.
  - (ii) Introducing preparation of a database by the State Governments/DMs is being taken up by amendment of the Arms Rules, through Gazette Notification and laying the amended rules on the Tables of the House.
  - (iii) Remaining changes through issuance of an advisory to all State Governments.
- (c) A copy of an advisory dated 31-03-2010, issued to all the State Governments on 6-04-2010, is enclosed.
- (d) The draft Cabinet Note has been referred to the Ministry of Law for vetting before sending the same to Cabinet Secretariat for Cabinet approval. For amendment of the Arms Rules, the draft Notification has since been vetted by the Ministry of Law and the same is being sent to Govt. of India Press for publication in the Official Gazette, after getting Hindi Translation."

2.28 In the subsequent sitting of the Committee held on 28<sup>th</sup> May 2010, the Chairman asked the Home Secretary to respond to some points relating to the Arms and Ammunition Policy. The major points are as follows:

- (i) Two policy documents - (i) Arms and Ammunition Manufacturing Policy and (ii) Arms and Ammunition Policy for Individuals - were finalized by the Ministry of Home Affairs on 5<sup>th</sup> April, 2010 and put on the Ministry's website under the link

'Circulars for Public', disregarding the Committee's advice. None of the suggestions made in the meeting of the Committee held on 23<sup>rd</sup> March, 2010 were accepted by the Government. The advice given by the Committee to the Government to follow the standard procedure in giving effect to the changes in the existing policy, have also not been heeded.

- (ii) The policy as finalized was exactly identical to the draft put on the Ministry's website.
- (iii) The two policy documents had been brought into force by the Home Ministry by issuing detailed advisories to the Secretaries (Home Departments) of all the States and UTs.
- (iv) According to the advisories, the instructions of the Government of India shall come into force with immediate effect.
- (v) Curiously enough, the Ministry enforced the new policy documents by issuing executive instructions, without waiting for formal Parliamentary approval to the amendments to the Arms Act 1959 and the Arms Rules 1962.
- (vi) Various components of the policy documents could be brought into force only by amending the Arms Act and the Arms Rules. But the proposed amendment to the Act and the Rules did not cover several aspects of the policy which would mean that those would be enforced through executive orders.
- (vii) It is a well established parliamentary practice that Ministers make statements in the House in order to keep the House informed of matters of public importance or to apprise the House about Government policy in regard to a matter of topical interest, at the earliest opportunity.<sup>1</sup>
- (viii) In deciding what statements should be made first in the House, a distinction had to be drawn between matters of policy and news. In matters of policy, Govt. should first inform the House. But in the case of news, information can be given to the Press before informing the House.<sup>2</sup>
- (ix) Policy statements should be made by Ministers on the floor of the House, when the House is in session before releasing them to Press or Public.<sup>3</sup>
- (x) Where a statement is made outside the House even clarifying the policy already enunciated, the Minister should also make a statement about that in the House at the earliest opportunity.<sup>4</sup>
- (xi) The day the policy documents were finalized, the Parliament was in session but the Government, for reasons best known to it and in violation of established parliamentary practice, chose not to lay the policy statements even when the Budget Session of Parliament concluded on 7<sup>th</sup> May, 2010.

2.29 The Home Secretary, however, skirted all the above points and responded merely by stating that the Arms Policy had been finalized by the Home Minister and as a result of the policy, certain advisories which were in modifications of the earlier advisories, had been

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<sup>1</sup> (Parliamentary Procedure: Law, Privileges, Practice & Precedents by Dr. Subhash C. Kashyap, 2<sup>nd</sup> Edition 2006, page 540, Universal Law Publishing Co., New Delhi)

<sup>2</sup> LS Deb., 3.12.1971, cc. 204-09, 325-28

<sup>3</sup> HP Deb. (II), 1.9.1953, cc. 1865-66; LS Deb., 22.12.1967, c.9285; 28.8.1973, cc. 245-47

<sup>4</sup> LS Deb., 18.3.1970, c.229

communicated to the States. Some amendments in the Arms Rules had been proposed to be carried out, and he was not sure whether those amendments had been published in the Gazette or not. In any case, the Gazette notification publishing the amended Rules would be laid on the Table of both the Houses of Parliament when they reassemble for the next session. He further informed the Committee that for amendment to the Arms Act, a draft Cabinet Note was being prepared and after approval of the Cabinet, a Bill would be introduced in the Parliament during the next session.

2.30 The Chairman then put a pointed question to the Home Secretary as to why the policy had not been laid on the Table of the House. The Home Secretary replied as follows;

*"It is upto the Home Minister. If he wishes that it is to be announced, he would lay it on the Table of the Houses".*

2.31 The Chairman wanted to know from the Home Secretary whether it had been the practice in the Government of India to issue advisories to the State Governments on a policy matter even before the required amendments to statute or statutory rules were approved by the Parliament/notified in the Gazette. The Home Secretary clarified as under:

"Rules have been amended. What have been communicated to the State Governments are the modifications to the earlier advisories and not the earlier rules. Those earlier advisories have been amended and sent to the State Governments."

2.32 Thereupon, the Chairman observed that in order to amend the advisories which were inconsistent with the present rules, Government had to first amend the rules. He wondered how Advisory Notes could be sent to the State Governments without amending the Act and the Rules. The Home Secretary replied that he would clarify that aspect in the next sitting of the Committee.

2.33 The Chairman then made the following observations:-

"Earlier advisories were already enforced. In order to amend the advisories, which are inconsistent with the present rules, you have to first amend the rules. How can advisory notes be given to the State Governments without amending the rules or without amending the Act? ..... Come prepared with all the details, including your (Home Ministry's) stand on it. Your stand seems to be in contravention with the stand of the Parliamentary Committee and the previous rulings of the Speaker, Lok Sabha and the Chairman, Rajya Sabha, on umpteen number of occasions. .... I do not want to have any confrontation with the Government or the Ministry. But, at the same time Parliamentary practices and procedures have to be respected. The very purpose of forming this Committee is to convert this into a mini-Parliament, as and when Parliament is not in session. The Committee meets, discusses issues item-wise, and makes its recommendations. Then these recommendations go to the Government and then it moves forward. The ultimate decision rests with the Government. It is not the Standing Committee which runs the Government. The Government comes before Parliament. Government means majority. The Government has the majority and it will get it approved. But the process of discussion has to be exhausted.

As far as this particular issue is concerned, the hon. Members are of the opinion that the procedure has not been followed and there was no urgency involved in it. ....

I would like you to come before the Committee and tell us what was the urgency and what were the compelling reasons to go through it and then issue advisory notes to the States even before publishing it in the gazette.... After all, we are not expected to get it from your website or from the printing press of the Government. The Committee has got every right to ask for it".

2.34 With reference to the observations of the Chairman, the Home Secretary stated as follows:-

"Sir, we will provide you with full facts on the policy, advisories to the States, amendment in the rules, and the proposed amendments to the Act. We will prepare a detailed note on these and we will place it before the Standing Committee".

2.35 The Committee in its sitting held on 11<sup>th</sup> June 2010 took up further consideration of the issues relating to the finalization and implementation of the Arms and Ammunition Policy by the Ministry of Home Affairs. The Chairman pointedly told the Home Secretary that the papers sent by the Ministry on the subject had been perused and found to be unsatisfactory and evasive. He observed that the procedure adopted by the Ministry in finalizing and implementing the policy was just the opposite of what the Committee had advised it in successive sittings. The Chairman asked the Home Secretary to inform the Committee as to when the Home Minister was going to lay the Policy Documents on the Table of both the Houses of Parliament and what were the compelling circumstances which prompted the Ministry to announce the Policy through its website when the Parliament was in session and to issue advisories/instructions to all the State Governments for implementing the Policy without waiting for Parliament's approval to the amendments to the Arms Act 1959 and Arms Rules 1962.

2.36 The Home Secretary stated that about laying of the Policy on the Table of both the Houses of Parliament, he would bring the views of the Committee to the notice of the Home Minister. On being pointed out that he made the same observation during the previous meeting of the Committee held on 28<sup>th</sup> May 2010, the Home Secretary repeated his statement. As to the reasons why the Government hurriedly finalized the policy and asked the State Governments to implement the same, the Home Secretary did not respond. The Chairman and some other Members raised a number of issues relating to the matter. They reminded the Home Secretary that there were several precedents wherein it had been held that the Houses of Parliament had the right to be informed first about the announcement of a new Policy Statement by the Government when Parliament was in session, before releasing it to the media and the public. The Home Secretary was again informed that it was a well-established parliamentary practice that Ministers make statements in the House in order to keep the House informed of matters of public importance or to apprise the House about Government policy in regard to a matter of topical interest, at the earliest opportunity. The Home Secretary was once again told that there were several instances in both the Houses of Parliament wherein it had been ruled that Policy Statements should be made by Ministers on the floor of the House when the House was in session, before releasing them to press or public. The Chairman then

observed that in the light of the well-established parliamentary practice and the precedents, the procedure followed by the Ministry of Home Affairs in the matter of finalisation and implementation of the Arms and Ammunition Policy, was confusing and disturbing and that it was a serious matter. The Home Secretary observed that he would bring the issues raised in the Committee, to the notice of the Home Minister. The Chairman then directed the Home Secretary to report back to the Committee in the matter.

2.37 Thereafter nothing was heard from the Home Ministry, nor were the Policy Documents laid on the Table of the Houses.

2.38 However, the notification of the Ministry of Home Affairs bearing No. G.S.R. 453(E), published in the Gazette of India Extraordinary, Part-II, Section-3, sub-section (i) dated 28<sup>th</sup> May, 2010, was laid on the Table of both the Houses on 11<sup>th</sup> August, 2010. Subsequently, the Home Minister introduced the Arms (Amendment) Bill 2010 in the Lok Sabha on 25<sup>th</sup> August, 2010. Immediately after introduction of the Bill in that House, a demand was made by a Member to refer it to the Standing Committee. The Home Minister readily agreed to the suggestion. Hon'ble Speaker observed that the Bill would be referred to the Standing Committee. The Arms (Amendment) Bill 2010 was, accordingly, referred to the Committee for examination and report thereon by 30<sup>th</sup> November, 2010. The Committee was granted extension of time thrice for presentation of report on the bill, the latest being upto 10<sup>th</sup> June, 2011.

## CHAPTER- III

### Examination of Arms (Amendment) Bill, 2010

3.0 As per the assessment of the Ministry of Home Affairs, “social order and development is being disrupted by the proliferation of Arms and Ammunition, whether licensed or not in the country. The proliferation of arms and ammunition vitiates the law and order situation. Holding of sophisticated arms by the conflicting parties directly contributes towards lethality of violent act.” The Ministry, therefore, felt that in principle, proliferation of arms needs to be curbed. According to the Ministry, there is a compelling need to review the provisions of Arms Act/Arms Rules with regard to grant of arms licenses for possession of arms and ammunition by individuals and manufacture of fire arms in the country.

3.1 According to the Statement of Objects and Reasons of the Arms (Amendment) Bill, 2010, the Bill seeks to curb the proliferation of arms and ammunition in the country. The Bill, under consideration, proposes to make amendment to the provisions of the Arms Act, 1959, as follows:-

- (a) amend sub-section (2) of section 13 of the Arms Act, 1959 so as to specify in the Act itself the time limit of sixty days from the date of receipt of application for sending the aforesaid report by the officer-in-charge of the nearest police station and to record the reasons for failure to send the report within the specified time;
- (b) insert a proviso in sub-section (2) of section 13 of the Arms Act, 1959 so as to provide that the licensing authority may recommend to the concerned authorities to initiate punitive action under section 30A (proposed to be inserted in the Bill), against the officer-in-charge of the concerned police station in case the police officer fails to submit the report within the specified time or the licensing authority is of the opinion that the reasons for failure to submit report by the officer-in-charge of the nearest police station are not sufficient or convincing;
- (c) omit the proviso to sub-section (2A) of section 13 of the Arms Act, 1959 so as to do away with the discretion of the licensing authority to issue the license without receipt of the report from the officer-in-charge of the nearest police station;

3.2 Insert a new section 30A in the Arms Act, 1959 to provide for punitive action for failure to send the report or failure to give sufficient or convincing reasons for not sending the report within the time limit of sixty days proposed to be specified.

3.3 During the course of presentation, made by the Joint Secretary, MHA, on 1<sup>st</sup> November 2010, the Committee was apprised of the background to the introduction of the Bill. The Committee was informed that the Arms Policy was reviewed in April, 2010. This revision envisaged amendment of Section 13 of the Arms Act 1959 to make Police verification compulsory before grant of arms licences and prescribe a period of 60 days in which the police report must be sent by the police authorities. The highlights of the presentation are as follows:

- (i) It has been considered essential that arms licences are issued to bona fide persons with clear antecedents;
- (ii) It has been considered essential that the Police verification report is taken into consideration before grant of an arms license;
- (iii) The Arms (Amendment) Bill, 2010 seeks to: prescribe a period of 60 days for Police to send their report; make provision for recording reasons by police in case of delay beyond 60 days; to make provision for punitive action if the reasons are not sufficient and convincing; to remove discretionary powers to issue arms licence without police report.

3.4 The Members of the Committee then sought clarifications on the following points:-

- (i) The rationale for bringing in a new Arms and Ammunition Policy;
- (ii) State/UT -wise statistical information on arms licenses issued;
- (iii) State/UT-wise statistical information on crimes committed by using licensed arms and illegal arms;
- (iv) Remedy available to the individual applicant for arms license where mandatory police verification is not received by the concerned authorities within the stipulated period of 60 days;
- (v) Implications of Advisories issued to the State Governments and amendment of the Arms Rules, 1962;
- (vi) Suggestions/recommendations received from State Governments/ UT Administrations on the Draft Arms Policy;
- (vii) Decision of MHA on representations received from various quarters regarding issue of arms licenses; and
- (viii) Experience of different countries with regard to issue of arms licenses.

3.5 The representative of the Ministry of Home Affairs could not give convincing explanation to the queries of the Members. The Committee, therefore, directed them to make another presentation on various aspects of the Bill, the Arms and Ammunition Policy and the Arms (Amendment) Rules 2010, before the Committee clarifying the above issues.

3.6 The Committee, in its sitting held on 23<sup>rd</sup> November, 2010 further considered the Bill, whereupon, some Members pointed out that the Bill, which has been referred to the Committee for examination and report, sought to give effect to only one component of the new Arms and Ammunition Policy. Members also pointed out that the Arms (Amendment) Rules, 2010, which was laid on the Table of the Lok Sabha on 10<sup>th</sup> August and in the Rajya Sabha on 11<sup>th</sup> August 2010, gave effect to another component of the said Policy, whereas the major elements of the Policy had already been brought into force by way of Advisories to the State Governments and UT Administrations. The Committee took note of the fact that while it was considering the Arms (Amendment) Bill 2010, it had no choice but to refer to the new policy documents, leading to a piquant situation wherein the Committee had to consider a National

Policy which had neither been presented to Parliament nor referred to it under the provisions of Rule 270(d) of the Rules of Procedure and Conduct of Business in the Council of States.

3.7 Under the rules, a Department-related Parliamentary Standing Committee can consider a National Long Term Policy Document presented to the Houses, if referred to the Committee, by the Chairman or the Speaker, as the case may be. An observation was made in that sitting that as the Committee went along the examination of the Bill, it had no choice but to refer to the Arms and Ammunition Policy which had not been officially referred to it. Likewise, the Chairman felt that the Committee would also need to consider the Arms (Amendment) Rules, 2010 which, under the Rules of Procedure, lay within the domain of the Committee on Subordinate Legislation. In that context, the Committee took note of the fact that despite its pointed queries to the Home Ministry on the need for laying the Arms and Ammunition Policy on the Table of both Houses, by the Home Minister, pursuant to well established Parliamentary Practice and Procedure, there had been no response from them and that the Policy documents were yet to be presented to Parliament.

3.8 The Committee, therefore, decided to request Hon'ble Chairman, Rajya Sabha to consider issuing suitable advice to the Home Minister to immediately present the New Arms and Ammunition Policy in both Houses of Parliament and, thereafter, refer the same to the Committee, under Rule 270 (d), for consideration and report, along with the Arms (Amendment) Bill, 2010. The Committee also decided to request Hon'ble Chairman to refer to it, as a special case, the Arms (Amendment) Rules, 2010 which had been laid on the Table of both the Houses, so that it could examine the Arms (Amendment) Bill, 2010 in a comprehensive manner.

3.9 The above proposals were submitted before Hon'ble Chairman. In response thereto, the Chairman of the Committee received a letter dated 28<sup>th</sup> December, 2010 from the Secretary-General, Rajya Sabha conveying therein, the following decision:-

“After careful consideration of the request, Hon'ble Chairman has approved the following course of action:-

- (i) The Committee may seek copies of the policy documents from the Ministry of Home Affairs for the use of the Members; and
- (ii) The Committee may also consult the Arms (Amendment) Rules, 2010 for the purpose of examining the Bill under its consideration.”

3.10 In the sitting held on 5<sup>th</sup> January, 2011, the Members were apprised by the Chairman of the Committee of the content of the above letter of Secretary-General, Rajya Sabha.

3.11 In the meanwhile, in the sitting of the Committee held on 28<sup>th</sup> December, 2010, the Home Secretary made another presentation on the Arms (Amendment) Bill, 2010 clarifying the issues raised by Members in previous sittings. The Home Secretary made the following submissions:

**(A) *Rationale for Amendment***

Section 13(2) envisages police verification before grant of arms license within the prescribed time which does not define length of prescribed time. Proviso to Section

13(2A) empowers licensing authority to grant license, if report is not received in the “prescribed time”. It came to notice that arms licenses were issued by some licensing authorities without police verification. The proposed amendment intends to weed out fake applications and fake addresses, to have a uniform period for police verification, and make provision for punitive action to ensure compliance.

**(B) *Remedy if police report is not received within 60 days***

Licensing authority may take up the matter with the police authorities to expedite report. Licensing authority, apart from suggesting punitive action against delinquent official, may ensure that report is made available and decision on the application taken in the next 60 days.

**(C) *Suggested changes***

- (i) In addition to transfer of license of existing licensee to his/her wife, husband, son or daughter, the transfer of license can further be considered to son-in-law, daughter-in-law, brother and sister;
- (ii) A uniform scale to allow 50 cartridges to licensees under threat perception categories and a uniform scale to allow 30 cartridges to licensees under family heirloom, to whom licences are given on sentimental grounds.
- (iii) Regarding grant of PB license, the existing provision is for those persons who faced grave and imminent threat, which is now to be proposed to be changed to “those persons or their family members who face grave and imminent threat from terrorists because of their residence in areas where terrorists are most active and/or are held to be prime target of terrorists because of their association with anti-terrorists programmes, etc.
- (iv) There are no norms for granting NPB licenses under existing provision. The Ministry now proposes to grant NPB licenses to those persons who may be facing grave and imminent threat to their lives.
- (v) Under existing provision, there are no norms for reporting use of ammunition. Under the proposed provisions, the licensee in order to draw ammunition will have “to report use of ammunition to draw next year’s quota of ammunition for which State Government is to prescribe reporting mechanism.”
- (vi) Under the earlier provision, State Governments were competent to allow All India Validity, which is proposed to be amended and now All India Validity can be allowed with the approval of Ministry of Home Affairs, by State Governments concerned by giving justification. Now the States can allow validity upto three adjoining states and also to consider All India requests at State level for sitting Union Ministers/MPs, personnel of Military, para-Military, Officers of All India Services, sports persons.

- (vii) According to the earlier provision, Overseas Citizens of India (OCIs) were not covered for grant of license. Now OCIs are covered for acquisition of weapon in capacity of legal heir under family heirloom policy only.
- (viii) Renewal of Arms licenses was to be done by DM after three years as per the earlier position which is now proposed to be allowed by DM after reverification of antecedents.
- (ix) Regarding replacement of weapons, there were no norms earlier. Now replacement of unserviceable/defective weapon is permissible subject to a certificate from the authorized armourer.
- (x) Regarding storage/disposal of obsolete, confiscated weapons, norms already exists. However, annual audit has been prescribed.
- (xi) Earlier there was no provision for database while the same is proposed to be incorporated in the Arms Rules.

**(D) *Response of State Governments***

Before review of the Arms Policy, comments of State Govts. were invited. Twelve States/UTs responded. Six States/UTs viz. Maharashtra, Arunachal Pradesh, Chandigarh Police, Dadra & Nagar Haveli, J&K, A&N Islands did not favour liberalization of the four States- Sikkim, Karnataka, Gujarat and Haryana favoured liberalization but in favour of Private Security Agencies/ Sensitive establishments. Andhra Pradesh favoured liberalization with safeguards to avoid misuse and also expressed apprehension of transfer of weapons to anti-social elements. Chandigarh Administration favoured liberalization to fight terrorism.

- (E)** The average time taken by licensing authority for grant of arms licence is three months approximately. The case of private security agencies is being considered separately under the Private Security Agencies (Regulation) Act, 2005

**(F) *Regulations in other countries***

In United States right to bear arms is enshrined in the Constitution. U.K. has stringent laws and self-defence alone is not considered a reason for owning firearms. Grant of arms licence is regulated in Canada, France and Israel. Among the European countries, Finland and Switzerland have least stringent laws.

**(G) *Study by International agency***

A 2007 study by International Action Network on Small Arms (IANSA), a U.K. based NGO reveals that out of 875 million guns world over, 74% are owned by civilians. About one thousand people die everyday by gun shots and three times as many are severely injured. A 2003 study in US indicates that keeping a gun at home increases the risk of homicide, suicide or accident by 41%.

3.12 The Committee in the sitting held on 28<sup>th</sup> December, 2010, pointed out the contradiction in the statements made in the Statement of Objects and Reasons of the Bill and the presentation of the Home Secretary in so far as the need for revising the licensing procedure for arms was concerned and the consequent issue of a New Arms Policy. A Member highlighted the fact that only 1.8 percent of the murders were committed with licenced weapons and more than 85 percent of the murders were not committed by fire arms but with sharp edged/blunt weapons. He felt that the Bill was incomplete in as much as more sections of the Arms Act should have been amended, instead of amending only two sections thereof, to implement the policy. Yet another Member highlighted the contradiction. According to him, while the objective of the Bill was to curb proliferation of arms, the policy seemed to widen the availability of the arms. Several Members felt that the matter of establishing threat perception of an individual should not be entirely left to the bureaucracy. A Member also pointed out the danger of grant of licenses on caste and communal lines and other social cleavages. Another Member enquired about the real purpose of bringing in the Arms (Amendment) Bill, 2010 and the deficiencies in the existing Act. He also enquired as to how the new provisions would help in cutting the red tape and expediting the process for issuing arms licenses in so far as the common man was concerned.

3.13 The Committee took exception to the fact that the Arms Policy was yet to be tabled in the Parliament despite the presiding officers directions and the precedents in that regard. The Committee reiterated that in matters of Policy, the Government must first inform the House before giving the information to the media. The Committee also noted that according to a ruling of the Speaker, Lok Sabha, policy statement should be made by Minister on the floor of the House when the House is in session before releasing it to press or public.

3.14 In the sitting of the Committee held on 24<sup>th</sup> January, 2011, some Members suggested that it should hear non-official witnesses on the Bill.

3.15 In the sitting held on 8<sup>th</sup> March, 2011, the Committee heard the representative of National Association for Gun Rights, India (NAGRI). The views of the Association are dealt in Chapter V.

3.16 In its meeting held on 15<sup>th</sup> March, 2011, the Committee further discussed the Bill. Members expressed their view on Arms and Ammunition Policy and the Bill. The following views were expressed by the Members during the course of the meeting:

- (i) Paragraph 3 of the Statement of Objects and Reasons of the Bill is against the Statement of Objects and Reasons of the Arms Act 1959 where the purpose was to make it easier for law abiding citizens to get license arms and ammunition.
- (ii) The advisories dated 6<sup>th</sup> April 2010 had the effect of amending the Arms Act without actually doing so. The Ministry should bring out proper amendments to the Act and get them passed by Parliament rather than implementing policy changes by just issuing advisories.
- (iii) The advisories stipulate that in order to get a license there should be a verifiable threat perception to the life of the applicant. This gives immense discretionary power to the issuing authority and the implementation of relevant law becomes very subjective.

- (iv) For all practical purposes licensed weapons are not being misused. The general approach, therefore, should be that unless there is something against the person who applies for a license, he/she should be given licence. The condition of there being a threat to life before giving license is absolutely not required.

3.17 The Committee also decided that the opinion of the Ministry of Law & Justice (Department of Legal Affairs) may be sought on the following question:-

“Whether the instructions issued by the Ministry of Home Affairs vide their communication No. V-11010/16/2009- Arms dated 6.4.2010 to all State Governments and UTs tantamount to amending the various sections of the Arms Act, 1959, in particular Sections 9,13, and 14 thereof, without seeking parliamentary approval, by way of bringing suitable amendments to the Arms Act, 1959 through appropriate amendment Bill?”

3.18 Meanwhile a Member of the Committee *vide* communication dated 22<sup>nd</sup> March, 2011 made the following submission on the bill :-

“The Arms (Amendment) Bill, 2010 is under consideration of the Department related Parliamentary Standing Committee on Home Affairs for nearly 9 months. It seeks to amend Section 13 (2)(a) of the Arms Act 1959 so as to make police verification mandatory before issue of an Arms License. Through amendment in the Arms Rules 1962, a provision has also been made for compilation of Data Base of Licenses issued at the National Level. These are amendments to which no one can possibly have any objection, but I do feel that the Statement of Objects & Reasons of the Bill mentioning that ‘The proliferation of arms, whether licensed or illegal, vitiates the ‘Law and Order’ situation” is an affront to the law abiding citizen especially when Home Ministry has not undertaken any study in arriving at this conclusion.

In pursuance of the revised Arms Policy for Individuals, Ministry of Home Affairs has issued instructions to the various State Governments/UTs on 6<sup>th</sup> April, 2010 in the matter of issue of licenses for possession of Arms. Some of these instructions mentioned below and having far-reaching impact, in the views of the Members of the Committee, infringed certain sections of the Arms Act and are without proper Parliamentary approval.

- (i) Revision of norms for grant of non-prohibited license requiring a citizen to prove grave and imminent threat to life requires amendment of Sections 9 (Prohibition of acquisition or possession of fire arms); 13 (Grant of Licenses) & 14 (Refusal of Licenses);
- (ii) The Arms Rules 1962 have been changed without proper procedure by changing the relevant authority for issuing All India Validity arms licenses which was previously the State Government and has now for all non- VIP cases been made the Ministry of Home Affairs. The Ministry of Home Affairs have introduced a new class system within the law by allowing State Governments to continue to issue All India Validity Arms License only for a select ruling elite which is discriminatory.

The issue of these instructions by the Ministry of Home Affairs have the effect of changing the law as it obtains on date and the law abiding citizens are finding it even more difficult to procure and possess a weapon.

As a prelude to the final recommendation of the Committee, I request your good-self to advise the Ministry of Home Affairs on behalf of the Committee to withdraw their instructions to various State Governments/UTs dated 6<sup>th</sup> April, 2010 on this subject particularly in relation to the points mentioned by me above. Thereafter comprehensive Bill incorporating guidelines which are citizen- friendly may be brought before Parliament for its approval, after proper deliberations on these in various fora.”

3.19 Accordingly, the Ministry of Law & Justice (Department of Legal Affairs) was asked by the Rajya Sabha Secretariat vide its U.O Note dated 17<sup>th</sup> March, 2011 to offer their opinion on the aforesaid question (as stated in para 3.17 supra), for consideration of the Committee.

3.20 Responding to the communication of the Rajya Sabha Secretariat, the Ministry of Law & Justice (Department of Legal Affairs) vide its Note FTS No. 796/LS/11 dated 30.03.2011 furnished the legal opinion which is reproduced below:-

“The issue posed for our consideration is whether the instructions issued by the Ministry of Home Affairs vide their communications No. V-11016/16/2009- Arms dated 6.4.2010 issued to all State Governments and UTs tantamount to amending the various sections of the Arms Act, 1959, in particular Sections 9,13, and 14 thereof, without seeking Parliamentary approval, by way of bringing suitable amendments to the Arms Act, 1959 through appropriate amendment Bill.

In the instructions issued by the MHA to all the States/Union Territories vide its letter dated 6.4.2010 it has been provided that the applications for grant of arms license for Prohibited Bore Weapons may be considered by the Central Government from certain categories of persons, which may include:-

- (a) those persons who face grave and imminent threat to their lives by mere reason of being residents of a geographical area (or areas) where terrorists are most active etc.;
- (b) those Government officials who by virtue of the office occupied by them and for the nature of duties performed have made themselves targets in the eyes of terrorists and are vulnerable to terrorist attack;
- (c) those MPs and MLAs including non-officials/private persons who by virtue of having been closely and/or actively associated with anti-terrorist programmes and policies of the Govt. or by mere reason of their holding views, political or otherwise, not to the liking of the terrorist, have rendered themselves open to attack by the terrorist;

- (d) the family members/kith and kin of those who by the very nature of their duties or performance or positions occupied in the Govt. or even otherwise for known/unknown reasons have been rendered vulnerable and have come to be regarded by the terrorists as fit targets for elimination.

It may be recalled that the Arms Act, 1959 defines the “prohibited arms” vide Section 2(i) of the said Act as under:-

- (i) “prohibited arms” means-
- (i) firearms so designed or adapted that, if pressure is applied to the trigger, missiles continue to be discharged until pressure is removed from the trigger or the magazine containing the missiles is empty, or
  - (ii) weapons of any description designed or adapted for the discharge of any noxious liquid, gas or such other thing, and includes artillery, anti-aircraft and anti-tank firearms and such other arms as the Central Government may, by notification in the Official Gazette, specify to be prohibited arms.

According to the Arms and Ammunitions Policy for Individuals, arms which are automatic or semi-automatic in nature fall in the category of Prohibited Bore (PB) arms and the remaining arms which are non-automatic or bolt action type are covered under the category of Non-Prohibited Bore arms. Prior to 1987, licenses for acquisition and possession of Prohibited Bore and Non-prohibited Bore firearms were issued by the District Magistrate/State Government concerned. But, from 1987, powers to issue licenses for prohibited bore arms were withdrawn from the State Governments/District Magistrates concerned and since then the licenses for PB weapons are being issued by the Central Government alone (MHA), while licenses for Non-Prohibited Bore weapons continue to be issued by the District Magistrate/State Government concerned.

The instructions issued *vide* letter dated 6.4.2010 in regard to the grant of arms license for Prohibited Bore Weapons and Non-Prohibited Bore Weapons impose an obligation on the State Government that such proposals for license or application should be forwarded to the MHA along with the recommendations of the DM concerned, State Government and Police verification. These instructions are guiding factor for consideration of the licensing authority. However by virtue of these instructions, it is provided that only a specific category of persons shall be considered for grant of license. Such a classification of persons seems to be a reasonable classification.

The instruction issued regarding grant of license under family heirloom policy does not contravene any provision of the Arms Act and the Rules framed thereunder.

The instructions issued to prescribe a uniform norm as to the acquisition of quantity of ammunition. There is no violation of any law.

There also appears to be no violation of any Act as to calling upon the licensee to report use of ammunition during the previous year before produce of ammunition in the current year. This is considered necessary so that the total quantity with a licensee shall not exceed the prescribed quantity at any time.

The area validity of the armed license is conferred on the State Government. Now it is proposed to empower the State to allow the area validity upto a maximum of three adjoining States and also to consider the request at the State level for the sitting Union Minister/M.P.; personnel of military and paramilitary; officers of All India Services and officers with liability to serve anywhere in India and sportspersons. The leave verification by Police for renewal of license is a procedural aspect. Another instruction is for replacement of unserviceable or defective weapon. The State Governments have been instructed for such replacement of production of a certificate from the licensee. The other instruction relates to the search/disposal of obsolete, obsolescent, confiscated, seized and recovered weapons and data base for licenses issued. Therefore, it appears that these are not in violation of any provision of the Act.”

## **CHAPTER- IV**

### **RESPONSE OF GOVERNMENT TO ISSUES RAISED**

4.0 In the meeting of the Committee held on 28<sup>th</sup> May 2010 certain observations were made by the Members pertaining to Arms and Ammunition Policy, and the comments/replies of Ministry thereon. The Committee's Secretariat forwarded a questionnaire on the subject to the Ministry of Home Affairs with the request to furnish replies thereto. The Ministry of Home Affairs vide its communications dated 5.01.2011 and 25.01.2011 furnished the replies to the queries which are as under:-

#### ***Issues raised***

4.1 *Reasons for not circulating the Arms Policy to Members of the Standing Committee.*

#### ***Response of Government***

4.1.1 The Draft Arms Policy (English version) was put on the website of the Ministry on 21.12.2009 for inviting comments of the general public. The Hindi version of the Draft Arms Policy was uploaded on the website on 14.01.2010 for comments of the stake holders by 29.01.2010. Copies of the Draft Arms Policy were sent to Standing Committee on 18.01.2010. The points raised by the Hon'ble Members of the Standing Committee in its meeting held on 23.03.2010 were answered by the Ministry on 07.04.2010. After considering the suggestions received from various sources, the revised Arms Policy was finalized and placed on the website of MHA on 6.4.2010.

4.1.2 The details of the changes in the revised Arms Policy and the manner of implementation were intimated to Rajya Sabha Secretariat on 23.4.2010 along with a copy of the Advisory dated 6.4.2010 for information of the Hon'ble Chairman and Hon'ble Members of the Committee.

#### ***Issues raised***

4.2 *Status of the proposed amendment of the Arms Act.*

#### ***Response of Government***

4.2.1 The changes made in the revised policy include (a) amendment of the Arms Act, 1959 (b) amendment of the Arms Rules, 1962 and (c) prescribing norms for grant of arms licenses etc, renewal, all India validity etc.

4.2.2 In so far as the amendment of the Arms Act, 1959 is concerned, it is stated that Section 13(2) of the Arms Act requires police verification of an applicant before grant of license by the Police Authorities within the prescribed time. However, proviso to Section 13(2A) of the Arms Act, 1959 empowers the DM to grant the license if the police report is not received within the prescribed time. As the prescribed time is not clarified in all the cases, it is considered essential to amend Section 13 of the Arms Act by stipulating a period of 60 days for the police authorities to send their report and to delete the proviso to Section 13(2A) so that, police verification report is taken into consideration before grant of arm licence in all the cases.

### ***Issues raised***

4.3 *Status of amendment of the Arms Rules and reasons for not placing the same on the Table of the House.*

### ***Response of Government***

4.3.1 At present, there is no provision requiring a licensing authority to maintain a comprehensive and complete database of all licences issued. It has been decided to maintain a database and to share the data with the Central Government which shall maintain a national database including data on PB weapons to be maintained centrally by MHA. Accordingly, a provision has been made in the Arms Rules, 1962, requiring the licensing authorities/State Governments to maintain a database of all licenses issued by them, which may be shared with Central Government. The Arms Rules have been amended through issue of a Gazette Notification on 28<sup>th</sup> May 2010. A copy of the amended Arms Rules published on 28<sup>th</sup> May 2010 will be placed before the Parliament immediately at the commencement of the next Session.

### ***Issues raised***

4.4 *Rationale of the advisory issued to States/UTs without amending the Arms Act/Rules.*

### ***Response of Government***

4.4.1 An Advisory has been issued to the State Governments on 6<sup>th</sup> April 2010, which contains instructions about the norms and procedure for grant of arms license, which is in conformity with the provisions of the Arms Act, 1959. However, in respect of the advice given to the State Governments to grant licences after receipt of police verification report in all the cases, for which an amendment to the Arms Act is pending, it is stated that the intention of the Central Government has been conveyed through the advisory, which is of the nature of guidance to the State Governments that Police verification should be insisted upon in all the cases as required under Section 13(2) of the Arms Act and that steps are being taken to delete the proviso to Section 13(2A). The policy guidelines advise the State Governments not to exercise the discretion available to them under the proviso to Section 13(2A) of the Arms Act, 1959, even as steps are being taken to delete the same through legislation, with the approval of Parliament. The provisions in the Arms Act, 1959 still prevail and thus there is no contradiction between the provisions of the Act and the Rules notified and advisory issued by the Ministry of Home Affairs.

### ***Issues raised***

4.5 *Whether the revised Arms Policy flout the existing provisions of the Arms Act/Rules?*

### ***Response of Government***

4.5.1 None of the changes in the revised Arms Policy contravenes the provisions of Arms Act, 1959 or the Arms Rules, 1962.

### ***Issue raised***

4.6 *In the Advisory issued on 6<sup>th</sup> April, 2010 to all States and UTs, under the caption “Grant of Arms License for Non-prohibited Bore (NPB) Weapons” the police authorities have been advised to send police report within 45 days positively failing which the police officials concerned may be liable for action.*

4.6.1 *But under clause 2 of the Arms (Amendment) Bill, 2010, it is proposed to amend sub-section (2) section 13 of the Arms Act, 1059 so as to specify in the Act itself the time limit of 60 days from the date of receipt of application, for grant of Arms Licence, for sending the report by the officer in-charge of the nearest police station. The Ministry may clarify the variance observed between the two statements.*

### ***Response of Government***

4.6.2 *The Advisory issued to the States/UTs on 6<sup>th</sup> April, 2010 had stipulated a time of 45 days for obtaining police verification report for grant of arms license. However, the time limit has been enhanced to 60 days in the Arms (Amendment) Bill, 2010 so as to give sufficient time to the police authorities.*

### ***Issue raised***

4.7 *In para 8(i) of the Arms and Ammunition Manufacturing Policy, it has been proposed to prescribe annual inspection by the DM concerned of all the manufacturing units falling in his jurisdiction and to send a report to Secretary (Home) of the State Government concerned, under intimation to MHA. However, this aspect is neither mentioned in the Advisory dated 6<sup>th</sup> April, 2010 issued to States/UTs nor in the Arms (Amendment) Rules, 2010. The Ministry may explain the mechanism to implement this aspect of the policy.*

### ***Response of the Government***

4.7.1 *The above mentioned documents i.e., advisory issued for the States/UTs as well as the Arms (Amendment) Bill, 2010 pertain to the grant of licences for acquisition/possession of arms by individuals.*

### ***Issue raised***

4.8 *Para 7 of the “Arms and Ammunition Policy for Individuals” deals with grant of Arms Licenses for NPB weapons. It has been mentioned therein that neither Section 13 nor Rule 52 contains any matter that the licensing authority shall have regard to before granting a license. Hence, some State Governments are following liberal criteria for giving NPB licenses. It has, therefore, been decided by Government to prescribe certain norms through amendment to Arms Rules, 1962 for grant of Arms Licenses. However, it has been noticed that of the four norms mentioned in the policy document, none has been included in the Arms (Amendment) Rules, 2010. Only two of them have been included in the Arms (Amendment) Bill, 2010, namely, the mandatory period of 60 days for sending the police report and obligation on the*

*licensing authority to take into account the police report before granting arms licenses and that no license may be issued without police verification. The position may be explained.*

#### ***Response of Government***

4.8.1 There is a proposal to amend section 13(2) of the Arms Act, 1959 to prescribe a time limit of 60 days for obtaining police verification report; to delete the proviso to Section 13(2A) of the Arms Act and to prescribe punitive action by inserting Section 30A after Section 30 of the Act. The other norms in para 7 of the 'Arms and Ammunition Policy for Individuals' have been prescribed within the overall ambit of the Arms Act, 1959.

#### ***Issue raised***

4.9 *It is not known how the provision of the "Arms and Ammunition Policy for Individuals" pertaining to grant of licenses to police personnel who are awarded weapons, would be enforced.*

#### ***Response of Government***

4.9.1 As per the extant guidelines issued by MHA, Police personnel may be awarded only Non-prohibited Bore weapons and not Prohibited Bore weapons in a routine manner. The concerned Police personnel are required to obtain an arms license under Section 3 of the Arms Act, 1959 after fulfilling the relevant conditions under the provisions of the Act.

#### ***Issue Raised***

4.10 *Response of major States like UP, Bihar, MP, AP, Rajasthan, West Bengal, Tamil Nadu, Chhattisgarh, Jharkhand, Kerala, to the policy guidelines issued by MHA and the State which has issued maximum nos. of arms licenses.*

#### ***Response of Government***

4.10.1 Comments on the policy guidelines issued by MHA have been recently received from three States, namely, NCT of Delhi, Madhya Pradesh and Punjab. These States are in agreement with most of the guidelines except with those relating to grant of NPB licences and of All India Validity (AIV) of arms licences. As regards NPB licences, they have suggested that some more categories and some additional grounds other than threat perception may be included in the guidelines. As regards AIV, they have suggested that States should be given the powers to grant AIV of NPB licences and some more categories of persons for the same may be included in the guidelines. Despite several written reminders and telephonic conversations with the concerned officers, the other States have not conveyed their comments on the policy. No State has provided data on number of arms licences in their State.

#### ***Issue raised***

4.11 *In the context of the data on murders committed with licensed arms, it may be clarified whether they were committed in self-defence or for purpose of attacking.*

### ***Response of Government***

4.11.1 The data on murders committed in self-defence or as a result of attack, is not maintained separately at the Centre.

### ***Issue raised***

4.12 Out of the cognizable offences of almost 20 lacs in 2007, how many licenced weapons were used in these murders?

### ***Response of Government***

4.12.1 As per available information, 5733407 number of cognizable cases were registered in the year 2007 under IPC and Special and Local Laws (SLL). The number of murders committed with licenced weapons are 598 in the year 2007. The data on murders committed with weapons other than firearms is not maintained separately at the Centre.

### ***Issue raised***

4.13 Whether any country in the world has put a cap or quota on number of cartridges; mechanism to arrive at the figure of 50 cartridges or 30 cartridges; and reporting of the use of ammunitions. Whether the same would not lead to corruption because it rationale for presenting would be very difficult to prove as to where one has used the ammunition.

### ***Response of Government***

4.13.1 A licensee is expected to use his weapon in a responsible manner and be able to inform the time, place and reason for use of ammunition. The ceiling of 50 cartridges per annum and 30 cartridges at a time have been continued from the past. As per available information, the ceiling on number of cartridges in some other countries is as below

<b>s. No.</b>	<b>Name of the Country</b>	<b>Type of Weapon</b>	<b>Ceiling on number of cartridges</b>
1.	Brazil	Handgun	50
		Rifled bore hunting firearms	50
		Shotgun	200
2.	Egypt	Any type	200
3.	Indonesia	Any type	50 rounds per month
4.	Mexico	Caliber 22	Upto 500
		Rifle or arms needing ammunition	Upto 1000
		Sports	5 kg. gunpowder
		Rifle cartridges	1000 pieces of each

			of the constitutive elements
		Other permitted arms cartridges	100 bullets or constitutive elements
		All other permitted arms	Upto 200 cartridges.
5.	. Malaysia	Any type	10 rounds per year

### ***Issue raised***

4.14 *The efforts being made to reduce un-licenced weapons.*

### ***Response of Government***

4.14.1 Government of India has initiated several measures/steps such as border fencing with concertina wires, deployment of infra-red sensors/thermal imaging devices (including night vision devices), underground sensors and trip wire mechanism to activate fence lights. Battle field surveillance radars have also been adopted all along the fenced portion to curb infiltration, smuggling of arms etc. along the LOC/International Border in J&K. However, there are some ravine areas along the border, which cannot be fenced and these are used by terrorists for infiltration, exfiltration and smuggling of arms. Further, the State and UT Governments have been directed to identify areas where illicit manufacture, possession and use of illegal arms and ammunition are rampant, and to make sustained and continued efforts to disrupt such networks.

4.14.2 As informed by licencing authority, Government of Delhi, in order to ensure that no licensee sells his weapons illegally, the weapon of the licensee is checked and inspected at the time of renewal of arms licence. To ensure that the licensed arms dealers do not sell weapons to un-authorized persons, their stocks, registers and records are periodically checked to ensure fair transactions.

4.14.3 To check illegal manufacture and proliferation of the arms (country made and fire arms) following checks are placed by licencing authority, Government of Delhi:-

- (i) Intelligence is developed regarding illegal factories manufacturing country-made fire arms and action under law is taken against them.
- (ii) All the persons previously involved in manufacture of illegal fire arms are kept under surveillance.
- (iii) Intelligence is developed regarding criminals involved in commission of crimes with illegal fire arms.
- (iv) Those' found possessing such illegal weapons are booked and prosecuted under the provision of the Arms Act.

***Issue raised***

4.15 *Whether any efforts were made for imparting training to civilians for safe handling of weapons by Government of India.*

***Response of Government***

4.15.1 The Government replied in the negative.

***Issue raised***

4.16 *The efforts being made to train policemen to use weapons in a safe manner.*

***Response of Government***

4.16.1 Law and Order is a State Subject. The State Governments conduct in-service training for their personnel as per their requirements. The Bureau of Police Research and Development (BPR&D) arranges training of police personnel of the States and Central Police Organizations (CPOs) in the course on "weapons and tactics" being organized by Training Centre and School, BSF, Hazaribagh.

***Issue raised***

4.17 *Details of the police to people ratio in other countries.*

***Response of Government***

4.17.1 The police to people ratio as per the report of BPR&D titled 'Data on Police Organisations in India' is 134.28 police personnel per lakh citizens (i.e., 1 : 769). As per available information the police/public ratio in some other countries is:

S.No.	Name of the Country	Ratio of Police /Public
1.	Indonesia	1 : 489
2.	Brazil	1 : 475 (ranging from 1 : 122) to 1 : 822 in different States)
3.	Egypt	1 : 333
4.	Mexico	1 : 208 (1 : 111 in Mexico City)
5.	Malaysia	1 : 5000

***Issue raised***

4.18 *The bonafides of International Action Network on Small Arms (IANSA) and the persons financing its activities and their alleged linkages with surrendered ULFA activists.*

### ***Response of Government***

4.18.1 As per available information, the International Action Network on Small Arms (IANSA) is an NGO having an affiliation of several organizations including women's groups, faith groups, public health agencies, research institutes, human rights campaigners, aid agencies, victim support groups, lawyers and people whose work and lives are affected by the proliferation of guns and who have taken up this issue. The main aim of the NGO is reportedly to reduce small arms violence by promoting a global legally binding arms trade treaty, raising awareness among policymakers, public and media about the impact of small arms on human security, promoting the work of NGO's in the prevention of small arms etc. As per available information, the work of the NGO has been supported/funded by the Governments of the UK, Netherlands, Norway, Sweden, Switzerland and Canada, as well as the Ford, Crompton, Rockefeller and Samuel Rubin Foundations, Ploughshares Fund and Christian Aid. There are no reports of the NGO having any links with ULFA.

### ***Issue raised***

4.19 *The introduction of the Bill appeared to be against the backdrop when many citizens were being provided security by the State itself.*

### ***Response of Government***

4.19.1 The objects of Arms (Amendment) Bill, 2010 is to reduce proliferation of arms and armaments (whether licenced or not) and to ensure that arms licences are issued to the bonafide persons by the concerned licencing authority after due verification of their antecedents by the police.

### ***Issue raised***

4.20 *The weapons which are allowed to be used by the Private Security Agencies (PSAs) in guarding individual citizens under the PSAs (Regulation) Act, 2005.*

### ***Response of Government***

4.20.1 The Private Security Agencies (Regulation) Act, 2005 doesn't make any provision for the arms licences. As per guidelines, Non-Prohibited Bore would be best suited for private security agencies.

### ***Issues raised***

4.21 *Details of rules regarding grant of weapons to Overseas Citizens of India (OCIs) and at what stage he or she will be given a weapon; what would happen to the weapon if he or she goes back overseas; how his/her passport or visa would be connected with his licence so that he/she is not able to leave the country without surrendering the weapon.*

### ***Response of the Government***

4.21.1 An OCI may acquire the weapon in his capacity of a legal heir under the extant heirloom category. Grant of arms license to OCIs will be subject to the condition that they shall abide by the Arms Act and the Rules and ensure safe custody of the weapon(s) while leaving

India and deposit the same in a police station or with an approved arms dealer.

***Issues raised***

4.22 *Under heirloom policy, whether the grandson would be granted the licence of the grandfather.*

***Response of Government***

4.22.1 Grandchildren are included in the family heir for issuing PB arms licence through family heirloom basis.

***Issues raised***

4.23 *Reasons for not laying the policy changes on the Table of Houses of Parliament.*

***Response of the Government***

4.23.1 Drafting and notifying a policy are matters that are the prerogative of the executive Branch of the Government. The notification regarding the change in the Arms Rules, 1962 incorporating provision of a data base of Arms Licences has been laid on the Table of both the Houses of Parliament in August, 2010.

***Issues raised***

4.24 *Whether any Committee had done the ground work and suggested for the amendment in the Arms Act?*

***Response of Government***

4.24.1 The Government replied in the negative.

***Issue raised***

4.25 *Whether any study group was instituted or any survey conducted to study the ground situation regarding threat perception to citizens in rural areas, small towns and urban areas?*

***Response of Government***

4.25.1 The Government replied in the negative.

***Issue raised***

4.26 *Whether the Government provide guns to SPOs and the policy in the matter?*

***Response of Government***

4.26.1 SPOs are appointed by most State Governments for intelligence gathering and they also act as guide to the police forces. The giving of arms to SPOs is decided by the State Government depending on the ground situation.

***Issue raised***

4.27 *Kinds of crimes and murders in the country.*

***Response of the Government***

4.27.1 As per data compiled by National Crime Records Bureau, crimes have been categorized as violent crimes, crimes against women, economic crimes, property crimes, crime against SC, crime against ST and crime against children; according to the motives behind the crime. Murder is one of the violent crimes as per this categorization.

***Issue raised***

4.28 *The number of dalits and tribals who have been killed.*

***Response of Government***

4.28.1 As per the latest data compiled and published by National Crime Records Bureau, 33615 cases of crimes have been reported against the Scheduled Castes and 5582 cases of crimes have been reported against the Scheduled Tribes during the year 2008. The figures of murders of Scheduled Castes and Scheduled Tribes are not maintained at the Centre.

## CHAPTER- V

### PRESENTATION BY THE NON-OFFICIAL WITNESSES

5.0 The Committee received a request from an NGO, named the National Association for Gun Rights India (NAGRI) for making a presentation on the Arms and Ammunition Policy and the Arms (Amendment) Bill, 2010. The request of the NGO was acceded to and the representatives of that organization appeared before the Committee on 8<sup>th</sup> March 2011 for the purpose.

5.1 The representatives of NAGRI made the following points while pleading for a liberal arms licensing regime for law abiding citizens:

- The Arms Act, 1959 has been amended from time to time but in a proper way. However, the recent Arms Rules have been brought in clandestinely. The Home Ministry should have brought this issue before the Standing Committee on Home Affairs, or before the Parliament and there could have been a general debate on the whole issue.
- After enactment of this rule, All India Licences are to be approved directly by the Ministry of Home Affairs and those licences are being renewed only for three States.
- Section 9 of Arms Act deals with people who are prohibited from owning firearms. Section 13 deals with the issuance of arms licences and section 14 deals with refusal of grant of a licence. By making it compulsory to prove 'grave and imminent threat', in effect, all three sections of the Act have been amended without amending the law.
- There are already provisions in the Act that if someone misuses his licenced firearm, his licence can be suspended or cancelled. There is also a provision in the Act that if there is any doubt or any other contingency, the licencing authority can call the licence holder to produce his arms for inspection. Then, why a license needs to be renewed every three years?
- The law recognizes a citizen's right to self-defence. But those who have licensed arms are afraid to use them, because if a person shoots someone while defending his life, property, the property of his neighbour or his own family, then he is liable to go to jail for his act in self-defence as the police will register a case of 'attempt to murder' or 'murder' against him under IPC. Therefore, the penal law needs to be amended suitably so that a person who uses his licenced firearm in self-defence, is not charged with murder.
- Professional shooters of India are unable to get their arms licences renewed and this highly legitimate and honourable sport is being affected by these new rules, even though the Home Ministry has given specific directions that these rules are not applicable to renowned shooters of India.

5.2 A representative of NAGRI then made a presentation before the Committee on the subject. The highlights of the presentation are as follows:

- The Ministry has issued a directive dated 06.04.2010 (addressed to all State/UT Home Depts.) for 'strict compliance' for implementing its new Arms & Ammunition Policy. This directive has in effect changed the law without parliamentary approval. It has eroded the civil rights of more than a billion Indian citizens. Even one year on, the Ministry has not even tabled the new Policy before the Houses. While the Arms (Amendment) Bill, seeks only to make a minor change, the real motive behind moving this amendment is to mislead the Parliament and surreptitiously obtain Parliament's approval to the new policy. The Bill is an eyewash because real changes have already been made via Arms & Ammunition Policy.
- Even during the pre-2010 period, hangover from the days of the British Raj continued as the system was stacked against citizens as applicants were forced to prove "need" for arms licences.
- Allahabad High Court has observed that only respectable and peace loving persons require licence for firearms. The Court has also observed that unnecessary rejection of applications for grant of firearm licence breeds a tendency to keep unlicensed arms. The new Arms & Ammunition Policy negates the 'Objects & Reasons' of the Arms Act, 1959.
- The observation in the Policy and the Amendment Bill, namely "The proliferation of arms, whether licenced or illegal, vitiates the law and order situation" is an affront to all law-abiding citizens by equating them with criminals and anti-social elements. The Ministry has so far offered no evidence to back up their claim that licenced arms are a law and order problem. In response to a question the Home Ministry has admitted that no study was conducted prior to initiating these amendments to the law.
- According to NCRB data of 2007, in 99.99% of total crimes and 98.21% of total murders, licensed arms were not used.
- Persons having arms licences face problems during renewal of their licences every three years. After enactment of the proposed Bill, it would become more cumbersome as the licensing authority would renew license only after receipt of mandatory police verification. Even Punjab and Harayana High Court has observed that the law should be such as may repose confidence in the citizens that they are presumed to be responsible in using licensed arms to defend themselves and one such measure would be to amend the Arms Act and Arms Rules suitably to prescribe that the arms licences are required to be renewed after every ten years.
- The Ministry has now directed that licences only be issued to applicants who face a grave and imminent threat to their lives. This threat perception is now to be separately verified by the police. How many ordinary citizens can prove such a threat perception? This may encourage corrupt practices and force many applicants to use dubious methods to prove this threat.

- Additional provisions have been introduced through the Ministry's Arms and Ammunition Policy, which will lead to increased harassment of citizens and directly promote corrupt practices e.g. the new requirement to report use of and prove how/where/when every single round of ammunition was used, is both impractical and a needless burden on licence holders.

5.3 In the light of the presentation made, the representatives of NAGRI stated that the citizens' rights were being eroded and the Ministry of Home Affairs was taking the citizens and the Parliament for granted. They requested the Committee to take a stand in favour of rights of the citizens and help empower law-abiding citizens as envisaged in the Arms Act, 1959 and allow citizens to have a fair chance against criminals and anti-social elements.

5.4 The representatives of NAGRI *vide* e-mail dated 10.03.2011 made following general suggestions for amendment in the Arms Act, 1959 to make the Act citizen friendly.

- (i) Insertion to the Preamble to Arms Act, 1959- "Whereas it is essential to ensure that the citizens of the country have easy access to firearms for training and ordinary civilian use on permit, unless their antecedents or propensities do not disentitle them from owning them and to create a class of people whose services can be requisitioned by the state in national emergencies; it is hereby enacted as follows:"
- (ii) In Section 2, sub-section (1), clause (e) the words "but shall exclude all parts other than the receiver" may be added after clause (e)(iv).
- (iii) Subsections (2), (3) and (4), of Section 3, introduced through Act No. 25 of 1983 to be revoked. Sub-section (1) of Section 3 to be re-numbered as Section 3 of the aforesaid Act. In Section 3, so renumbered, the words, "Every license granted under this Section shall be valid throughout the territory of the Union of India", may be added.
- (iv) In Section 11 the following words may be added: "However, a person having a valid arms license can bring in one firearms of the class and description that he is entitled to acquire, for his own personal use, in the manner prescribed in proviso (a) to sub-section (1) of Section 10, regardless of any such notification, through ports that shall be notified by the Central Government"
- (v) In Section 13, sub-section (3) (b) the words "is satisfied that the person by whom the license is required has a good enough reason for obtaining the same" may be substituted by "finds that the person by whom the license is required is not debarred from obtaining one by any provision of the act."
- (vi) In Section 14, sub-section (1)(b)(i)(3) and (1)(b)(ii) may be deleted and sub-section (1) (c) may be added which may read as under:-

"Where the licensing authority deems that the person seeking a license is unfit under any provision of the Act from acquiring one".

- (vii) In Section 14, sub-section (3) the words “unless in any case the licensing authority is of the opinion that it will not be in public interest to furnish such information” may be deleted.
- (viii) In Section 15, sub-section (1), the words “A license under Section 3 shall, unless revoked earlier, continue in force for a period of three years from the date on which it is granted” may be substituted by the following words “A license under Section 3 shall, unless revoked, continue in force for the lifetime of the person.”
- (ix) In the proviso to Section 16, the words “However the licensing authority shall not prescribe any limit on the ammunition that can be purchased or held by the person seeking a license unless it is in a disturbed area, so classified by the Central Government through a notification in the official gazette” may be added.
- (x) In Section 41, clause (c) be added that may read, as under:-

“Any such exemption or revocation of such an exemption, shall be laid before each House of the Parliament in the manner prescribed in Section 44, sub-section (3) for seeking the approval to Rules made under this Act.”
- (xi) Condition No 4 A in Form III for grant of a license (Arms Rules, 1962), that reads, “ A licensee having an arms license valid throughout India, who carries the licensed weapon or weapons to any place outside the state where he normally resides, shall, within forty eight hours of his arrival at such place, intimate in writing to the officer-in-charge of the police station or the Superintendent of Police having jurisdiction over that place, the fact of his arrival at that place and the particulars of any such weapon”, may be deleted.

5.5 The representative of the NAGRI opined that the corresponding rules in the Arms Rules, 1962 may also be amended within three months to ensure that the relevant rules are in consonance with the amended provisions of the Arms Act, 1959.

## CHAPTER- VI

### OBSERVATIONS/CONCLUSIONS AND RECOMMENDATIONS

6.1 The Committee would like to place on record the fact that it considered the subject “Arms, Fire Arms and Ammunitions”, allocated to the Ministry of Home Affairs, under the Government of India (Allocation of Business) Rules, 1961 (Entry No. 41) in seven sittings, even before the reference of the Arms (Amendment) Bill, 2010 to it. The Committee took up the subject for detailed discussion keeping in view the vastly changed security, law and order and social scenarios in the country.

6.2 As mentioned in the preceding chapters, the Government posted the drafts of the Revised “Arms & Ammunition Policy for Individuals” and the “Arms and Ammunition Manufacturing Policy” on the website of Ministry of Home Affairs on 21<sup>st</sup> December, 2009, inviting comments from the general public by 6<sup>th</sup> January, 2010.

6.3 The Committee wanted to know from the representatives of the Ministry of Home Affairs the background which prompted the Ministry to review the existing Arms Policy. In this context, the Committee decided to examine the subject "Arms, Fire Arms and Ammunitions" and felt that till such time the Committee had formulated its recommendations and observations on the subject, the Ministry should not finalize the new policy. The Committee repeatedly advised the Government not to proceed with the announcement of the new policy and its implementation, unless Parliament had approved the amendments to the Arms Act,1959 and the Arms Rules,1962, because in the event of Parliamentary approval not forthcoming, the new policy would become infructuous. In the sitting of the Committee dated 22<sup>nd</sup> April, 2010, when the notification of the new Arms Policy came up for brief mention, the Committee reiterated that the Policy should be laid on the Table of both Houses of Parliament and desired that it be referred to the Committee for detailed consideration. The Committee is constrained to note that instead of responding to the suggestions and advice of the Committee, the Ministry of Home Affairs went ahead with the finalization of the revised Arms and Ammunition Policy on 5<sup>th</sup> April, 2010 and put the same on its website.

6.4 The Committee feels that the notice given for the general public to comprehend and comment upon such a policy of vital national importance is short. The draft Revised Arms & Ammunition Policy should have been given wide publicity in the national and regional dailies, viz. newspapers/weekly, fortnightly, monthly magazines, along with adequate publicity through the electronic media as well and a debate generated to collect the views of the public at large. The Committee also wishes to point out that this policy was put on the website in Hindi after the intervention of the Standing Committee. The Committee observes that such documents of national importance should have been posted on the website both in English and Hindi as per the official language policy of the country.

6.5 The Committee observes that two policy documents – (i) Arms and Ammunition Manufacturing Policy and (ii) Arms and Ammunition Policy for Individuals – were finalized by the Ministry of Home Affairs on 5<sup>th</sup> April, 2010 and put on the Ministry’s website under the link “Circulars for Public’ disregarding the Committee’s advice. None of the suggestions made by the Committee, except putting the Hindi version of the draft policy on the net, forwarding policy papers to the Members and extending deadline for submission of views/comments, was accepted by the Government. The advice given by the Committee to the Government to follow the standard procedure in giving effect to the

changes in the existing policy, was also not heeded to. The policy as finalized was exactly identical to the draft put on the website inviting comments from the public and the Home Minister preferred not to lay copies of the policy documents in Parliament. The two policy documents have been brought into force by the Home Ministry by issuing detailed directives in the garb of advisories to the Secretaries (Home Departments) of all the States and UTs. Curiously enough, the Ministry has enforced the new policy documents by issuing executive instructions to be complied with strictly, without waiting for formal parliamentary approval to the amendments to the Arms Act, 1959 and the Arms Rules, 1962.

6.6 The Committee fails to understand as to why the Government had not felt it necessary to seek formal parliamentary approval before enforcing various new features of the Policy, which included *inter-alia* amendments to the Arms Act and the Arms Rules even before introducing the amendment Bill and laying the amendment to the Rules. The Government may argue that the revised policy and the instructions issued thereunder do not materially change the provisions of the Arms Act, 1959 and the Arms Rules 1962, but the Ministry of Home Affairs should appreciate the fact that the changes that have been made in the policy and the advisories issued are consequential to the provisions of the Arms Act 1959 and the Arms Rules 1962 and this has been done without getting the changes therein approved by the Parliament. This is against the basic democratic principle of executive's accountability to the legislature as per the scheme of the Constitution.

6.7 It is a well established parliamentary practice that Ministers make statements in the House in order to keep the House informed of matters of public importance or to apprise the House about Government policy in regard to a matter of topical interest at the earliest opportunity<sup>5</sup>. In deciding what statements should be made first in the House, a distinction is to be drawn between matters of policy and news. In matters of policy, Govt. should first inform the House. But in the case of news, information can be given to Press before informing the House<sup>6</sup>.

6.8 The Committee wishes to reiterate that Policy statements should be made by Ministers on the floor of the House, when the House is in session before releasing them to Press or Public<sup>7</sup>. Where a statement is made outside the House even clarifying the policy already enunciated, the Minister should also make a statement about that in the House at the earliest opportunity<sup>8</sup>. The day the policy documents were finalized i.e. 5<sup>th</sup> April 2010 Parliament was in Session but the Government, for reasons best known to it and in violation of established parliamentary practice, and convention, chose not to lay the policy statements even when the Budget Session of Parliament concluded on 7<sup>th</sup> May, 2010. In the view of the Committee, the new Arms and Ammunition Policy which has already been implemented – mostly through executive instructions and partly through proposed amendment of the Act and the Rules, yet to be approved by Parliament, amounts to exercise of power by the executive beyond the constitutional mandate. This act of the Ministry of Home Affairs has taken the Parliament and the Committee for granted.

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<sup>5</sup> Parliamentary Procedure, Law, Privileges Practice & Precedents by Dr. Subhash C. Kashyap op cit.

<sup>6</sup> L.S. Deb., dt. 3.12.1971 op cit

<sup>7</sup> H.P. Deb., dt. 1.9.1953 op cit; L.S. Deb dated 22.12.67 op cit

<sup>8</sup> L.S. Deb., dt. 18.3.1970 op cit.

**6.9** When the Committee asked the Home Secretary to apprise its Members as to when the Home Minister was going to lay the policy documents on the Table of both the Houses of Parliament and what were the compelling circumstances which prompted the Ministry to announce the Policy through its website when Parliament was in Session and issue advisories/instructions to all the State Governments for implementing the Policy, without waiting for Parliament's approval to the proposed amendments to the Arms Act 1959 and Arms Rules 1962, the Home Secretary merely repeated that he would bring the views of the Committee about laying of the Policy on the Table of both Houses of Parliament, to the notice of the Home Minister. The Home Secretary did not respond to the pointed query as to why the Government hurriedly finalized the policy and asked the State Governments to implement the same. He chose to state in his usual refrain that he would bring the matter to the notice of the Home Minister. Thereafter, nothing was heard from the Home Ministry, nor were the Policy Documents laid on the Table of the Houses, except the fact that the Arms (Amendment) Rules, 2010 were laid on the Table of the Lok Sabha on 10<sup>th</sup> August, 2010 and in the Rajya Sabha on 11<sup>th</sup> August, 2010. Subsequently, the Arms (Amendment) Bill, 2010 was introduced in the Lok Sabha on 25<sup>th</sup> August, 2010. In this context the Committee recalls an observation made by the Home Secretary before it and which has been quoted in para 2.30 of Chapter- II of this Report that it is upto to the Home Minister to decide on laying the Policy on the Tables of the two Houses of Parliament and he wishes the policy to be announced, then he would lay it on the Table of Houses. The Committee deprecates this attitude of the Ministry of Home Affairs in general and the Home Minister in particular in ignoring a six decade old parliamentary practice and convention of first laying policy documents in Parliament and then making them public. This obduracy on the part of the executive has set a bad precedent in the functioning of our parliamentary democracy and the sooner such a trend is reversed, the better it would be for the healthy and harmonious functioning of the two arms of the State.

**6.10** Having made the above observations, the Committee is not able to comprehend as to why the Ministry proceeded with the finalization of the policy in a tearing hurry, knowing fully well that the Committee was seized of the subject and was in the process of making suggestions/ observations in the matter. The Committee strongly disapproves the attitude of the Ministry of Home Affairs in ignoring the advice given by it to the Ministry; in repeatedly making evasive statements before it by the Home Secretary; and in justifying the wrong procedure adopted in announcing and implementing the policy.

**6.11** The Committee observes that the replies dated 5<sup>th</sup> and 25<sup>th</sup> January, 2011, given by the Ministry of Home Affairs are elusive and do not dispel the doubts in the minds of Members of the Committee, such as the urgency shown in the implementation the policy. The Committee observes that the argument of Ministry of Home Affairs that they have only issued an advisory to the State Governments on 6<sup>th</sup> April, 2010 which contains instructions about the procedural aspects of grant of arms licences, does not hold water. Though the Ministry contend that the advisories issued to the State Govts. and Union Territories, are merely guidelines, actually these are specific instructions on the subject for strict compliance by the concerned authorities.

**6.12** The Committee is of the considered view that the major components of the policy document can be brought into force only by amending the Arms Act and the Arms Rules, but the proposed amendments to the Act and the Rules, do not cover all aspects of the

**new policy. The Committee observes that while the Arms (Amendment) Bill, 2010 which was referred to the Committee, under Rule 270(b) of the Rules of Procedure and Conduct of Business in the Council of States, for examination and report, sought to give effect to only one component of the new Policy, the Arms (Amendment) Rules, 2010 give effect to another component of the said Policy, whereas the major elements of the Policy had already been brought into force by way of directions to the State Governments and UT Administrations.**

**6.13 Be that as it may, the Committee is more than convinced that the course adopted by the Ministry of Home Affairs in formulating, finalizing and enforcing the New Arms and Ammunition Policy, is ab initio faulty, inasmuch as the steps chosen by the Ministry were in breach of parliamentary proprieties and conventions. The Arms (Amendment) Bill, 2010 and the Arms (Amendment) Rules, 2010 are consequential to the New Policy. As the Policy Documents have not been laid on the Table of the two Houses of Parliament, which consequently cannot be referred to this Committee by the Presiding Officer, it has taken a conscious decision not to proceed with clause-by-clause consideration of the Bill which would have been a piecemeal exercise in isolation and therefore not desirable.**

**6.14 Keeping in view the wide ranging implications of the New Policy on the law abiding citizens and its enforcement, mostly through executive fiat, the Committee recommends to the Ministry of Home Affairs that they should put on hold the whole exercise of implementation of the Policy, immediately withdraw the so called Advisories dated 6.4.2010 issued to States/UTs; put the subject in the public domain for wider consultations with the people and their representatives at various levels; take on board all the views and suggestions, including the ones incorporated in this report with a view to making the policy citizen-friendly and thereafter notify a Revised Policy and then lay the same on the Table of both Houses of Parliament. Subsequently, the Ministry should bring a comprehensive Bill to amend the principal legislation and lay the amendments to the Rules after due examination, precedent to the implementation of the Policy.**



# MINUTES

## XII

### TWELFTH MEETING

The Committee met at 3.00 P.M. on Thursday, 7 January, 2010 in Main Committee Room, Parliament House Annexe, New Delhi.

#### MEMBERS PRESENT

1. Shri S.S. Ahluwalia - In the Chair

#### RAJYA SABHA

2. Dr. N. Janardhana Reddy
3. Shri Rishang Keishing
4. Dr. V. Maitreyan
5. Shri Tariq Anwar

#### LOK SABHA

6. Dr. Kakoli Ghosh Dastidar
7. Shri Raman Deka
8. Shri Naveen Jindal
9. Shri A. Sampath
10. Shri Hamdullah Sayeed
11. Dr. Raghuvansh Prasad Singh
12. Shri Ravneet Singh
13. Shri Harsh Vardhan

#### SECRETARIAT

1. Shri Tapan Chatterjee, Joint Secretary
2. Shri P.P.K. Ramacharyulu, Director
3. Shri D.K. Mishra, Joint Director
4. Shri Bhupendra Bhaskar, Assistant Director

#### Representatives of Ministry of Home Affairs

1. Shri Gopal K. Pillai, Home Secretary
2. Shri A.E. Ahmad, Secretary (BM)
3. Shri U.K. Bansal, Special Secretary (IS)
4. Shri Sada Kant, Joint Secretary
5. Shri Asim Khurana, Joint Secretary
6. Shri Naveen Verma, Joint Secretary
7. Shri K. Skandan, Joint Secretary
8. Shri Suresh Kumar, Joint Secretary
9. Shri L.K. Tewari, Director
10. Smt. R. Jaya, Director
11. Shri Anju Sharma, Director
12. Shri J.L. Chugh, Director

### **Representative of Intelligence Bureau**

1. Shri Rajiv Mathur, Director
2. Shri R.N. Ravi, Additional Director
3. Shri Arvind Deep, Joint Director
4. Shri Avinash Manani, Joint Director

### **Representatives of CPFs**

1. Shri Raman Srivastava, DG, BSF
2. Shri Rajan Medhekar, Special DG, BSF
3. Shri Alexander Daniel, Addl DG (Ops.), BSF
4. Shri Vikram Srivastava, DG, ITBP
5. Shri S.S. Harti, DIG (Ops.), ITBP
6. Lt. Gen. K.S. Yadava, DG, Assam Rifles
7. Col. A.S. Harge, Additional DIG, Assam Rifles
8. Shri M.V. Krishna Rao, DG, SSB

2.0 In the absence of the Chairman of the Committee, Shri S.S. Ahluwalia was chosen by the Committee to act as its Chairman for the meeting.

3.0 The Chair welcomed the Members and wished them a happy and prosperous New Year. The Chair then informed the Members that the day's meeting had been convened to consider Memorandum No. 1/2010 regarding action taken by Government on the recommendations/observations contained in the One Hundred and Forty Second Report of the Committee on Implementation of Central Scheme of Modernisation of Prison Administration and to hear presentation of Home Secretary on 'infiltration across the Borders'.

### **Arms, Fire Arms and Ammunition**

4.0 At this point, Shri Naveen Jindal, with the permission of the Chair, brought to the notice of the Committee that on 21<sup>st</sup> December, 2009 the Ministry of Home Affairs had put on its website a draft of a new Arms and Ammunition Policy, under the Arms Act 1959 and had sought the comments of general public till 6<sup>th</sup> January, 2010. Shri Jindal expressed his concern on the proposed move of the Government, which according to him affected every Indian, without taking the Standing Committee on Home Affairs into confidence. Shri Jindal wanted the Committee to convey its displeasure to the Ministry of Home Affairs over the fact that before putting the draft on the website, they had not briefed the Committee about their proposed move. He suggested that the subject 'Arms Policy' should be discussed in the Committee so that it can give its recommendations as the matter affected every countryman. He also pointed out to the Committee that the Ministry of Home Affairs had placed the draft policy on the internet in English version only and that the Hindi version thereof should have been put along with the English version and that the draft should be widely circulated through medium of language newspapers. Members associated themselves with views of Shri Jindal.

### **Memorandum No. 1/2010 regarding ATN on One Hundred and Forty Second Report**

5.0 The Committee then took up Memorandum No. 1/2010 on the Action Taken Notes furnished by the Ministry of Home Affairs on the One Hundred and Forty Second Report of

the Committee. The Committee noted that the Ministry had simply forwarded the Committee's recommendations to the respective State Governments and there was no follow-up on the implementation of the recommendations by the State Governments. The Committee further noted that seven months had elapsed since the recommendations were forwarded to the State Governments and no updates were available on the action taken by the latter. The Committee accordingly decided that the Ministry may be asked to submit revised ATNs after obtaining inputs from State Governments and if necessary by holding meetings with the concerned authorities. The Committee directed the Secretariat to inform the Ministry of Home Affairs to take necessary action in the matter.

*(Witnesses were then called in)*

### **Arms, Fire Arms and Ammunition**

6.0 The Chair then welcomed the Home Secretary and other officials. The Chair while referring to the comments of the Ministry of Home Affairs on the communication dated 16<sup>th</sup> December, 2009 sent by Shri Naveen Jindal, wanted to know from the Home Secretary the background which led the Ministry to review the existing Arms Policy and why the Standing Committee on Home Affairs was not informed of the proposed move of the Government. The Chair observed that it was the unanimous view of the Committee that matters relating to 'Arms, Fire Arms and Ammunition' should be discussed in a separate sitting and till such time the new policy should not be finalized.

6.1 The Home Secretary responded to the concerns raised in the Committee. He assured the Committee that he would bring the matter to the notice of the Home Minister, as the draft policy, as approved by him, had been put on the website of the Home Ministry. He agreed that the Ministry should have brought it to the notice of the Standing Committee which the Ministry would do in future. He also assured that he would bring to the notice of the Home Minister the suggestion made by the Standing Committee that the draft Arms Policy should not be finalized till the Standing Committee had held a discussion thereon.

6.2 The Chair observed that the proposals of the Ministry of Home Affairs should be placed before the Standing Committee first so that it may examine the matter and submit its recommendations. The Chair also reiterated that till such time the Committee has not discussed the subject, the Ministry should keep everything connected with the formulation of the Policy pending as the day before was the last date for submitting comments on the draft and the Committee Members were not informed. The Chair further suggested that as the Ministry of Home Affairs (Department of Official Language) was the nodal agency for *Raj Bhasha*, the draft should be put on website in both the languages. Thereupon, the Home Secretary said that he would bring the matter to the notice of the Home Minister.

### **Discussion on 'Infiltration Across Borders'**

7.0 The Chair then asked the Home Secretary to commence the presentation on 'Infiltration Across the Borders'. The Secretary (Border Management), with the permission of the Committee, made a PowerPoint Presentation on the subject. The presentation focused on the following broad areas:

- Adoption of multi-pronged approach to contain cross border illegal activities including infiltration.
- Fencing and Floodlighting on Indo-Pakistan Border.

- Indo-Bangladesh Border Roads.
- Management of Indo-Nepal and Indo-Bhutan borders.
- Management of Indo-China Border.

7.1 The Chair and Members made observations and sought clarifications on the following issues:

- What is the magnitude of illegal immigrants living in the country?
- What are the comments of the Ministry of Home Affairs on the recent statement of Army Chief that infiltration is on the rise in Jammu & Kashmir?
- There is lack of administrative resolve and political will to detect and deport illegal foreign elements in the country?
- Which are the portions of our land borders that are still to be fenced?
- Roads on the Chinese side are much better than that those on the Indian side.
- The onslaught of illegal immigration in the districts of Assam which border Bangladesh has completely changed the demographic profile of the State.

7.2 The Home Secretary and other representatives of the Ministry of Home Affairs and the Director, IB clarified the issues raised by the Chair and the Members. The Chair then asked the Home Secretary to send written replies to those queries which were not answered orally.

8.0 A verbatim record of the proceedings of the meeting was kept.

9.0 The Committee then adjourned at 4.55 P.M.

## XIV

### FOURTEENTH MEETING

The Committee met at 3.00 P.M. on Tuesday, 9 February, 2010 in Room No. 139, First Floor, Parliament House Annexe, New Delhi.

#### MEMBERS PRESENT

1. Shri M. Venkaiah Naidu - Chairman

#### RAJYA SABHA

2. Shri S.S. Ahluwalia
3. Shri Prasanta Chatterjee
4. Shri D. Raja

#### LOK SABHA

5. Dr. Rattan Singh Ajnala
6. Shri Ramen Deka
7. Shri Mohd. Asrarul Haque
8. Shri Naveen Jindal
9. Shri Lalubhai Babubhai Patel
10. Shri Bhausahab Rajaram Wakchaure
11. Shri Neeraj Shekhar

#### SECRETARIAT

1. Shri Tapan Chatterjee, Joint Secretary
2. Shri P.P.K. Ramacharyulu, Director
3. Shri D.K. Mishra, Joint Director
4. Shri Bhupendra Bhaskar, Assistant Director

2.0 The Chairman welcomed the Members of the Committee to the meeting and apprised them of the agenda for the day.

#### **Discussion on 'Infiltration across the Borders'**

3.0 The Chairman, in the first instance, informed the Members that the Home Secretary was not able to attend the meeting, due to other pressing official engagements and the Secretary, Border Management would be available for giving clarifications during further discussion on 'Infiltration across the Borders'. After some discussion, Members felt that there were certain issues which needed to be clarified by the Home Secretary. The Committee, therefore, deferred further discussion on the subject.

## **Discussion on Arms, Fire Arms and Ammunitions**

4.0 The Chairman then apprised the Members of the contents of letter dated 14<sup>th</sup> January, 2010 received from the Home Secretary in connection with the Draft Arms Policy, which had been put on the website of the Ministry of Home Affairs for comments of the public. Though the Committee appreciated the action of the Home Ministry in putting the Hindi version of the Draft Arms Policy on its website along with its English version and sending copies thereof (both versions) to all Members of the Committee for comments, it, however, pointed out that what it had decided in its sitting held on 7 January, 2010 was to hold a structured discussion on 'Arms, Fire Arms and Ammunitions' in a separate sitting and the Home Secretary was advised that till such time the Committee discussed the subject and formulated its recommendations thereon, the Ministry of Home Affairs should not go ahead with the finalization of the policy. The Committee reiterated its earlier decision and directed the Secretariat to convey to the Ministry of Home Affairs that it should not finalise the Draft Policy until the Committee had discussed the aforementioned subject and formulated its recommendations.

## **Draft Report on Land Ports Authority of India Bill, 2009**

5.0 The Committee thereafter took up for consideration the draft One Hundred and Forty-Third Report on the Land Ports Authority of India Bill, 2009. After a brief discussion, the report was adopted with some minor changes.

5.1 The Committee decided to present the Report to Rajya Sabha and lay it on the Table of Lok Sabha on 22<sup>nd</sup> February 2010. The Committee also decided to lay on the Table of both Houses, a copy of the oral evidence tendered before it on the Bill.

5.2 The Committee authorized its Chairman and in his absence Shri D. Raja and Shri Prasanta Chatterjee, Members, Rajya Sabha to present the Report and lay the oral evidence in the Rajya Sabha. The Committee also authorized Shri Naveen Jindal, and in his absence, Shri Neeraj Shekhar, Members, Lok Sabha to lay the same on the Table of the Lok Sabha.

## **Memorandum No.2/2010 regarding decision of CIC on Second Appeal filed by Shri Patanjali Sharma**

6.0 The Committee then took up for consideration Memorandum No. 2/2010 on the following decision given by the Central Information Commission on the second appeal filed under the RTI Act, 2005 by Shri Patanjali Sharma, in connection with the Eighty-third Report of the Committee on the Personnel Policies of Central Industrial Security Force and Central Secretariat Service:

"Under the circumstances, inspection of the file, which is part of access to information, as defined under sec. 2(j), together with taking certified copies of the documents or record [ Sec. 2)j)(i) & (ii)] is evidently accessible to appellant Shri Patanjali Sharma. CPIO Shri Deepak Goyal will now arrange to seek the permission of the Chairperson of the Rajya Sabha Parliamentary Standing Committee on Home Affairs within ten working days of the date of receipt of this Decision Notice and consequent upon that arrange for such an inspection at a mutually convenient date and time within ten working days of the date of receipt of this permission. The appeal is thus allowed. There will be no costs."

6.1 The Committee, taking note of the above decision of CIC, was of the view that the implementation of this decision would have far-reaching implications on the functioning of the Parliamentary Committees.

6.2 The Committee, in this connection took note of the provision of Rule 86 of the Rules of Procedure and Conduct of Business in the Council of States (Rajya Sabha), as applicable *mutatis mutandis* to the Department-related Parliamentary Standing Committees, and which provides that the Committee may direct that the whole or a part of the evidence or a summary thereof may be laid on the Table and that the evidence given before a Committee shall not be published by any Member of the Committee or by any other person until it has been laid on the Table. The Committee also took note of the provision of Rule 275 of the Rules of Procedure and Conduct of Business in the Lok Sabha which is more less on the similar lines of the cited rule of the Rajya Sabha Rules and which *inter alia* states that no part of the evidence, oral or written, report or proceedings of the Committee, which has not been laid on the Table, shall be open to inspection by any one, except under the authority of the Speaker. The Committee, in this connection also took note of Direction No. 74 issued by the Speaker, Lok Sabha.

6.3 The Committee further noted the practice and procedure as enumerated in the "Practice and Procedure of Parliament" by M.N. Kaul and S.L. Shakhder [Sixth Edition, pp.1036] that the documents presented to the Committee form part of the records of the House and that those can be furnished only with the leave of the House. The Committee took note of the provisions of Article 105 (2) of the Constitution of India as well.

6.4 The Committee was of the clear view that as per established parliamentary practice, conventions and privileges, the records of the Committee, including evidence and/or documents, which are not laid on the Table of the House along with the Report or separately, cannot be given or shown to anybody without the leave of the House. It was of the view that written memoranda or oral submissions are made before the Committee, reposing confidence in it, and the Committee while presenting the Report, cites only such information which can be made public and which is necessary. The Committee was further of the view that whenever a Committee feels that the evidence or the representations/memoranda should be made public or to be kept in the public domain, they are laid on the Table of the House along with the Report or kept in the Parliament Library.

6.5 The Committee, after considering the above-mentioned rules, directions, constitutional provision, established parliamentary practice, procedure and conventions, took the following decision unanimously:

"The file, which was sought to be inspected by the applicant forms part of records of the House and the documents contained therein, cannot be shown/given to anybody without the leave of the House and if that is done it will be a breach of privilege of the House. The Committee, therefore, declines permission for inspection of the file by the RTI applicant by invoking Section 8(1)(c) of the RTI Act, 2005, which exempts disclosure of such information as would cause a breach of privilege of Parliament or the State Legislatures."

6.6 The Committee directed the Secretariat to inform the CPIO accordingly.

7.0 Some Members then raised the issue relating to implementation of the package announced for rehabilitation of victims of the 1984 riots that took place in the aftermath of the

assassination of Smt. Indira Gandhi. After some discussion, the Committee decided that the Ministry of Home Affairs may be asked to send a status note, State-wise, on the implementation of the package.

8.0 The Committee then adjourned at 4.00 P.M.

## XV

### FIFTEENTH MEETING

The Committee met at 5.00 P.M. on Thursday, 4<sup>th</sup> March, 2010 in Room No. 63, Parliament House, New Delhi.

#### MEMBERS PRESENT

1. Shri M. Venkaiah Naidu - Chairman

#### RAJYA SABHA

2. Shri S.S. Ahluwalia
3. Dr. V. Maitreyan
4. Shri D. Raja

#### LOK SABHA

5. Dr. Rattan Singh Ajnala
6. Dr. Kakoli Ghosh Dastidar
7. Shri Ramen Deka
8. Shri Naveen Jindal
9. Shri L. Rajagopal
10. Shri Bishnu Pada Ray
11. Shri Hamdullah Sayeed
12. Shri Ravneet Singh
13. Shrimati Seema Upadhyay
14. Shri Bhausahab Rajaram Wakchaure
15. Shri Neeraj Shekhar

#### SECRETARIAT

1. Shri Tapan Chatterjee, Joint Secretary
2. Shri P.P.K. Ramacharyulu, Director
3. Shri D.K. Mishra, Joint Director
4. Shri Bhupendra Bhaskar, Assistant Director

2.0 The Chairman apprised Members that the purpose of calling this sitting of the Committee was two-fold. Firstly, to discuss a letter dated 16<sup>th</sup> February, 2010 which the Home Minister had written to Hon'ble Chairman, Rajya Sabha in the context of certain decisions taken by the Committee with regard to the Draft Arms Policy which Government intended to notify shortly. Secondly, to decide about the time table of sittings of the Committee to examine the Demands for Grants (2010-11) of the Ministries of Home Affairs and Development of North-Eastern Region.

### **Schedule of sittings to examine Demands for Grants (2010-11)**

3.0 The Chairman informed Members that he had ascertained from the Secretariat that the Committee, as per past trends, needed at least two full-day sittings to examine the Demands for Grants of the Ministry of Home Affairs; one full-day sitting to examine the Demands for Grants of Ministry of Development of North-Eastern Region; and two sittings to consider and adopt its draft reports. Accordingly, the Chairman proposed that the Committee may meet on 22<sup>nd</sup>, 23<sup>rd</sup> and 29<sup>th</sup> March (full day each) and 7<sup>th</sup> and 8<sup>th</sup> April, 2010 (half day each) to complete its work of examination of the Demands for Grants so that it could present its Reports to Parliament as soon as the Houses reassemble after the recess. The Committee approved the schedule of meetings proposed by its Chairman.

### **Letter dated 16<sup>th</sup> February, 2010 of Home Minister regarding Draft Arms Policy**

4.0 The Chairman then informed Members that Hon'ble Chairman had forwarded to him a letter dated 16<sup>th</sup> February, 2010 written by the Home Minister to Hon'ble Chairman regarding the Draft Arms Policy, in the context of certain decisions taken by the Committee directing the Government not to proceed with the finalization of the policy till the Committee had discussed the subject and made its recommendations. The Chairman of the Committee read out the contents of the letter of the Home Minister whose essence was that drafting and notifying a policy were the prerogative of the executive branch of the Government and hence he (Home Minister) was unable to understand the decision of the Standing Committee and the direction given to the Ministry of Home Affairs, as conveyed by the Rajya Sabha Secretariat. The Home Minister in his letter conveyed the intention of the Government to notify the policy shortly after considering all comments/suggestions received within the stipulated time. The Home Minister accordingly requested Hon'ble Chairman to advise the Chairman of the Standing Committee suitably.

4.1 The Chairman of the Committee then read out for the benefit of the Members the list of subjects allocated to the Ministry of Home Affairs under the Government of India (Allocation of Business) Rules 1961 (as amended from time to time) which the Committee was entitled under the rules to discuss. The Chairman further informed the Committee that one item, viz., 'Matters relating to Arms, Fire Arms and Ammunition' stood allocated to the Ministry of Home Affairs and the Draft Arms Policy came within the purview of the said subject. The Chairman then observed that it would not be desirable for the Committee to enter into a confrontation with the

Government or debate on the intention of the Government to notify a new policy. In that context he suggested that when the Committee would discuss the Demands for Grants of the Ministry of Home Affairs, during the forthcoming recess of Parliament, it could also briefly discuss the subject 'Arms, Fire Arms and Ammunition' and make suitable recommendations to Parliament thereon. He further suggested that the Home Secretary may be asked to make a brief presentation on the said subject and also on the Draft Arms Policy, so as to facilitate a discussion thereon along with discussion on the Demands for Grants of the Ministry.

## **News-item in 'The Sunday Guardian' dated February 21, 2010**

5.0 The Chairman thereafter brought to the notice of the Members a news-item under the caption 'Jindal wants to produce sports rifles' which appeared in The Sunday Guardian, New Delhi dated 21<sup>st</sup> February, 2010 which had been brought to his notice by the Secretariat as per instructions of office of Hon'ble Chairman, Rajya Sabha. The Chairman informed Members that the news-item related to the reported proposal of a company allegedly owned by Shri Naveen Jindal, Member of Lok Sabha and a Member of the Standing Committee, to manufacture sporting weapons and ammunition for sportspersons for which the company had reportedly moved the concerned authorities in the Government of India for grant of an industrial licence. The Chairman further informed Members that the news-item had *inter alia* contended that the alleged move of Shri Naveen Jindal to obtain the licence from the Ministry of Home Affairs while being a Member of the Standing Committee on Home Affairs, had sparked off a controversy as it involved a conflict of interest.

5.1 The Chairman while referring to the provisions of Rule 294(1) of the Rules of Procedure and Conduct of Business in the Council of States (Rajya Sabha) which imposed an obligation on a Member who has a personal or a specific pecuniary interest (direct or indirect) in a matter being considered by the Council or a Committee thereof, he shall declare the nature of such interest notwithstanding any registration of his interests in the Register of Members Interests, and shall not participate in any debate taking place in the Council or its Committees before making such declaration. He thus requested Shri Naveen Jindal to explain his point of view for the sake of record.

5.2 Shri Naveen Jindal explained his stand on the subject and clarified his position with regard to the charge of conflict of interest as reported in a newspaper cited by the Chairman of the Committee. The pith and substance of his explanations/clarifications are as follows:-

- The Arms Policy affects all the citizens of the country. The present Arms Policy is already very strict. Law abiding citizens face a lot of difficulties in procuring an arms licence.
- The draft policy put on the website came as a big surprise. The Government intends to make the Arms Policy more stringent. In public interest, the Committee Members want to discuss the draft policy and give their views and recommendations to the Government. It was up to the Government whether to accept those or not.
- He has been a shooter of the National Shooting Team for the last ten years. He is also an industrialist.
  
- As an entrepreneur it was his dream to produce top quality sporting weapons and ammunition for sportspersons as the same is not available in the country.
- He joined politics in 2004. In the year 2002 a company with which he was associated had applied for licence which had not been granted so far. In 2003 he resigned from the directorship of the company.
- There is no conflict of interest in his raising the subject in the Committee. He, along with other Members, only wants to highlight the concerns of the citizens of the country.
- There is no urgent need for Government to notify this policy. What is the point in discussing the policy after it has been notified?

- The Committee should discuss the subject allocated to the Ministry of Home Affairs under the Allocation of Business Rules.

5.3 At this stage the Chairman of the Committee observed that there were two ways in which the Committee could discuss a matter. One, which is presented and referred to the Committee and the second, when the Committee gets an opportunity to discuss a variety of subjects during the examination of the Demands for Grants.

5.4 A Member of the Committee (who had been the Chairman of the Standing Committee on Environment and Forests) informed the Committee that the Standing Committee over which he presided, *suo motu* took up examination of a draft notification issued by the Government and presented a report thereon. According to him the Committee can *suo motu* take up the subject and discuss it. He also opined that the Committee may not be in a position to prevent the Government from notifying the draft policy, but it can certainly discuss and submit a report to the Parliament.

5.5 Another Member of the Committee took exception to the objection of the Home Minister over the decision of the Committee and observed that it amounted to preventing him as a Member of the Standing Committee from performing his duty that is to discuss the Draft Arms Policy in which he had no vested interest. The Member stated that the Draft Arms Policy was intended to change the Arms Act, 1959 and the Arms Rules, 1962 which can be done only by bring in an amendment bill in Parliament and not merely by action of an administrative nature. When the Government wanted to bring a new policy in a new scenario, the relevant Act has to be amended by introducing an amendment bill. He also took exception to the impugned news-item which according to him had been published at the behest of some vested interests with a view to preventing him from performing his duty as a Member of the Standing Committee on Home Affairs. While concluding his observations, the Member stated that the Committee should discuss the subject and that the Home Ministry should be informed about it. That Member also contended that if the Ministry of Home Affairs could put up the draft policy on its website for eliciting public opinion, then why the Standing Committee of Parliament on Home Affairs could not be given an opportunity to discuss the subject and offer its recommendations.

5.6 Other Members were of the view that the Government should not proceed in the matter without consulting the Committee and that the subject should be discussed by it. They were also of the view that the Standing Committee's role was advisory in nature and ultimately it was for the executive to accept its recommendations or not and in that context there should be no restriction on it to discuss the subject-matter.

### **Decisions Taken by Committee**

5.7 The Chairman, winding up the deliberations in the Committee, announced the following decisions taken by it:-

- With reference to the news-item alleging conflict of interest concerning Shri Naveen Jindal, the Member, on being provided an opportunity to explain his case, had done so and the Committee was convinced with the same. Therefore, that issue was treated as closed.
- Regarding the letter of the Home Minister addressed to Hon'ble Chairman, the Committee decided that the subject 'Arms, Fire Arms and Ammunition' would be discussed by it during the examination of the Demands for Grants (2010-11) of the Ministry of Home Affairs and that the Home Secretary would be asked to make a brief

presentation on that subject and also on the Draft Arms Policy. Thereafter the Committee will formulate its recommendations on the subject.

6.0 A verbatim record of the proceedings of the meeting was kept.

7.0 The Committee then adjourned at 5.40 P.M.

**XVII**  
**SEVENTEENTH MEETING**

The Committee met at 11.00 A.M. on Tuesday, 23 March, 2010 in Main Committee Room, Parliament House Annexe, New Delhi.

**MEMBERS PRESENT**

**RAJYA SABHA**

1. Shri S.S. Ahluwalia - In the chair
2. Dr. N. Janardhana Reddy
3. Shri Brijesh Pathak
4. Shri Tariq Anwar
5. Shri D. Raja

**LOK SABHA**

6. Dr. Rattan Singh Ajnala
7. Dr. Kakoli Ghosh Dastidar
8. Shri Ramen Deka
9. Shri Mohd. Asrarul Haque
10. Shri Naveen Jindal
11. Shri Lalubhai Babubhai Patel
12. Shri Natubhai Gomanbhai Patel
13. Shri L. Rajagopal
14. Shri Bishnu Pada Ray
15. Shri A. Sampath
16. Shri Harsh Vardhan
18. Shri Neeraj Shekhar

**SECRETARIAT**

1. Shri Tapan Chatterjee, Joint Secretary
2. Shri D.K. Mishra, Joint Director
4. Shri Bhupendra Bhaskar, Assistant Director

**WITNESSES**

**Representatives of Ministry of Home Affairs**

1. Shri Gopal K. Pillai, Home Secretary
2. Shri A.E. Ahmad, Secretary (BM)
3. Shri U.K. Bansal, Special Secretary (IS)
4. Shri D.R.S. Chaudhary, Additional Secretary
5. Shri Vishwapati Trivedi, Additional Secretary and FA (Home)
6. Shri A.K. Goyal, Joint Secretary
7. Shri A.K. Yadav, Joint Secretary

8. Smt. B. Bhamathi, Joint Secretary
9. Shri D. Diptivilasa, Joint Secretary
10. Shri O. Ravi, Joint Secretary
11. Shri Dharmender Sharma, Joint Secretary
12. Shri K.C. Jain, Joint Secretary
13. Shri K. Skandan, Joint Secretary
14. Shri L.D. Jha, Joint Secretary
15. Dr. Kashmir Singh, Joint Secretary
16. Shri R.C. Chandramauli, RGI and CCI
17. Shri Naveen Verma, Joint Secretary
18. Shri N.S. Kalsi, Joint Secretary
19. Shri D.K. Kotia, Joint Secretary
20. Shri R.P. Nath, Joint Secretary
21. Shri Sadakant, Joint Secretary
22. Shri Ashok Lavasa, Joint Secretary
23. Shri S. Suresh Kumar, Joint Secretary
24. Dr. Sanjeev Mishra, CCA (Home)
25. Shri Sandeep Sarkar, Director (Finance)
26. Ms. S. Chowdhury, Deputy Secretary

#### **Representatives of National Disaster Management Authority**

1. Shri A. B. Prasad, Secretary
2. Shri Mukul Goel, IG, NDRF & CD
3. Shri R.K. Singh, DIG, NDRF

#### **Representatives of Delhi Police**

1. Shri Y.K. Dadwal, Commissioner of Police
2. Shri Neeraj Kumar, Special Commissioner
3. Shri S.K. Tyagi, FA

#### **Representatives of Department of Official Language, Ministry of Home Affairs**

1. Shri B.S. Parsheera, Secretary
2. Shri D.K. Pandey, Joint Secretary

#### **Representatives of UT of Dadra and Nagar Haveli**

1. Shri Satyagopal, Administrator
2. Shri A.K. Singh, Collector
3. Shri P.K. Gupta, Development Commissioner

#### **Representatives of CPFs**

1. Shri Raman Srivastava, DG, BSF
2. Shri Arunabha Dutta, FA, BSF
3. Shri N.R. Das, DG, CISF

4. Shri R.D. Sharma, Assistant Director, Accounts, CISF
5. Shri Vikram Srivastava, DG, CRPF
6. Shri J.C. Dabas, ADG (Hq), CRPF
7. Shri N.P.S. Aulakh, DG, NSG
8. Shri T.S. Kripanidhi, FA, NSG
9. Shri M.V. Krishna Rao, DG, SSB
10. Shri Aditya Mishra, DIG, SSB
11. Shri R.K. Bhatia, DG, ITBP (Holding Addl. Charge of DG, NDRF and Civil Defence)
21. Shri N.K. Mishra, IFA, ITBP
23. Maj. Gen. J.P. Nehra, Additional DG, Assam Rifles
24. Col. S. Pendharkar, Colonel, Assam Rifles

### **Representatives of National Crime Records Bureau**

1. Shri Rajeev Mathur, Director General
2. Shri P.R.K. Naidu, IG
3. Smt. B. Radhika, DIG

### **Representatives of Intelligence Bureau**

1. Shri Arvind Deep, Joint Director
2. Shri R.A. Chandrasekhar, Deputy Director

### **Representatives of BPR & D**

Shri Prasun Mukherjee, Director General

2.0 In the absence of the Chairman, Shri S.S. Ahluwalia was voted to the Chair.

2.1 The Chair welcomed the Members and officials. He also informed them about the agenda for the day. He then ascertained facts regarding the incident of bomb scare in a Kingfisher flight, blowing up of rail track in Lal Garh area in West Bengal by Maoists and reported beefing up of security in Media offices in Mumbai, from the Director, IB. Queries were also raised regarding security at Airports in the country, by various Members.

2.2 Director, IB responded to the queries.

3.0 Members then raised queries relating to the Commonwealth Games.

3.1 Thereafter, the Chief Secretary, Delhi responded to the queries of the Members regarding, the Commonwealth Games, package being implemented for 1984 riot victims and old age pension scheme. He also responded to the Chair's query regarding preparedness of the Fire Department of NCT Delhi for the Commonwealth Games. He assured the Members of the Committee that projects of the Commonwealth Games were on as per Schedule. He assured the Committee that most of the works would be completed by the end of June.

3.2 One Member raised the issue of welfare of construction workers and the migrant labour, working in various Commonwealth Games Projects. As most of the workers were contract labourers and migrants, he enquired about the welfare measures taken by Government for them and whether they were being paid minimum wages as per the minimum wages Act.

3.3 Chief Secretary responded to the queries.

4.0 The Chair then enquired about the Disaster Management Authority and training programmes for Civil Defence imparted by the Ministry which was replied to by the Home Secretary. The Chair further enquired about the training given to various paramilitary forces and the adequacy of funds released for the same. Thereafter, the Home Secretary was asked to give a detailed report on budgetary provisions for training of paramilitary forces.

5.0 The Committee was informed by the Home Secretary that the proposal of having Quick Reaction Teams and Commandos all across the state had been accepted. Regarding National Intelligence Grid (NIG), he informed that a paper was currently before the Cabinet Committee on Security and the Government was hopeful that the implementation of NIG would be possible during 2010-11. Regarding outsourcing of study by BPR&D, the Home Secretary clarified there was a confidentiality clause in the agreement in each such study.

6.0 The Committee then decided to invite the Registrar General of India in a separate sitting of the Committee for a detailed presentation on the Census related issues.

7.0 The Chair raised issues regarding the grievances of Group A Direct Recruit officers of CISF and also enquired about the feasibility of filling up some vacancies in the IPS from amongst the officers of CPMFs, through a limited Departmental exam. The Home Secretary replied that though the UPSC had not followed the proposal for filling up vacancies in the IPS from State Police and Paramilitary Forces Cadres, the Ministry was contemplating to go ahead with the proposal, subject to the approval of the Prime Minister.

8. The Joint Secretary (IS-II) in the MHA made a powerpoint presentation on the subject, Arms, Firearms and ammunition.

[Committee then adjourned for Lunch at 1.00 Pm and reassembled at 2.00 Pm]

8.1 Specific queries regarding the proposed Arms Policy were also raised by Members. In this context, the Chair suggested that the Bill amending the Arms act also should first be brought before Parliament before doing so, the draft Amendment Bill should be posted on the website for suggestions and comments in the general public. After introduction, the Bill should be reported to this standing Committee. The Chair also suggested that after the Arms act had been amended the Arms (Amendment) Rules should be notified and laid on the table of both the Houses, for a statutory period of thirty days, for Parliamentary approval. In that context he advised the Government not to proceed with announcing of the new policy and its implementation unless Parliament approved the amendments to the Act and the Rules because in the event of Parliamentary approval not forthcoming, the new policy would become infructuous.

8.2 The Home Secretary clarified that the Government would take note of the suggestions given by the Committee. The Government would then finalise the rules and thereafter would place the rules before both the houses of Parliament. The Parliament would then discuss those. He, therefore, felt that there would separate need for bringing it before the Standing Committee.

9. Thereafter, a presentation was made by the Joint Secretary (UT) on financial allocation to Dadra & Nagar Haveli.

9.1 Some queries were put by Members which were not replied satisfactorily by the Administrator. The Committee directed the Administrator to send the replies in writing and to appear again before the Committee.

10. The Commissioner of Police, Delhi then made an oral presentation on security preparedness of Delhi Police for the ensuing Commonwealth Games. After the presentation, he also replied to the queries of the Members regarding the law & order situation in the city and the proposed move of the Government to ask all citizen to surrender licensed arms in the area police station during the duration of the Commonwealth Games. Commissioner of police responded to the query by explaining the position of Delhi Police on the issue.

11. The Committee then decided to meet on 29<sup>th</sup> March, 2010 to discuss the Demands for Grants (2010-11) of Ministry of DoNER and also to hear Joint Secretary (UT) and Administrator, Dadra & Nagar Haveli on the issues related to the above UT.

12.0 A verbatim record of the proceedings of the meeting was kept.

13.0 The Committee then adjourned at 4.00 P.M.

## XX

### TWENTIETH MEETING

The Committee met at 09.30 A.M. on Thursday, 22 April 2010 in Room No. 63, First Floor, Parliament House, New Delhi.

#### MEMBERS PRESENT

1. Shri M. Venkaiah Naidu - Chairman

#### RAJYA SABHA

2. Shri S.S. Ahluwalia
3. Shri Prasanta Chatterjee
4. Shri Brijesh Pathak
5. Dr. V. Maitreyan
6. Shri D. Raja

#### LOK SABHA

7. Dr. Rattan Singh Ajnala
8. Dr. Kakoli Ghosh Dastidar
9. Shri Ramen Deka
10. Shri Mohd. Asrarul Haque
11. Shri Naveen Jindal
12. Shri Lalubhai Babubhai Patel
13. Shri L. Rajagopal
14. Shri Bishnu Pada Ray
15. Shri A. Sampath
16. Shri Hamdullah Sayeed
17. Shri Ravneet Singh
18. Shri Bhausahab Rajaram Wakchaure
19. Shri Neeraj Shekhar
20. Shri Dinesh Chandra Yadav

#### SECRETARIAT

1. Shri Tapan Chatterjee, Joint Secretary
2. Shri P.P.K. Ramacharyulu, Director
3. Shri D.K. Mishra, Joint Director
4. Shri Bhupendra Bhaskar, Assistant Director

2.0 The Chairman of the Committee welcomed the Members to the meeting and informed them about the agenda for the day. He observed that the copies of the Draft 144<sup>th</sup> Report of the Committee on the Demands for Grants (2010-11) of the Ministry of Home Affairs had been received by the Members only in the morning and they did not have sufficient time to go through the same. In that context he explained that there was urgency in presentation of the Report to the Rajya Sabha and laying the same in the Lok Sabha before Guillotine was applied in the Lok Sabha on 27<sup>th</sup> April, 2010. He, therefore, suggested that Members could go through

the draft report and if some changes were to be made, a meeting of the Committee could be held in the evening of 26<sup>th</sup> April, 2010 for adopting the same.

3.0 At this stage the Chairman informed Members about the notification of the new Arms Policy. In that context he recapitulated that the Committee had already discussed the subject and made certain suggestions to the Ministry of Home Affairs for incorporating the same in the policy document. The Committee felt that the policy should be presented to Parliament first and then referred to the Committee so that a structured discussion could take place thereon. The Committee therefore decided to take up the Arms Policy separately and present a report thereon. It accordingly decided that the Chapter on Arms Policy may be taken out of the Draft Report.

4.0 The Committee then took up for consideration the draft 144<sup>th</sup> Report. Members suggested a few amendments thereto. The Chairman directed the Secretariat to incorporate those amendments in the draft and circulate the revised draft report amongst the Members. At this stage a Member pointed out that the Ministry of Home Affairs was yet to furnish responses to number of issues raised by the Committee. The Chairman asked the Secretariat to remind the Ministry of Home Affairs to expedite their responses so that those could be incorporated in the draft report.

5.0 The Committee then decided to meet at 4.00 P.M. on 26<sup>th</sup> April for further consideration and adoption of the draft report. The Chairman observed that if some Members wish to make suggestions for incorporation in the draft report, they may do so in writing to the Secretariat at the earliest.

6.0 A verbatim record of the proceeding of the meeting was kept.

7.0 The Committee then adjourned at 10.15 A.M.

## XXIV

### TWENTY FOURTH MEETING

The Committee met at 11.00 A.M. on Friday, 28 May 2010 in Main Committee Room, Ground Floor, Parliament House Annexe, New Delhi.

#### MEMBERS PRESENT

1. Shri M. Venkaiah Naidu - Chairman

#### RAJYA SABHA

2. Dr. N. Janardhana Reddy
3. Dr. V. Maitreyan
4. Shri D. Raja

#### LOK SABHA

5. Shri Ramen Deka
6. Shri Mohd. Asrarul Haque
7. Shri Naveen Jindal
8. Shri Jitender Singh Malik
9. Shri A. Sampath
10. Shri Hamdullah Sayeed
11. Shri Harsh Vardhan
12. Shri Dinesh Chandra Yadav

#### SECRETARIAT

1. Shri Tapan Chatterjee, Joint Secretary
2. Shri P.P.K. Ramacharyulu, Director
3. Shri D.K. Mishra, Joint Director
4. Shri Sanjeev Khokhar, Committee Officer

#### Representatives of Ministry of Home Affairs

1. Shri Gopal K. Pillai, Home Secretary
2. Smt. Anita Chaudhary, Special Secretary
3. Shri K.C. Jain, Joint Secretary
4. Shri Shashi Bhushan, Consultant
5. Shri J.L. Chugh, Director
6. Shri S.K. Gupta, Director

#### Representatives of Department of Legal Affairs, Ministry of Law and Justice

1. Shri D.R. Meena, Law Secretary
2. Shri R.L. Koli, Additional Secretary

## **Representatives of Legislative Department, Ministry of Law and Justice**

1. Shri V.K. Bhasin, Secretary
2. Shri N.K. Nampoothiry, Additional Secretary
3. Shri Diwakar Singh, Deputy Legislative Council
4. Shri K. Sreemannarayana, Assistant Legislative Council

### **ACCIDENT OF GYANESHWARI EXPRESS**

2.0 At the outset, the Chairman referred to the death of a large number of passengers in a train accident which took place in the previous midnight in West Bengal and wanted the Home Secretary to brief the Committee about the latest position on the tragic incident, its background, the reasons and the relief and rescue operations being undertaken by the authorities at the accident site.

2.1 The Home secretary informed the Committee that at about 1.30 a.m. on 28<sup>th</sup> May, 2010, the Howrah-Kurla Gyaneshwari Express derailed at a place between Khemasoli and Sardiya which was close to Kharagpur (West Bengal), as a result of which thirteen bogies went off the track. The initial preliminary reports indicated that there had been tampering with the tracks and fish plates due to which the derailment took place.

2.2 The Home Secretary further informed the Committee that the derailment took place in such a way that the bogies fell on to the other side of the track and in less than two minutes later, a goods train coming from opposite side rammed into the derailed bogies of Gyaneshwari Express, as a result of which casualties could be considerably higher. As soon as the authorities came to know about the accident, both the Para-military and Railway Protection Forces had been dispatched to the site. According to the Home Secretary, Government of West Bengal, sixty five people had been killed and about 100-200 injured. It was likely that the casualties may go up in the coming hours. A team of the National Disaster Response Force (NDRF) from Kolkata had also reached the spot. The dead bodies of the passengers were being taken out and the rest of the passengers were being evacuated and injured taken to Kharagpur for treatment. He also informed the Committee that nobody had claimed responsibility though some of the Home Ministry's intercepts indicated that possibly the Maoists or their frontal organization could be responsible for the tragic incident.

### **CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL, 2010**

3.0 The Chairman then informed Members that the meeting had been convened to hear the representatives of the Ministry of Home Affairs on the Code of Criminal Procedure (Amendment) Bill, 2010 and hold discussion thereon. He informed the Members that the Law Secretary and the Secretary, Legislative Department had also been invited to the sitting so that they could respond to the legal and legislative queries of the Members.

3.1 The Chairman apprised the Members that the Bill seeks to further amend Section 41(1) (b) of CrPC 1973, as amended by the Code of Criminal Procedure (Amendment) Act, 2008 (Section 5) and Section 41A of the Code, as inserted by the said Amendment Act (Section 6). The Chairman also informed the Members that the previous Committee had considered the Criminal Law (Amendment) Bill, 2003 and the Code of Criminal Procedure (Amendment) Bill, 2006 and presented its One Hundred Eleventh and One Hundred Twenty Eighth Reports thereon, respectively. The Committee in the One Hundred Eleventh Report had recommended that Government should come forward with a comprehensive Bill particularly in the light of reports of various commissions, committees and studies on criminal justice system.

3.2 The Chairman further stated that on the Code of Criminal Procedure (Amendment) Bill, 2006, the Committee in its One Hundred Twenty Eighth Report, after considering a few clauses in detail, found that some of the new definitions/concepts/provisions introduced in the Bill, seemed to be not well thought of and they were based solely on the recommendations of the Law Commission and due deliberations had not taken place on various pros and cons and consequences that might flow from those provisions. The Committee felt that no useful purpose would be served by proceeding further with the clause-by-clause consideration of the Bill as the Committee could not be convinced of the rationale for introducing drastic changes in the criminal jurisprudence of the country. The Committee while making certain general observations recommended to the Government to have a relook at the entire Bill in the light of its observations/recommendations and should attempt to bring forward a comprehensive Bill for revamping the criminal justice system. In spite of those recommendations of the Committee, the Government went ahead with the enactment of the Code of Criminal Procedure (Amendment) Bill, 2006.

3.3 The Chairman observed that piecemeal amendments to the Cr.P.C. were testimony to the fact that the Government was continuing with adhocism in so far as the criminal justice system was concerned and not taking the recommendations of the Committee seriously for bringing forward a comprehensive bill for revamping the criminal justice delivery system.

***[At this stage the witnesses were called in]***

3.4 The Chairman welcomed the Home Secretary and other officials.

3.5 The Chairman asked the Home Secretary to brief the Committee on the action taken by the Government on the recommendation of the Committee made in its One Hundred and Eleventh and one Hundred and Twenty Eighth Report for bringing forward a comprehensive Bill for revamping the Criminal Law.

3.6 The Home Secretary informed the Committee that Prof. N.R. Madhava Menon had submitted a draft National Policy on Criminal Justice to the Government. Since the 'administration of the criminal justice system' is the responsibility of both the Centre and the States, comments and views of the State Governments have been sought on the Report of Prof. Madhava Menon. However, the same have been received from a few States only. He also stated that after the receipt of the comments from all the States, the Government would take a view and bring forward a comprehensive legislation on the subject. The Home Secretary also told the Committee that given the fact that comprehensive amendments would have to be brought in the criminal law, it would take at least one year before the proposal could be brought before the Cabinet and then in Parliament.

3.7 The Chairman then asked the Home Secretary to commence the presentation on the Code of Criminal Procedure (Amendment) Bill, 2010. The Special Secretary made a presentation on the salient features of the Bill. The highlights of the presentation were as follows:

- The Code of Criminal Procedure (Amendment) Bill, 2006 was passed by the Rajya Sabha on 18<sup>th</sup> December, 2008 and by the Lok Sabha on 23<sup>rd</sup> December, 2008. The Bill received the assent of the President on 7<sup>th</sup> January, 2009 and published in the Gazette on 9<sup>th</sup> January, 2009;
- Before the Act could be enforced through official notification (as provided for under section 1(2) of the Code of Criminal Procedure (Amendment) Act, 2008 a number of representations were received in the MHA from all over the country, particularly from the Lawyer's Associations and Bar Associations against some of the provisions of the Act;
- To address the misgivings of the Lawyers and others, the Hon'ble Home Minister wrote a letter to the Chairman, Law Commission on 22<sup>nd</sup> June 2009 to take

initiative and hold consultations with select number of persons representing the premier Bar Associations to bring about a consensus on the two issues that seemed to be agitating the minds of Lawyers;

- Section 41(1) of the Code of Criminal Procedure 1973, as amended by the Code of Criminal Procedure (Amendment) Act 2008 provides that a police officer may arrest a person if reasonable suspicion exists that he has committed cognizable offence punishable with imprisonment of less than seven years, with or without fine, and the police officer shall record while making such arrest, his reasons in writing. Law Commission after holding consultation with various stakeholders, made recommendation that the following be added in section 41(1)

“Provided that a police officer shall in all cases where the arrest of a person is not required under the provision of this subsection, record the reasons in writing for not making the arrest.”

- Section 41A of Cr PC, inserted *vide* Code of Criminal Procedure (Amendment) Act 2008, provides that the police officer 'may', in all cases where the arrest of a person is not required under the provisions of Section 41(1), issue a notice directing that person to appear before him at such place, as may be specified in the notice. The Law Commission has recommended that the word 'may' may be substituted by the word 'shall'.
- In case of failure to comply with the notice, Section 41A (4) provides that where such person, at any time, fails to comply with the terms of the notice, it shall be lawful for the police officer to arrest him for the offence mentioned in the notice, subject to such orders as may have been passed in this behalf by a competent court.
- The Law Commission has recommended that in case of issuance of a notice under Section 41A, if a person who is not arrested and to whom a notice will be issued, is unwilling to identify himself, that could be a ground for his arrest.

The Law Commission has accordingly recommended modification in Section 41A (4) on the following lines:-

"Where such person, at any time, fails to comply with the terms of the notice or is unwilling to identify himself, the police officer may, subject to such orders as may have been passed by a competent Court in this behalf, arrest him for the offence mentioned in the notice."

- The Code of Criminal Procedure (Amendment) Bill, 2010 has been prepared on the basis of the recommendations of the Law Commission of India.

3.8 The Chairman and the Members of the Committee, thereafter, raised certain issues on the provisions of the Bill which were clarified by the Home Secretary and the Secretary, Legislative Department.

3.9 The Chairman observed that as the Law Commission, after due deliberations with the Bar Council of India and some Bar Associations of the States, had suggested the amendments and there was unanimity on the proposed amendments, the Committee may approve this Amendment Bill. The Committee endorsed the suggestion of the Chairman. The Committee decided to consider the Bill clause-by-clause in its next sitting.

***[At this stage the witnesses withdrew]***

**ARMS AND AMMUNITION POLICY**

4.0 The Chairman then mentioned that a Member of the Committee wanted to raise certain points regarding the Arms and Ammunition Policy which had been engaging the attention of the Committee for quite some time, and he had permitted him to do so.

4.1 He then called the Member to place his viewpoints. The Member made a request to the Chairman that his submissions on the subject may not be recorded. The Chairman agreed to the request and directed that his observation may not form part of the verbatim record of the proceedings of the sitting. The Member, thereafter, made his submissions on the subject

***[At this stage the witnesses were called in again]***

4.2 The Chairman informed the Home Secretary and other Officers that the following points relating to the Arms and Ammunition Policy had been raised in today's sitting and he would like the Home Secretary to respond to those:

- (i) Two policy documents - (i) Arms and Ammunition Manufacturing Policy and (ii) Arms and Ammunition Policy for Individuals - were finalized by the Ministry of Home Affairs on 5<sup>th</sup> April, 2010 and put on the Ministry's website under the link 'Circulars for Public', disregarding the Committee's advice. None of the suggestions made in the meeting of the Committee held on 23 March, 2010 were accepted by the Government. The advice given by the Committee to the Government to follow the standard procedure in giving effect to the changes in the existing policy, have also not been heeded.
- (ii) The policy as finalized was exactly identical to the draft put on the Ministry's website inviting comments from the public.
- (iii) The two policy documents had been brought into force by the Home Ministry by issuing detailed advisories to the Secretaries (Home Departments) of all the States and UTs.
- (iv) According to the advisories, the instructions of the Government of India shall come into force with immediate effect.
- (v) Curiously enough, the Ministry enforced the new policy documents by issuing executive instructions, without waiting for formal Parliamentary approval to the amendments to the Arms Act 1959 and the Arms Rules 1962.
- (vi) The Arms (Amendment) Rules 2010 were sent to the Government of India Press for printing in the Gazette of India which would come into force on the date of their publication in the official gazette. It was learnt that the amendment rules had not yet been published in the gazette.
- (vii) The Draft Cabinet Note for amending the Arms (Amendment) Act was referred to the Ministry of Law for vetting before sending the same to the Cabinet Secretariat for Cabinet approval. It was learnt that the Draft Cabinet Note was still with the Ministry of Law.

- (viii) Various components of the policy documents could be brought into force only by amending the Arms Act and the Arms Rules. But the proposed amendment to the Act and the Rules did not cover the various aspects of the policy which would mean that those would be enforced through executive orders.
- (ix) It is a well established parliamentary practice that Ministers make statements in the House in order to keep the House informed of matters of public importance or to apprise the House about Government policy in regard to a matter of topical interest, at the earliest opportunity. (Parliamentary Procedure: Law, Privileges, Practice & Precedents by Dr. Subhash C. Kashyap, 2<sup>nd</sup> Edition 2006, page 540, Universal Law Publishing Co., New Delhi)
- (x) In deciding what statements should be made first in the House, a distinction had to be drawn between matters of policy and news. In matters of policy, Govt. should first inform the House. But in the case of news, information can be given to Press before informing the House. [LS Deb., 3.12.1971, cc. 204-09, 325-28]
- (xi) Policy statements should be made by Ministers on the floor of the House, when the House is in session before releasing them to Press or Public. [HP Deb. (II), 1.9.1953, cc. 1865-66; LS Deb., 22.12.1967, c.9285; 28.8.1973, cc. 245-47]
- (xii) Where a statement is made outside the House even clarifying the policy already enunciated, the Minister should also make a statement about that in the House at the earliest opportunity. [LS Deb., 18.3.1970, c.229]
- (xiii) The day the policy documents were finalized, the Parliament was in session but the Government, for reasons best known to it and in violation of established parliamentary practice, chose not to lay the policy statements even when the Budget Session of Parliament concluded on 7<sup>th</sup> May, 2010.

4.3 The Home Secretary responded by stating that he did not have notice that the Arms Policy would be discussed in this sitting. However, he told the Committee that the Arms Policy had been finalized by the Home Minister and as a result of the policy, certain advisories which were in modifications of the earlier advisories, had been communicated to the States. Some amendments in the Arms Rules had been proposed to be carried out, and he was not sure whether those amendments had been published in the Gazette or not. In any case, the Gazette notification publishing the Amended Rules would be laid on the Table of the both the Houses of Parliament when they reassemble for the next session. He further informed the Committee that for amendment to the Arms Act, a draft Cabinet Note was being prepared and after approval of the Cabinet, a Bill would be introduced in the Parliament during the next session.

4.4 The Chairman then put a pointed question to the Home Secretary as to why the policy had not been laid on the Table of the House. The Home Secretary replied that if the Home Minister wished that the policy was to be placed before the Parliament, then he would lay it on the Table of both houses of Parliament.

4.5 The Chairman wanted to know from the Home Secretary whether it had been the practice in the Government of India to issue advisories to the State Governments on a policy matter even before the required amendments to statute or statutory rules were approved by the Parliament/notified in the Gazette.

4.6 The Home Secretary clarified that what had been communicated to the State Governments were modifications to the earlier Advisory and not the earlier rules. Thereupon,

the Chairman observed that in order to amend the Advisories which were inconsistent with the present rules, Government had to first amend the rules. He wondered how Advisory Notes could be sent to the State Governments without amending the Act and the Rules. The Home Secretary replied that he would clarify that aspect in the next sitting of the Committee.

4.7 The Chairman thereupon, directed the Home Secretary to come prepared before the Committee in the next sitting and explain to it the reasons which compelled the Government to issue Advisories to the State Governments even before publishing the Amendment Rules in the Gazette and without obtaining Parliamentary approval to the amendments in the Act and the Rules. He also directed the Home Secretary to explain to the Committee why the established Parliamentary Practice and Procedure with regard to laying of policy documents on the Table of both the Houses of Parliament first, had not been followed in the present case.

### **REPORTS OF E. N. RAM MOHAN COMMITTEE AND COURT OF INQUIRY**

5.0 The Chairman and some Members raised the issue of the Reports submitted by Shri E. N. Ram Mohan (former DG of BSF) on the recent massacre of 76 security personnel by Maoists at Dantewada in Chhattisgarh on 6<sup>th</sup> April, 2010, the Court of Enquiry set up by CRPF and their findings and the Action Taken by the Government thereon including the transfer of certain Police Officers.

5.1 The Home Secretary assured the Committee that the Ministry would send copies of the Ram Mohan Committee Report, the Report of the Court of Enquiry conducted by CRPF and the Additional Intelligence Reports on the basis of which the Government issued orders of transfer of certain officers.

6.0 A verbatim record of the proceedings of the meeting was kept.

7.0 The Committee then adjourned at 12.35 p.m.

## **XXV**

### **TWENTY FIFTH MEETING**

The Committee met at 11.30 A.M. on Friday, 11 June 2010 in Main Committee Room, Ground Floor, Parliament House Annexe, New Delhi.

#### **MEMBERS PRESENT**

1. Shri M. Venkaiah Naidu - Chairman

#### **RAJYA SABHA**

2. Shri S.S. Ahluwalia
3. Shri Tariq Anwar
4. Shri D. Raja

#### **LOK SABHA**

5. Dr. Rattan Singh Ajnala
6. Dr. Kakoli Ghosh Dastidar
7. Shri Ramen Deka
8. Shri Mohd. Asrarul Haque
9. Shri Jitender Singh Malik
10. Shri Lalubhai Babubhai Patel
11. Shri Natubhai Gomanbhai Patel
12. Shri Nilesh Narayan Rane
13. Shri Bishnu Pada Ray
14. Shri A. Sampath
15. Shri Hamdullah Sayeed
16. Dr. Raghuvansh Prasad Singh
17. Shri Ravneet Singh
18. Shrimati Seema Upadhyay
19. Shri Harsh Vardhan
20. Shri Dinesh Chandra Yadav

#### **SECRETARIAT**

1. Shri Tapan Chatterjee, Joint Secretary
2. Shri P.P.K. Ramacharyulu, Director
3. Shri D.K. Mishra, Joint Director
4. Shri Sanjeev Khokhar, Committee Officer

#### **Representatives of Ministry of Home Affairs**

1. Shri Gopal K. Pillai, Home Secretary
2. Smt. Anita Chaudhary, Special Secretary
3. Shri U.K. Bansal, Special Secretary
4. Shri K.C. Jain, Joint Secretary

5. Shri D. Diptivilasa, Joint Secretary
6. Shri J.L. Chugh, Director
7. Shri S.K. Malhotra, Deputy Secretary
8. Shri Shashi Bhushan, Consultant

#### **Representatives of Department of Legal Affairs, Ministry of Law and Justice**

1. Shri D.R. Meena, Law Secretary
2. Shri R.L. Koli, Additional Secretary

#### **Representatives of Legislative Department, Ministry of Law and Justice**

1. Shri V.K. Bhasin, Secretary
2. Shri N.K. Nampoothiry, Additional Secretary

2.0 The Chairman welcomed the Members to the sitting of the Committee and apprised them of the agenda for the day.

#### **Farewell to retiring Members**

3.0 The Chairman made a reference to the retirement of Dr. N. Janardhana Reddy and Shri Tariq Anwar, Members of the Committee, from the membership of the Rajya Sabha on 21<sup>st</sup> June and 4<sup>th</sup> July, 2010, respectively. While bidding farewell to them on his own behalf and on behalf of the Committee, he recalled their valuable contribution to the Committee. The Chairman also congratulated both the Members on their re-election to the Rajya Sabha and hoped that they would be re-nominated to the Committee. Thereafter, Members of the Committee referred to the retirement of the Chairman of the Committee from the membership of the House on 30 June, 2010 and also bade him farewell. They acknowledged the contribution made by the Chairman in the effective functioning of the Committee and wished his re-election to the Rajya Sabha, re-nomination as Member and re-appointment as Chairman of the Committee. The Chairman thanked the Members for their kind sentiments.

#### **Code of Criminal Procedure (Amendment) Bill, 2010**

4.0 Thereafter, the Committee took up clause-by-clause consideration of the Code of Criminal Procedure (Amendment) Bill, 2010. Clauses 2 and 3 were adopted without any change. Clause 1, the Enacting Formula and the Title of the Bill were adopted without any change.

4.1 The Committee authorised its Chairman to finalise the report on the Bill and present the same to Hon'ble Chairman, Rajya Sabha since Parliament was not in session.

#### **Release of an alleged Maoist in Dadra & Nagar Haveli**

5.0 The Member representing Dadra and Nagar Haveli in the Lok Sabha, then raised the issue of release of an alleged Maoist by the Silvassa Police at the behest of a politician. At the request of the Member, the Committee watched a short video clip aired by a news channel on the issue. The Home Secretary informed the Committee that the person shown in the news clip was a suspected Maoist and that action had been taken against the SP and a constable of the Silvassa Police and that the person concerned was in the custody of the Chhatisgarh Police.

The Chairman asked the Home Secretary to verify the facts of the case and take necessary action against all those responsible.

### **Arms and Ammunition Policy**

6.0 The Committee thereafter took up for consideration the issues relating to the finalization and implementation of the Arms and Ammunition Policy by the Ministry of Home Affairs. The Chairman told the Home Secretary that the papers sent by the Ministry on the subject had been perused and found to be unsatisfactory and evasive. He observed that the procedure adopted by the Ministry in finalizing and implementing the policy was just the opposite of what the Committee had advised it in successive sittings. The Chairman asked the Home Secretary to inform the Committee as to when the Home Minister was going to lay the Policy Document on the Table of both the Houses of Parliament and what were the compelling circumstances which prompted the Ministry to announce the Policy through its website when the Parliament was in session and to issue advisories/instructions to all the State Governments for implementing the Policy without waiting for Parliament's approval to the amendments to the Arms Act 1959 and Arms Rules 1962.

6.1 The Home Secretary stated that about laying of the Policy on the Table of both the Houses of Parliament, he would bring the views of the Committee to the notice of the Home Minister. On being pointed out that he made the same observation during the previous meeting of the Committee held on 28 May 2010, the Home Secretary repeated his statement. As to the reasons why the Government hurriedly finalized the policy and asked the State Governments to implement the same, the Home Secretary did not respond.

6.2 The Chairman and some other Members raised a number of issues relating to the matter. They reminded the Home Secretary that there were several precedents wherein it had been held that the Houses of Parliament had the right to be informed first about the announcement of a new Policy Statement by the Government when Parliament was in session, before releasing it to the media and the public. The Home Secretary was further apprised that it was a well-established parliamentary practice that Ministers make statements in the House in order to keep the House informed of matters of public importance or to apprise the House about Government policy in regard to a matter of topical interest, at the earliest opportunity. The Home Secretary was told that there were several instances in both the Houses of Parliament wherein it had been ruled that Policy Statements should be made by Ministers on the floor of the House when the House was in session before releasing them to press or public. The Chairman then observed that in the light of the well-established parliamentary practice and the precedents, the procedure followed by the Ministry of Home Affairs in the matter of finalisation and implementation of the Arms and Ammunition Policy, was confusing and disturbing and that it was a serious matter.

6.3 The Home Secretary observed that he would bring the issues raised in the Committee to the notice of the Home Minister.

6.4 The Chairman then directed the Home Secretary to report back to the Committee in the matter.

## **Blockade of Manipur**

7.0 The Chairman, thereafter, asked the Home Secretary to brief the Committee about the serious situation arising out of the continuing blockade of Manipur by the Naga Students' Federation and the All Naga Students Association Manipur and the steps proposed to be taken by the Government to ease the situation for the people of Manipur. The Home Secretary apprised the Committee about the background to the blockade of NH 39 and NH 53 from April 11 and the resultant difficulties being faced by the people of Manipur due to acute shortage of essential commodities. The Home Secretary informed the Committee about the measures being taken by the Ministry and the State Government to resolve the issue. He also informed the Committee that if the issues were not resolved in spite of appeals to the agitating parties and other efforts of the Ministry and the State Government, para-military forces would be deployed to end the blockade and bring normalcy to Manipur.

## **Visit to Dadra & Nagar Haveli and Daman & Diu and Mumbai**

8.0 The Chairman told Members that the Committee had *inter alia* taken up the subject of 'Administration of Union Territories' for detailed study. As part of the study, the Committee, during the examination of the Demands for Grants (2010-11) of the Ministry of Home Affairs, took up a few issues concerning Dadra & Nagar Haveli; Daman and Diu; and Andaman and Nicobar Islands and made some recommendations in its One Hundred and Forty Fourth Report. The Chairman recalled that the Members of Lok Sabha representing the said UTs, who were also Members of the Committee, had on several occasions requested that the Committee should visit the UTs to acquaint itself with the functioning of their administration and review the problems being faced by the residents of the UTs. The Chairman then told the Members that as a large number of issues concerning the UTs needed to be addressed by the Committee, it was felt necessary to visit those UTs for on-the-spot study, for better appreciation of the ground realities and making appropriate observations/recommendations for improvement of the administration of the UTs, proper implementation of various schemes, projects and redressal of grievances of the common man. In that connection, the Chairman proposed that the Committee may, in the first phase, visit the UTs of Dadra & Nagar Haveli and Daman & Diu, tentatively, from 5 - 11 July, 2010 for on-the-spot study and discussion with the officials of the UT Administrations, the people's representatives, the stakeholders and other officials. Since the Committee would have to transit via Mumbai for visiting the said UTs, it was suggested that it would be appropriate that the Committee while transiting through Mumbai, may visit the recently set-up NSG Hub and also hold a final round of discussion with the concerned authorities at Mumbai.

9.0 The Committee endorsed the proposals of the Chairman and authorized him to approach Hon'ble Chairman, Rajya Sabha for granting permission to the Committee to visit Dadra & Nagar Haveli, Daman & Diu and Mumbai, tentatively, from 5 - 11 July, 2010 for on-the-spot study visits, as detailed above.

10.0 The Committee then adjourned at 12.45 p.m.

## V

### FIFTH MEETING

The Committee met at 11.00 A.M. on Monday, 1 November 2010 in Main Committee Room, Ground Floor, Parliament House Annexe, New Delhi.

#### **MEMBERS PRESENT**

1. Shri M. Venkaiah Naidu - Chairman

#### **RAJYA SABHA**

2. Dr. N. Janardhana Reddy
3. Shri S.S. Ahluwalia
4. Shri Naresh Chandra Agrawal
5. Shri Tariq Anwar
6. Shri D. Raja

#### **LOK SABHA**

7. Shri L.K. Advani
8. Shri Mohd. Maulana Asrarul Haque
9. Shri Naveen Jindal
10. Adv. A. Sampath
11. Dr. Raghuvansh Prasad Singh
12. Shrimati Seema Upadhyay
13. Shri Harsh Vardhan
14. Shri Bhausahab Rajaram Wakchaure

#### **SECRETARIAT**

1. Shri P.P.K. Ramacharyulu, Director
2. Shri Bhupendra Bhaskar, Assistant Director
3. Shri Sanjeev Khokhar, Committee Officer

#### **WITNESSES**

##### **Representatives of Ministry of Home Affairs**

1. Shri Gopal K. Pillai, Home Secretary
2. Shri U.K. Bansal, Special Secretary
3. Smt. Rashmi Goel, Joint Secretary
4. Shri S. K. Malhotra, Director
5. Shri Sandeep Goel, Additional Commissioner of Police (Licensing)

2.0 At the outset, the Chairman welcomed the Members to the meeting of the Committee and apprised them that the Arms (Amendment) Bill, 2010, had been referred to the Committee on 1<sup>st</sup> September, 2010, for examination and report on or before 30<sup>th</sup> November, 2010.

2.1 The Chairman then informed the Members that today's meeting had been called to hear the presentation of the Home Secretary on the Bill.

2.2 The Chairman recapitulated that the Committee had examined the subject "Arms, Fire Arms and Ammunition" in a series of meetings and the present Bill was an outcome of the new Arms Policy announced by the Government. He informed Members that an *Aide-Memoire* on the subject had been prepared by the Rajya Sabha Secretariat and circulated amongst the Members of the Committee, to facilitate consideration of the Bill.

*[At this stage the witnesses were called in]*

3.0 The Chairman welcomed the Home Secretary and other senior officers of the Ministry and asked him to make a presentation on the Bill.

3.1 The Joint Secretary, MHA made the presentation. Elaborating on the background of the Bill, she stated that the Arms Policy was reviewed in April, 2010. This revision envisaged amendment of Section 13 of the Arms Act 1959 to make Police verification compulsory before grant of arms licences and prescribe a period of 60 days in which the police report must be sent by the police authorities. The highlights of the presentation were as follows:

- (iv) It has been considered essential that arms licences are issued to bonafide persons with clear antecedents;
- (v) It has been considered essential that the Police verification report is taken into consideration before grant of an arms license;
- (vi) The Arms (Amendment) Bill, 2010 seeks to: prescribe a period of 60 days for Police to send their report; make provision for recording reasons by police in case of delay beyond 60 days; to make provision for punitive action if the reasons are not sufficient and convincing; to delete discretionary powers to issue arms licence without police report.

4.0 The Chairman and Members of the Committee then expressed their views on various aspects of the Bill, the Arms Policy and the Arms (Amendment) Rules. The Committee asked the Home Secretary to make another presentation on the subject before the Committee clarifying those issues.

5.0 The Committee then decided to meet again on 9<sup>th</sup> November, 2010 to have interaction with an Indonesian Parliamentary Delegation.

6.0 A verbatim record of the proceedings of the meeting was kept.

7.0 The Committee then adjourned at 11.35 a.m.

## VI

### SIXTH MEETING

The Committee met at 4.00 P.M. on Tuesday, 23 November 2010 in Committee Room 'A', Ground Floor, Parliament House Annexe, New Delhi.

#### **MEMBERS PRESENT**

2. Shri M. Venkaiah Naidu - Chairman

#### **RAJYA SABHA**

2. Dr. N. Janardhana Reddy  
3. Shri Prasanta Chatterjee  
4. Shri Tariq Anwar  
5. Shri D. Raja

#### **LOK SABHA**

6. Dr. Rattan Singh Ajnala  
7. Dr. Kakoli Ghosh Dastidar  
8. Shri Ramen Deka  
9. Shri Mohd. Maulana Asrarul Haque  
10. Shri Naveen Jindal  
11. Adv. A. Sampath  
12. Shri Hamdullah Sayeed  
13. Shri Bhausahab Rajaram Wakchaure

#### **SECRETARIAT**

1. Shri P.P.K. Ramacharyulu, Director  
2. Shri Bhupendra Bhaskar, Assistant Director  
3. Shri Sanjeev Khokhar, Committee Officer

- 2.0 The Chairman welcomed Members to the meeting of the Committee.

#### **New Delhi Municipal Council (Amendment) Bill, 2010**

3.0 Recalling the deliberation of the Committee held in its sitting held on 22<sup>nd</sup> October, 2010, wherein it had decided to seek further extension of time for submitting the report on the New Delhi Municipal Council (Amendment) Bill, 2010 upto the first week of the Budget Session, 2011 of Parliament, the Chairman informed Members that Hon'ble Chairman, Rajya Sabha had granted further extension upto 31<sup>st</sup> January, 2011 only for presenting the report on the Bill. He informed Members that the Committee would have to complete the remaining stages of examination of the Bill and present its report within the extended time.

#### **Arms (Amendment) Bill, 2010**

4.0 The Committee, further considered the Arms (Amendment) Bill, 2010, which was referred to the Committee on 1<sup>st</sup> September, 2010, for examination and report, on or before 30<sup>th</sup> November, 2010. The Chairman recapitulated that in its last sitting held on 1<sup>st</sup> November, 2010, the representatives of the

Ministry of Home Affairs made a presentation on the Bill whereupon Members of the Committee expressed their views on various aspects of the Bill, the Arms and Ammunition Policy and the Arms (Amendment) Rules 2010. The Chairman recalled that the Committee, in that sitting, had decided that the Home Secretary would make another presentation on the subject before it, clarifying the following issues:-

- The rationale for bringing in a new Arms and Ammunition Policy;
- State/UT -wise statistical information on Arms Licenses issued;
- State/UT-wise statistical information on crimes committed by using licensed arms and illegal arms;
- Remedy available to the individual applicant for Arms License where mandatory police verification is not received by the concerned authorities within the stipulated period of 60 days;
- Implications of Advisories issued to the State Governments and amendment of the Arms Rules, 1962;
- Suggestions/recommendations received from State Governments/ UT Administrations on the Draft Arms Policy;
- Decision of MHA on representations received from various quarters regarding issue of Arms Licenses;
- Experience of different countries with regard to issue of Arms Licenses.

4.1 Thereafter, some Members pointed out that the Arms (Amendment) Bill, 2010 which was referred to the Committee, under Rule 270(b) of the Rules of Procedure and Conduct of Business in the Council of States, for examination and report sought to give effect to only one component of the new Arms and Ammunition Policy. Those Members also pointed out that the Arms (Amendment) Rules, 2010 which was laid on the Table of the Lok Sabha on 10<sup>th</sup> August and in the Rajya Sabha on 11<sup>th</sup> August 2010, gave effect to another component of the said Policy, whereas the major elements of the Policy had already been brought into force by way of Advisories to the State Governments and UT Administrations. The Committee took note of the fact that while it was considering the Arms (Amendment) Bill 2010, it had no choice but to refer to the new policy document, leading to a piquant situation wherein the Committee had to consider a National Policy Document which had neither been presented to Parliament nor referred to it under the provisions of Rule 270(d) of the Rules of Procedure and Conduct of Business in the Council of States.

4.2 At this stage the Chairman clarified that under the Rules, a Department-related Parliamentary Standing Committee can consider a Policy Document presented to the Houses, if referred to the Committee by the Chairman or the Speaker, as the case may be. He observed that as the Committee went along the examination of the Bill, it would be considering the Arms and Ammunition Policy which had not been officially referred to it. Likewise, the Chairman felt that the Committee would also need to consider the Arms (Amendment) Rules, 2010 which, under the Rules of Procedure, lay within the domain of the Committee on Subordinate Legislation.

4.3 In that context, the Committee took note of the fact that despite its pointed queries to the Home Ministry on the need for presenting the Arms and Ammunition Policy on the Table of both Houses, by the Home Minister, pursuant to well established Parliamentary Practice and Procedure, there had been no response from them and that the policy was yet to be presented to Parliament. The Committee, therefore, decided that it may request Hon'ble Chairman, Rajya Sabha to consider issuing suitable advice to the Home Minister to immediately present the New Arms and Ammunition Policy in both Houses of Parliament and, thereafter, refer the

same to the Committee, under Rule 270 (d), for consideration and report, along with the Arms (Amendment) Bill, 2010. The Committee also decided to request Hon'ble Chairman to refer to it, as a special case, the Arms (Amendment) Rules, 2010 which was laid on the Table of Lok Sabha on 10 August and Rajya Sabha on 11 August, 2010, so that it could examine the Arms (Amendment) Bill, 2010 in a comprehensive manner.

4.5 The Committee, further felt that since some outstanding issues relating to the Bill require appropriate consideration including obtaining suitable directions from Hon'ble Chairman, Rajya Sabha, it would not be possible to complete the remaining stages of consideration of the Arms (Amendment) Bill 2010 by the stipulated date i.e 30<sup>th</sup> November, 2010. The Committee, after some discussion unanimously decided to seek extension of time upto the last week of Part I of the Budget Session, 2011 for presentation of the report on the Arms (Amendment) Bill, 2010.

5. The Committee, accordingly, authorized its Chairman to approach Hon'ble Chairman, Rajya Sabha for the following:

(a) Issuing suitable advice to the Home Minister to present the New Arms and Ammunition Policy in both Houses of Parliament and thereafter, refer the same to the Committee on Home Affairs, alongwith the Arms (Amendment) Rules 2010, to facilitate a comprehensive examination of the Arms (Amendment) Bill, 2010; and

(b) Granting extension of time to the Committee upto the last week of Part I of the Budget Session 2011 for presentation of the Report on the Arms (Amendment) Bill, 2010.

6. The Committee then adjourned at 4.40 p.m.

## VII

### SEVENTH MEETING

The Committee met at 3.00 pm on Monday, the 20 December 2010 in Main Committee Room, Ground Floor, Parliament House Annexe, New Delhi.

#### **MEMBERS PRESENT**

1. Shri M. Venkaiah Naidu - Chairman

#### **RAJYA SABHA**

2. Shri Prasanta Chatterjee
3. Shri Tariq Anwar
4. Shri D. Raja

#### **LOK SABHA**

5. Shri L.K. Advani
6. Dr. Rattan Singh Ajnala
7. Shri Mohd. Maulana Asrarul Haque
8. Shri Naveen Jindal
9. Shri Natubhai Gomanbhai Patel
10. Adv. A. Sampath
11. Shri Hamdullah Sayeed
12. Shri Neeraj Shekhar
13. Dr. Raghuvansh Prasad Singh
14. Shri Ravneet Singh

#### **SECRETARIAT**

1. Shri P.P.K. Ramacharyulu, Director
2. Shri D.K. Mishra, Joint Director
3. Shri Bhupendra Bhaskar, Assistant Director
4. Shri Sanjeev Khokhar, Committee Officer

#### **WITNESSES**

##### **Representatives of Ministry of Home Affairs**

1. Shri M. Gopal Reddy, Joint Secretary (UT)
2. Dr. A.K. Saxena, Director

##### **Representatives of New Delhi Municipal Council**

1. Shri Parimal Rai, Chairman
2. Shri Santosh D. Vaidya, Secretary
3. Shri P.C. Chaturvedi, Legal Advisor

## **Representatives of Ministry of Law and Justice**

### **Legislative Department**

1. Dr. G.N. Raju, Joint Secretary & Legal Advisor
2. Dr. Sanjay Singh, Joint Secretary & Legislative Counsel
3. Shri Diwakar Singh, Deputy Legislative Counsel
4. Shri K.B. Kumar, Assistant legislative Counsel

### **Department of Legal Affairs**

1. Shri R. Ragupathi, Additional Secretary
2. Shri Dinesh Bhardwaj, Director

### **Representatives of Residents' Welfare Associations**

1. Shri A.P. Singh, President, Golf Links Resident Welfare Association
2. Shri Jitender Kapoor, Vice President, Federation of Golf Link, Jor Bagh, Malcha Marg and Babar Road Resident Welfare Associations.
3. Shri A. Armugham, Vice-President, F,G,&H Block, Resident Welfare Association, Sarojini Nagar
4. Shri Sunil Kumar Bhadauria, Secretary, F,G,&H Block, Resident Welfare Association, Sarojini Nagar
5. Shri K. Dinakar Raj, Executive Member, F,G,&H Block, Resident Welfare Association, Sarojini Nagar

### **Member of New Delhi Municipal Council**

Shri Karan Singh Tanwar, MLA, Delhi Legislative Assembly

2.0 The Chairman welcomed the Members to the meeting of the Committee and informed them of the agenda for the day.

### **Arms (Amendment) Bill, 2010**

3.0 The Chairman recapitulated that the Committee in its meeting held on 23<sup>rd</sup> November, 2010, had authorized him to approach Hon'ble Chairman, Rajya Sabha for the following:-

- (b) Issue of suitable advice to the Home Minister to present the New Arms and Ammunition Policy in both Houses of Parliament and thereafter, refer the same to the Committee on Home Affairs, alongwith the Arms (Amendment) Rules 2010, to facilitate a comprehensive examination of the Arms (Amendment) Bill, 2010; and
- (b) Grant of extension of time to the Committee upto the last week of Part I of the Budget Session 2011 for presentation of the Report on the Arms (Amendment) Bill, 2010.

3.1 The Chairman informed the Committee that Hon'ble Chairman, Rajya Sabha had granted extension of time upto 31<sup>st</sup> January, 2011 only for the presentation of the report on the Bill. The chairman also informed the Committee that the remaining proposals were under consideration of Hon'ble Chairman.

### **NDMC (Amendment) Bill, 2010**

4.0 The Chairman then recalled that in view of the important issues involved in the Bill, the Committee in its meeting held on 22<sup>nd</sup> October, 2010, had felt that it should hear representatives of some Residents Welfare Associations of private and government colonies in NDMC areas.

4.1 He also recalled that the Committee had sought extension of time upto the first week of the Budget Session, 2011 from Hon'ble Chairman, Rajya Sabha for presentation of report on the Bill but Hon'ble Chairman, Rajya Sabha had granted extension upto 31<sup>st</sup> January, 2010 only.

4.2 He further stated that following the decision of the Committee, representatives of two Residents Welfare Associations (RWA), one from a private colony and one from government colonies of NDMC area, had been invited to seek their views on the Bill. He also stated that the Committee would hear the views of Shri Karan Singh Tanwar, MLA representing Delhi Cantt. (which includes Sarojini Nagar, an NDMC area in the Delhi Legislative Assembly) and also a Member of NDMC, on the Bill.

#### **[At this stage the witnesses were called in]**

5.0 The Chairman welcomed the representatives of the Residents Welfare Associations and Ministries of Home Affairs and Law & Justice and Shri Karan Singh Tanwar, MLA. He then asked the representatives of the RWAs to express their views on the provisions of the Bill.

5.1 The highlights of the views by the witnesses were as follows:-

### **REPRESENTATIVES OF GOLF LINKS RWA**

- Permanent residents have no stake in the governance of NDMC.
- There should be some kind of elective mechanism to represent the permanent residents of NDMC in the Council.
- The Chairman of the Council should be a political head as he/she would be more effective.
- The NDMC should be a non-political elected body. The Chairman could still be the senior most officer of Central Government and no member of the Council should be senior to him.
- NDMC could also be a partly elected body. The elected members like MLAs would not be of much help in looking after day-to-day civic matters. Council should have Members directly elected by the People.

### **REPRESENTATIVES OF F,G & H BLOCK, SAROJINI NAGAR RWA**

- The Chairman of the Council should be a political person as he would be more effective.
- Present set-up of NDMC is alright and need not be altered.
- There should, however, be some mechanism to protect the interest of Government Employees residing in an NDMC area. The Government Colonies RWAs should be given some representation in the Council.

### **SHRI KARAN SINGH TANWAR, MLA, DELHI CANTT. AND MEMBER, NDMC**

- The main problem with the functioning of NDMC is its senior members do not attend the meetings as it is presided over by a Chairman who is junior in rank.
- Elected members of the Council do not get facilities which are available to nominated ones.
- Either NDMC should be made a totally elected body on the pattern of MCD or partly elected and partly nominated, on the pattern of Cantonment Board.

6.0 The Chairman and Members of the Committee put some queries and asked the officials to send written replies thereto.

7.0 The Committee then decided to issue a press release inviting Memoranda from Residents' Welfare Associations of NDMC area seeking their views on the Bill.

8.0 A verbatim record of the proceedings of the meeting was kept.

9.0 The Committee then adjourned at 4.00 p.m.

## VIII

### EIGHTH MEETING

The Committee met at 11.30 A.M. on Tuesday, 28 December 2010 in Main Committee Room, Ground Floor, Parliament House Annexe, New Delhi.

#### **MEMBERS PRESENT**

##### **RAJYA SABHA**

1. Shri S.S. Ahluwalia - In the Chair
2. Shri Naresh Chandra Agrawal
3. Shri Javed Akhtar
14. Dr. V. Maitreyan
15. Shri D. Raja

##### **LOK SABHA**

16. Shri L.K. Advani
17. Dr. Rattan Singh Ajnala
18. Shri Ramen Deka
19. Shri Mohd. Maulana Asrarul Haque
20. Shri Naveen Jindal
21. Shri Jitender Singh Malik
22. Adv. A. Sampath
23. Shri Hamdullah Sayeed
24. Dr. Raghuvansh Prasad Singh
25. Shri Ravneet Singh
26. Shri Harsh Vardhan

#### **SECRETARIAT**

1. Shri Tapan Chatterjee, Joint Secretary
2. Shri P.P.K. Ramacharyulu, Director
3. Shri D.K. Mishra, Joint Director
3. Shri Sanjeev Khokhar, Committee Officer

#### **WITNESSES**

##### **Representatives of Ministry of Home Affairs**

1. Shri Gopal K. Pillai, Home Secretary
2. Shri U.K. Bansal, Secretary (IS)
3. Smt. Rashmi Goel, Joint Secretary
4. Shri S.K. Malhotra, Deputy Secretary
5. Shri Sandeep Goel, Additional Commissioner, Delhi Police

**Representatives of Ministry of Law and Justice**  
**Department of Legal Affairs**

1. Shri D.R. Meena, Law Secretary
2. Shri R.L. Koli, Additional Secretary

**Representatives of Ministry of Law and Justice**  
**Legislative Department**

1. Shri S.R. Dhaleta, Joint Secretary
2. Dr. Rita Vashist, Additional Legislative Counsel

2. In the absence of the Chairman, Shri S. S. Ahluwalia was voted to the Chair. The Chair told Members that despite repeated pointed queries of the Committee to the Home Secretary on the non-laying of the Arms and Ammunition Policy on the Table of both Houses, by the Home Minister, pursuant to well established parliamentary practice and procedure, there had been no response. He informed the Members that the Committee had requested Hon'ble Chairman, Rajya Sabha to consider issuing suitable advice to the Home Minister to immediately present the New Arms and Ammunition Policy in both Houses of Parliament and, thereafter, refer the same to the Committee, for consideration and report, along with the Arms (Amendment) Bill, 2010 which already stood referred to it. He further stated that the Committee also requested Hon'ble Chairman to refer to it, as a special case, the Arms (Amendment) Rules, 2010, which was laid on the Table of the Lok Sabha on 10 August and in the Rajya Sabha on 11 August, 2010, so that it could examine the Arms (Amendment) Bill, 2010 in a comprehensive manner.

*[At this stage the witnesses were called in]*

3. The Chair welcomed the Home Secretary and other officers. The Home Secretary was asked to make a presentation on the Arms (Amendment) Bill, 2010 clarifying issues raised by Members in the previous sittings.

4.0 The Home Secretary informed the Committee that due to technical reasons the power-point presentation could not be made. However, hard copies of the presentation had been made available to all Members.

4.1 The Home Secretary thereafter made oral submissions based on the power-point presentation prepared for the meeting.

5.0 The Chair pointed out the contradiction in the statements made in the Statement of Objects and Reasons of the Bill and the presentation of the Home Secretary in so far as the need for revising the licensing procedure for arms was concerned and the consequent issue of a New Arms Policy.

5.1 A Member highlighted the fact that only 1.8 percent of the murders were committed with licenced weapons and more than 85 percent of the murders were not committed by fire arms but with sharp edged weapons. He felt that the Bill was incomplete in as much as more

sections of the Arms Act should have been amended, instead of amending only two sections thereof, to implement the policy.

5.2 Another Member enquired about the purpose of bringing in the Arms (Amendment) Bill, 2010 and the deficiencies in the existing Act. He also enquired as to how the new provisions would help in cutting the red tape and expediting the process for issuing arms licenses in so far as the common man was concerned.

5.3 Yet another Member highlighted the contradiction between the Statement of Objects and Reasons of the Bill and the new policy. Accordingly to him, while the objective of the Bill was to curb proliferation of arms, the policy seemed to widen the availability of the arms. Several Members raised the point that the onus of establishing threat perception of an individual should not be entirely left to the bureaucracy. A Member also pointed towards the danger of grant of licenses on caste and communal lines and other social cleavages.

6. The Chair once again took exception to the fact that the Arms Policy was yet to be tabled in the Parliament despite the presiding officers directions and the precedents in that regard. He reiterated that in matters of Policy, the Government must first inform the House before giving the information to the media. He pointed out that according to a direction of the Speaker, Lok Sabha policy statement should be made by Minister on the floor of the House when the House is in session before releasing it to press or public. He took serious note of the cavalier attitude of the Minister in not informing the House about the New Policy.

7. Thereafter more queries were made by the Members which were responded to by the Home Secretary.

8. The Committee asked the Home Secretary to respond to the issues raised by Members, in writing.

9. A verbatim record of the proceedings of the meeting was kept.

10. The Committee then adjourned at 12.55 p.m.

## **IX**

### **NINTH MEETING**

The Committee met at 12.00 Noon on Wednesday, 5<sup>th</sup> January 2011 in Main Committee Room, Ground Floor, Parliament House Annexe, New Delhi.

#### **MEMBERS PRESENT**

##### **RAJYA SABHA**

1. Shri S.S. Ahluwalia - In the Chair
2. Shri Naresh Chandra Agrawal
3. Shri Prasanta Chatterjee
4. Shri Javed Akhtar
5. Shri Tariq Anwar
6. Dr. V. Maitreyan
7. Shri D. Raja

##### **LOK SABHA**

8. Shri L.K. Advani
9. Dr. Kakoli Ghosh Dastidar
10. Shri Ramen Deka
11. Shri Mohd. Maulana Asrarul Haque
12. Adv. A. Sampath
13. Shri Ravneet Singh
14. Shrimati Seema Upadhyay
15. Shri Harsh Vardhan

#### **SECRETARIAT**

1. Shri Tapan Chatterjee, Joint Secretary
2. Shri P.P.K. Ramacharyulu, Director
3. Shri Bhupendra Bhaskar, Assistant Director

#### **WITNESSES**

##### **Representatives of Ministry of Home Affairs**

1. Shri Gopal K. Pillai, Home Secretary
2. Smt. B. Bhamathi, Additional Secretary (UT)
3. Dr. A.K. Saxena, Director

##### **Representatives of New Delhi Municipal Council**

1. Shri Parimal Rai, Chairman
2. Shri Santosh D. Vaidya, Secretary
3. Shri P.C. Chaturvedi, Legal Advisor
4. Shri S.P. Sanwal, Director (GA)

**Representatives of Ministry of Law and Justice**  
**Legislative Department**

1. Shri V.K. Bhasin, Secretary
2. Dr. Sanjay Singh, Joint Secretary & Legislative Counsel
3. Dr. G. Narayana Raju, Joint Secretary & Legislative Counsel
4. Shri Diwakar Singh, Deputy Legislative Counsel

**Representatives of Ministry of Law and Justice**  
**Department of Legal Affairs**

1. Shri D.R. Meena, Law Secretary
2. Shri R.L. Koli, Additional Secretary
3. Shri D. Bhardwaj, Additional Legal Advisor

2.0 In the absence of the Chairman, Shri S. S. Ahluwalia was voted to the Chair.

3.0 The Chair welcomed the Members to the first sitting of the Committee in the New Year and wished them a Happy and Prosperous 2011. He then apprised them of the agenda for the day.

**Enemy Property (Amendment and Validation) Second Bill, 2010**

4.0 The Chair informed the Members that Hon'ble Chairman, Rajya Sabha had referred the Enemy Property (Amendment and Validation) Second Bill, 2010 to the Committee on Home Affairs, on 30<sup>th</sup> December, 2010, for examination and report thereon by 15 February 2011.

4.1 Members were of the view that as the Committee was already preoccupied with the Arms (Amendment) Bill, 2010 and the NDMC (Amendment) Bill, 2010 on which it was required to present the reports by 31<sup>st</sup> January, 2011, and keeping in mind the ensuing Budget Session wherein Demands for Grants pertaining to the related Ministries/Departments would have to be examined by the Committee, it would not be possible for it to examine and submit its report on the Enemy Property (Amendment and Validation) Second Bill, 2010 as per the deadline given. Members were also of the view that the said Bill being controversial and the subject matter involving complex issues, it needed thread-bare discussion. The Committee, therefore, at the threshold, resolved to seek extension of time from Hon'ble Chairman, upto the last week of Part II of the Budget Session of 2011, for presentation of the report on the said Bill. The Committee, accordingly, authorized its Chairman to approach Hon'ble Chairman, Rajya Sabha for the purpose.

**Arms (Amendment) Bill, 2010**

5.0 The Chair then recapitulated that the Committee in its sitting held on 23<sup>rd</sup> November, 2010, had authorized its Chairman to approach Hon'ble Chairman for his approval to the following proposed course of action:

- (i) Issue of suitable advice to the Home Minister to present the new Arms and Ammunition Policy in both the Houses of Parliament and thereafter, refer the same to the Committee along with the Arms (Amendment) Rules, 2010, to

facilitate a comprehensive examination of the Arms (Amendment) Bill, 2010 by it; and

- (ii) Grant extension of time to the Committee up to the last week of Part I of the Budget Session of 2011 for presentation of the report on the Arms (Amendment) Bill, 2010.

5.1 The Chair then apprised the Committee that Hon'ble Chairman had granted extension of time upto 31<sup>st</sup> January, 2011 only for presentation of the Report on the Bill. The Chair informed that the Chairman of the Committee had received a letter dated the 28<sup>th</sup> December, 2010 from the Secretary-General, Rajya Sabha on the other issue, conveying therein as under:-

“After careful consideration of the request, Hon'ble Chairman has approved the following course of action:-

- (iii) The Committee may seek copies of the policy documents from the Ministry of Home Affairs for the use of the Members;
- (iv) The Committee may also consult the Arms (Amendment) Rules, 2010 for the purposes of examining the Bill under its consideration.”

### **NDMC (Amendment) Bill, 2010**

6.0 The Chair recapitulated that the Committee in its previous sitting had decided to issue a Press Release inviting memoranda from the Residents' Welfare Associations belonging to NDMC area only, on the Bill and on the issue of NDMC being made an elected body, from a nominated one. Implementing the decision of the Committee, the Secretariat issued a Press Release. In response thereto, fifteen memoranda had been received, which had been circulated to the Members and also forwarded to the Ministry of Home Affairs for furnishing their comments on the suggestions made therein. The Chair observed that the overwhelming view in the memoranda was in favour of making NDMC an elected body.

*[At this stage the witnesses were called in]*

7.0 The Chair welcomed the witnesses. He recalled that the Committee had heard the views of the Ministry in its sitting held on 22<sup>nd</sup> October, 2010 and directed them to come prepared with the responses on the issues raised in that meeting.

8.0 The Home Secretary then responded to the suggestion made by various RWAs in their memoranda. The Home Secretary informed the Committee that after consulting the Union Home Minister, the final view that had emerged was that on account of the special character of the area, the Government would still continue to go with the present structure and not bring in any elected members into the governing structure of the NDMC and that the Government was not in favour of changing the current structure of the Council, as proposed in the NDMC (Amendment) Bill, 2010.

9.0 The Chair and Members of the Committee while expressing unhappiness over the rigid stand taken by the Ministry despite strong views of the Committee and the RWAs to the contrary, raised the following issues/queries:-

- People residing in the NDMC area would not be convinced by the argument advanced by the Ministry in favour of retaining the status quo in so far as the structure of NDMC was concerned.
- Rationale for depriving the people of NDMC area the opportunity to exercise their franchise especially when residents of all regions of Delhi outside the NDMC area exercise their right to vote in elections to the local self governing bodies so that their elected representatives can look after matters relating to civic amenities which cannot be attended to by area MPs and MLAs.
- In the representations received, there is overwhelming support for an elected NDMC.
- NDMC should be made an elected body either partially or fully.

10.0 The Chair then enquired from the Law Secretary whether there would be any legal problem in converting NDMC into an elected body to which the Law Secretary replied in the negative.

11.0 The Home Secretary then tried to respond to the queries which were not found convincing and satisfactory by the Committee.

12.0 The Chair then told the Home Secretary that Government should give a serious thought to the consensus which had emerged in the Committee in favour of an elected NDMC and furnish an elaborate reply on the stand taken by Government in the matter, within a week's time.

13.0 The Committee then decided to meet on 13<sup>th</sup> January, 2011 to hold further discussion on the New Delhi Municipal Council (Amendment) Bill, 2010 in the light of the detailed response of the Government.

14.0 A verbatim record of the proceedings of the meeting was kept.

15.0 The Committee then adjourned at 12.56 p.m.

## **XI**

### **ELEVENTH MEETING**

The Committee met at 3.00 P.M. on Monday, the 24<sup>th</sup> January 2011 in Main Committee Room, Ground Floor, Parliament House Annexe, New Delhi.

#### **MEMBERS PRESENT**

1. Shri M. Venkaiah Naidu - Chairman

#### **RAJYA SABHA**

2. Shri S.S. Ahluwalia
3. Shri Prasanta Chatterjee
4. Shri Tariq Anwar
5. Shri D. Raja

#### **LOK SABHA**

6. Shri L.K. Advani
7. Dr. Rattan Singh Ajnala
8. Shri Ramen Deka
9. Shri Mohd. Maulana Asrarul Haque
10. Shri Naveen Jindal
11. Adv. A. Sampath
12. Shri Hamdullah Sayeed
13. Shri Neeraj Shekhar
14. Shri Harsh Vardhan

#### **SECRETARIAT**

1. Shri Tapan Chatterjee, Joint Secretary
2. Shri P.P.K. Ramacharyulu, Director
2. Shri D.K. Mishra, Joint Director
3. Shri Bhupendra Bhaskar, Assistant Director
4. Shri Sanjeev Khokhar, Committee Officer

#### **Obituary Reference**

2.0 The Chairman made a reference to the passing away of legendary vocalist Bharat Ratna Pandit Bhimsen Joshi.

2.1 The Committee observed a minute's silence, all Members standing, as a mark of respect to the departed.

#### **New Delhi Municipal Council (Amendment) Bill, 2010**

3.0 The Chairman recapitulated for the benefit of the Members that the Committee had considered the New Delhi Municipal Council (Amendment) Bill, 2010 in eight sittings. The Chairman also recalled that in its sitting held on 13<sup>th</sup> January, 2011, the Committee had held brief discussion on the Bill in the light of the presentations made by the Ministry of Home Affairs and suggestions/ views/comments made in the memoranda received from various RWAs belonging to NDMC area and the views of the non-official witnesses who appeared before the Committee. The Chairman observed that the overwhelming view in the memoranda, the evidence of non-official witnesses and the general consensus in the sitting of the Committee held on 5<sup>th</sup> January 2011, was in favour of making NDMC an elected body.

3.1 The Chairman informed the Members that in the meanwhile, eleven members of the Committee had sent their written views in support of the Bill in its present form. He also informed that one more Member had sent his written views in which he had suggested that the present Bill may be returned with the recommendation that a new Bill be introduced by making provisions for substantial component of elected members and keeping the number of nominated Members in NDMC to the essential minimum.

3.2 The Chairman stated that some Members felt that those who had not submitted their comments in writing and desirous to send the same be given an opportunity to do so.

3.3 The Chairman, thereafter, mentioned that additional papers concerning the Government of National Capital Territory Bill, 1991 (as introduced in the Lok Sabha on 16.12.1991) and New Delhi Municipal Council Bill, 1994 (as introduced in the Lok Sabha on 13.06.1994) alongwith relevant extracts of debates in both the Houses on the Bills, had been circulated for information of Members.

3.4 The Chairman also informed the Members that Hon'ble Chairman, Rajya Sabha had granted extension of time upto 31<sup>st</sup> January, 2011 for presentation of report on the Bill. He stated that after that day's deliberations, the Secretariat would prepare the draft report. As the time left for preparing the draft report, considering and adopting the same and presenting it within the stipulated time i.e., 31<sup>st</sup> January 2011, was very close, the Committee would not be able to complete the remaining stages of examination of the Bill and present report thereon by the extended date.

3.5 The Committee, accordingly, decided to seek further extension of time upto the last day of the first week of Part I of the Budget Session 2011 from Hon'ble Chairman, Rajya Sabha, for presentation of report on the Bill.

### **Arms (Amendment) Bill, 2010**

4.0 The Chairman recalled that Hon'ble Chairman had granted extension to the Committee upto 31<sup>st</sup> January, 2011 for presenting the report on the Arms (Amendment) Bill, 2010. The Chairman observed that the Committee had been pre-occupied with the NDMC (Amendment) Bill, 2010 for the last two months and could consider the Arms (Amendment) Bill only in four sittings. Besides, the Ministry of Home Affairs had in certain respects not satisfactorily responded to the issues raised by the Members of the Committee and in other matters, did not respond at all. Moreover, the written comments of the Ministry on the issues raised by the Members in its meeting held on 28<sup>th</sup> December, 2010 had just been received.

4.1 Some Members were of the view that the Committee should hear non-official witnesses on the Bill and in view thereof the Committee needed at least three to four sittings to complete the remaining stages of examination of the Bill. The Committee, then, observed that after finalizing the report on the NDMC (Amendment) Bill, 2010 the Demands for Grants (2011-12) pertaining to the related Ministries/Departments would have to be examined by it in a strict time frame and consequently it would be in a position to resume consideration of the Arms (Amendment) Bill, 2010 only after completing the examination of the Demands for Grants (2011-12).

4.2 The Committee accordingly, felt that it would be necessary to seek another extension of time, upto the first day of last week of Part II of Budget Session 2011, for presenting its report on the Arms (Amendment) Bill, 2010.

5.0 The Committee, thereafter, authorized its Chairman to approach Hon'ble Chairman, Rajya Sabha for seeking further extension of time on the two Bills, as per the resolution of the Committee mentioned in paras 3.5 and 4.2 of this minutes.

### **Further discussion on New Delhi Municipal Council (Amendment) Bill, 2010**

6.0 The Committee then took up further discussion on the Bill. The Chairman observed that going by the discussion held in the Committee and the views expressed by the RWAs, the elected Member of the Delhi Legislative Assembly from New Delhi area and the spirit of the Constitution Seventy Third and Seventy Fourth Amendments, a view that had emerged was that the Committee should recommend to the Government that it would be better if NDMC was made an elected body, somewhat on the lines of the Cantonment Boards. At the same time, the Chairman also observed that another view had emerged, expressed by certain Members, in support of the Bill and in favour of retaining the present governing structure of the NDMC. The Chairman then announced that as there was no agreement in the Committee on the Bill, it would not proceed with the clause-by-clause consideration thereof. He informed Members that both the viewpoints on the Bill would be incorporated in the draft report.

6.1 The Chairman then made a pointed reference to certain statements contained in the OM dated 13<sup>th</sup> January, 2011 of the Ministry of Home Affairs which he found to be exceptionable and contrary to the objectives of the Constitution Seventy Third and Seventy Fourth Amendments.

7.0 Members then expressed the following views both in favour of and against the Bill.

#### **Against the Bill**

- The Committee should stress upon the point that NDMC should be an elected body and that the citizens could not be denied their civic rights and responsibilities.
- While making structural changes in the NDMC, the model of the Cantonment Boards should be kept in mind wherein there were components of both elected and nominated members.
- The functioning of Legislators, MPs and MLAs was completely different from the duties and responsibilities of a corporator.

- The post of the Chairman, NDMC ought not be a revolving one. In case the Chairman, NDMC was not present, there could be a Deputy Chairman to preside over the body. It would not be in order for the Chief Minister or for that matter a Minister of the Central Government to preside over the NDMC only because of protocol requirements.
- The O.M. dated 13<sup>th</sup> January, 2011 of the Ministry of Home Affairs attributed negative motives to a body whose composition was under discussion.
- There could not be a body which was not answerable to the people. The residents must have a say in the functioning of NDMC, particularly on civic matters.
- It was interesting to note that the written submissions of Ministry of Home Affairs sent to the Committee, spelling out the Government stand on the governing structure of NDMC, were strikingly identical to the speeches of the then Home Minister in both the Houses of Parliament during the debates in both the Houses on the NDMC Bill, 1994.
- If NDMC was not made an elected body then at least its name should be changed to 'New Delhi Municipal Board'.

#### In favour of the Bill

- Keeping in view, the special character of NDMC area, the amendments proposed in the Bill should be accepted in the public interest.
- The Bill was more in the nature of making procedural changes necessitated by recent developments and protocol requirements and providing additional representation in the body, which were steps in the right direction.
- The issue of direct election should not be used as a ploy to derail the passing of the proposed amendments and in effect inhibiting reform measures proposed for the NDMC.

#### General Observation

8.0 A Member observed that initially there was a near consensus in the Committee that NDMC should be made an elected body. However, as the deliberations of the Committee were drawing to a close, a section of its Members belonging to a particular political party had sent identically worded letters to the Chairman of the Committee expressing their support to the Bill. According to the Member, the division in the Committee along party lines, on a simple piece of legislation, was unfortunate. He further observed that one of the most important principle of the Committee System in Parliament was that it functioned in a non-partisan manner and decisions were taken by consensus. He felt that it would have been a happy situation if Members had expressed their views on the Bill rising above party lines. At this point, the Chairman observed that although the Members of the Committee were entitled to express their views on a subject or Bill in writing, it was a sad reflection on the functioning of the Committee System of Parliament when his office received some letters signed by a few Members, not directly from them but from a Central Minister's office.

9.0 A verbatim record of the proceedings of the meeting was kept.

10.0 The Committee then adjourned at 4.00 p.m. to meet again at 12.00 Noon on Wednesday, the 2<sup>nd</sup> February, 2011 to hear the presentation of the Home Secretary on the

Enemy Property (Amendment and Validation) Second Bill, 2010 and hold discussion thereon.

**XV**  
**FIFTEENTH MEETING**

The Committee met at 4.00 P.M. on Tuesday, the 8<sup>th</sup> March 2011 in Committee Room 'B', Ground Floor, Parliament House Annexe, New Delhi.

**MEMBERS PRESENT**

1. Shri M. Venkaiah Naidu - Chairman

**RAJYA SABHA**

2. Shri Javed Akhtar
3. Shri D. Raja

**LOK SABHA**

4. Shri L.K. Advani
5. Dr. Rattan Singh Ajnala
6. Shri L. Raja Gopal
7. Shri Mohd. Maulana Asrarul Haque
8. Shri Naveen Jindal
9. Adv. A. Sampath
10. Shri Ravneet Singh
11. Shri Harsh Vardhan
12. Shri Bhausahab Rajaram Wakchaure

**SECRETARIAT**

1. Shri Tapan Chatterjee, Joint Secretary
2. Shri P.P.K. Ramacharyulu, Director
3. Shri D.K. Mishra, Joint Director
4. Shri Bhupendra Bhaskar, Assistant Director
5. Shri Sanjeev Khokhar, Committee Officer

**Witnesses**

**National Association for Gun Rights India**

1. Shri Rao Inderjit Singh, MP (Lok Sabha)
2. Shri Rahul Rai
3. Shri Ashish Kumar Mishra
4. Shri Abhijeet Singh and others.

2.0 The Chairman apprised the Members that the meeting of the Committee had been called to hear the representatives of the National Association of Gun Rights India (NAGRI) on the Arms and Ammunition Policy and the Arms (Amendment) Bill, 2010.

**Extension of Time on Two Bills**

3.0 The Chairman stated that two Bills, namely, the Arms (Amendment) Bill, 2010 and the Enemy Property (Amendment & Validation) Second Bill, 2010 were under consideration of the Committee.

3.1 The Chairman recalled that the Arms (Amendment) Bill, 2010 was referred to the Committee on 1<sup>st</sup> September, 2010 for examination and report within three months, which was

further extended upto 18<sup>th</sup> April 2011. He also recalled that the Enemy Property (Amendment and Validation) Second Bill, 2010 was referred to the Committee on 30<sup>th</sup> December, 2010, for examination, with the direction to report by 15<sup>th</sup> February, 2011, which had further been extended upto 6<sup>th</sup> April, 2011.

3.2 The Chairman observed that due to the announcement of elections to the Legislative Assemblies of four States and one UT, the consideration and disposal of financial business was likely to be rescheduled and consequently the first part of the current Budget Session was also likely to be rescheduled, to facilitate Members of both the Houses to take part in the electioneering process. The Chairman, therefore, stated that it would not be possible to hold meetings of the Committee during the election period as there would be problem related to quorum on account of Members preoccupation with the forthcoming Assembly elections.

3.3 The Chairman thus felt that it would not be possible for the Committee to complete the remaining stages of examination of the Enemy Property (Amendment & Validation) Second Bill, 2010 and the Arms (Amendment) Bill, 2010 within the extended dates, i.e. 6<sup>th</sup> April, 2011 and 18<sup>th</sup> April, respectively. The Chairman was of the view that Hon'ble Chairman may be approached to grant further extension of time to the Committee to present its reports on the two Bills.

3.4 As regards the Enemy Property (Amendment & Validation) Second Bill, 2010, the Chairman was of the view that due to the complex legal and other issues involved in the Bill; a Press Note having been issued inviting public opinion on the Bill; the need to record oral evidence of the Chief Secretaries of the concerned State Governments and some stakeholders; consideration of voluminous memoranda; and the possibility of visit of the Committee or a sub-committee thereof, to a few selected places, the Committee may need a longer period of time to complete the said stages of consideration of the Bill.

3.5 The Committee unanimously endorsed the proposal of its Chairman and decided that Hon'ble Chairman may be requested to grant another extension of time to it in respect of the two Bills, as per the following Table:

	<b>Name of the Bill</b>	<b>Extension sought upto</b>
(1)	Arms (Amendment) Bill, 2010	10 <sup>th</sup> June, 2011
(2)	The Enemy Property (Amendment & Validation) Second Bill, 2010	Last week of the Monsoon Session of Parliament, 2011

3.6 The Committee accordingly authorized its Chairman to approach Hon'ble Chairman for the purpose.

### **Oral Evidence on Arms (Amendment) Bill, 2010**

4.0 The Chairman informed Members that he had received a request from an NGO, named the National Association for Gun Rights India (NAGRI) for making a presentation on the Arms and Ammunition Policy and the Arms (Amendment) Bill, 2010. He had granted that request and the representatives of that organization were present for the purpose. He informed Members that they would screen a short-film on the subject followed by a power point presentation.

#### ***[On the arrival of witnesses]***

4.1 The Chairman thereafter welcomed the representatives of NAGRI and asked them to screen the short film first and then make a presentation.

*[Shri L. Raja Gopal in the Chair]*

5.0 A short film titled “Guns For Peace” was screened for the Members of the Committee. The representatives of NAGRI made the following points while urging for a liberal arms licensing regime for law abiding citizens:

- The Arms Act, 1959 has been amended from time to time but in a proper way. However, the recent Arms Rules have been brought in clandestinely. The Home Ministry should have brought this issue before the Standing Committee on Home Affairs, or before the Parliament and there could have been a general debate on the whole issue.
- After enactment of this rule, All India Licences are now to be approved directly by the Ministry of Home Affairs and those licences are being renewed only for three States.
- Section 9 of Arms Act deals with people who are prohibited from owning firearms. Section 13 deals with the issuance of arms licences and section 14 deals with refusal of grant of a licence. By making it compulsory to prove ‘grave and imminent threat’, in effect, all three sections of the Act have been amended without amending the law.
- There are already provisions in the Act that if someone misuses his licenced firearm, his licence can be suspended or cancelled. There is also a provision in the Act that if there is any doubt or any other contingency, the licencing authority can call the licence holder to produce his arms for inspection. Then, why does a license needs to be renewed every three years?
- The Law recognizes a citizen’s right to self-defence. However, when a person uses a licensed firearm in self-defense, the Police register a case u/s 307 of IPC which is ‘attempt to murder’. Even those who have licensed arms are afraid to use them to defend their home and family, because the police will file a case u/s 307. If a person shoots someone while defending his life, property, the property of his neighbour or his own family, then he is liable to go to jail for his act in self-defence as the police will register a case of murder against him. Therefore, the penal law needs to be amended suitably so that a person who uses his licenced firearm in self-defence, is not charged with murder.
- Professional shooters of India are unable to get their arms licences renewed even though the Home Ministry has given specific directions that these rules are not applicable to renowned shooters of India. The National Rifle Association of India is extremely distressed that even this highly legitimate and honourable sport is being affected by these new rules.

6.0 A representative of NAGRI then made a presentation before the Committee on the subject. The highlights of the presentation are as follows:

- The Ministry has issued a directive dated 06.04.2010 (addressed to all State/UT Home Deptts.) for ‘strict compliance’ for implementing its new Arms & Ammunition Policy. This directive has in effect changed the law without

parliamentary approval. It has eroded the civil rights of more than a billion Indian citizens. Even one year on, the Ministry has not even tabled the new Policy before the Houses. While the Arms (Amendment) Bill, seeks only to make a minor change, the real motive behind moving this amendment is to mislead the Parliament and surreptitiously obtain parliament's approval to the new policy. The Bill is an eyewash because real changes have already been made via Arms & Ammunition Policy.

- Even during the pre-2010 period, hangover from the days of the British Raj continued as system was stacked against citizens as applicants were forced to prove "need" for arms licences.
- Allahabad High Court has observed that only respectable and peace loving persons require licence for firearms. The Court has also observed that unnecessary rejection of applications for grant of firearm licence breeds a tendency to keep unlicensed arms. The new Arms & Ammunition Policy negates the 'Objects & Reasons' of the Arms Act, 1959.
- The observation in the Policy and the Amendment Bill, namely "The proliferation of arms, whether licenced or illegal, vitiates the law and order situation" is an affront to all law-abiding citizens by equating them with criminals and anti-social elements. The Ministry has so far offered no evidence to back up their claim that licenced arms are a law and order problem. In response to a question, the Home Ministry has admitted that no study was conducted prior to initiating these amendments to the law.
- According to NCRB data of 2007, in 99.99% of total crimes and 98.21% of total murders, licensed arms were not used.
- Persons having arms licences face problems during renewal of their licences every three years. After enactment of the proposed Bill, it would become more cumbersome as the licensing authority would renew license only after receipt of mandatory police verification. Even Punjab and Harayana High Court has observed that the law should be such as may repose confidence in the citizens that they are presumed to be responsible in using licensed arms to defend themselves and one such measure would be to amend the Arms Act and Arms Rules suitably to prescribe that the arms licences are required to be renewed after every 10 years.
- The Ministry has now directed that licences only be issued to applicants who face a grave and imminent threat to their lives. This threat perception is now to be separately verified by the police. How many ordinary citizens can prove such a threat perception? This may encourage corrupt practices and force many applicants to use dubious methods to prove this threat.
- Additional provisions have been introduced through the Ministry's Arms and Ammunition Policy, which will lead to increased harassment of citizens and directly promote corrupt practices e.g. the new requirement to report use of and

prove how/where/when every single round of ammunition was used, is both impractical and a needless burden on licence holders.

6.1 In the light of the presentation made, the representatives of NAGRI stated that the citizens' rights were being eroded and the Ministry of Home Affairs was taking the citizens and the Parliament for granted. They requested the Committee to take a stand in favour of rights of the citizens and help empower law-abiding citizens as envisaged in the Arms Act 1959 and allow citizens to have a fair chance against criminals and anti-social elements.

6.2 The Chair and Members of the Committee then raised various issues and queries which were replied by the representatives of NAGRI.

7.0 A verbatim record of the proceedings of the meeting was kept.

8.0 The Committee then adjourned at 5.21 p.m.

## XVI

### SIXTEENTH MEETING

The Committee met at 3.30 P.M. on Tuesday, the 15<sup>th</sup> March 2011 in Main Committee Room, Ground Floor, Parliament House Annexe, New Delhi.

#### MEMBERS PRESENT

1. Shri M. Venkaiah Naidu - Chairman

#### RAJYA SABHA

2. Shri Rishang Keishing
3. Shri Javed Akhtar
4. Shri D. Raja

#### LOK SABHA

5. Shri L.K. Advani
6. Dr. Rattan Singh Ajnala
7. Shri Mohd. Maulana Asrarul Haque
8. Shri Naveen Jindal
9. Shri Lalubhai Babubhai Patel
10. Shri Natubhai Gomanbhai Patel
11. Shri Neeraj Shekhar
12. Shri Bhausahab Rajaram Wakchaure

#### SECRETARIAT

1. Shri Tapan Chatterjee, Joint Secretary
2. Shri P.P.K. Ramacharyulu, Director
3. Shri D.K. Mishra, Joint Director
4. Shri Bhupendra Bhaskar, Assistant Director
5. Shri Sanjeev Khokhar, Committee Officer

2. At the outset, the Chairman welcomed the Members to the sitting of the Committee and apprised them about the agenda for the day. He mentioned that Hon'ble Chairman had granted extension of time to the Committee upto 18<sup>th</sup> April 2011 for presentation of report on the Arms (Amendment) Bill, 2010. He recapitulated that the Committee had devoted fourteen sittings, commencing from January, 2010 to consider the Arms Policy and matters related thereto. He reminded Members that the Committee in its sitting held on 8<sup>th</sup> March 2011 heard the representatives of National Association for Gun Rights, India (NAGRI) and sought further extension of time from the Hon'ble Chairman, Rajya Sabha upto 10 June 2011 for presentation of its report on the Bill due to re-scheduling of the Budget Session of Parliament, on account of forthcoming elections in four States and the UT of Puddicherry.

3. He then invited the Members to express their views on the subject so as to facilitate the Committee Secretariat to draft the report based on the views arrived in the Committee.

4. The Chairman, thereafter apprised the Members that the Hon'ble Chairman, Rajya Sabha, has written a letter to the Leaders of Political Parties in Parliament expressing concern about the attendance in the meetings of the Standing Committees. He regretted that at times not even half of the numbers of Members were present in the sittings of the Committee and sometimes meetings had to be adjourned for lack of quorum. He appealed to the Members to take note of observation of Chairman, Rajya Sabha and to ensure that the Members regularly attend the Committee's meetings.

5.0 The following views were expressed by the Members on the subject matter of the day's agenda:

- (i) Paragraph 3 of the Statement of Objects and Reasons of the Bill is in contrast to the objects and reasons of the Arms Act 1959 where the thrust is to streamline the procedure facilitate grant of licenses to law abiding citizens for arms and ammunition.
- (ii) The advisory dated 6<sup>th</sup> April 2010 tantamounts to amending the Arms Act, 1959 without actually amending the Act. The Ministry should move required amendments to the Act and get them approved by Parliament rather than making policy changes by issuing advisories.
- (iii) The advisory stipulates that in order to get a license there should be a verifiable threat perception to the life of the applicant. This gives immense discretionary power to the issuing authority and the implementation of relevant law becomes very subjective.
- (iv) For all practical purposes licensed weapons are not being misused. The general approach, therefore, should be that, unless there is something against the person who applies for a license, it should be issued to him/her. The condition of there being a threat to life, before giving license, is absolutely not required.
- (iv) Most of the crimes are committed by using unlicensed arms and the new policy will lead to proliferation of unlicensed arms

7. The Committee thereafter directed the Secretariat that the opinion of the Ministry of Law and Justice (Department of Legal Affairs) may be sought on the following question:

“Whether the instructions issued by the Ministry of Home Affairs vide their communication No. V-11010/16/2009-Arms dated 6.4.2010 to all State Governments and UTs tantamount to amending the various sections of the Arms Act, 1959, in particular Sections, 9, 13 and 14 thereof, without seeking parliamentary approval, by way of bringing suitable amendments to the Arms Act, 1959 through appropriate amendment Bill?”

8. The Chairman then asked the Members to come fully prepared for the next meeting after which the process of drafting the Report would commence. He requested the Members to give their opinion in writing, if they feel so.

9.0 A verbatim record of the proceedings of the meeting was kept.

10.0 The Committee then adjourned at 4.10 p.m.

## **XVIII**

### **EIGHTEENTH MEETING**

The Committee met at 11.30 A.M. on Monday, the 25<sup>th</sup> April 2011 in Room No. 63, First Floor, Parliament House, New Delhi.

#### **MEMBERS PRESENT**

1. Shri M. Venkaiah Naidu - Chairman

#### **RAJYA SABHA**

2. Shri Rishang Keishing
3. Shri S.S. Ahluwalia
4. Shri Naresh Chandra Agrawal
5. Dr. V. Maitreyan
6. Shri D. Raja

#### **LOK SABHA**

7. Shri L.K. Advani
8. Dr. Rattan Singh Ajnala
9. Shri Raman Deka
10. Shri L. Raja Gopal
11. Shri Mohd. Maulana Asrarul Haque
12. Shri Naveen Jindal
13. Shri Lalubhai Babubhai Patel
14. Shri Natubhai Gomanbhai Patel
15. Shri Bishnu Pada Ray
16. Adv. A. Sampath
17. Shri Neeraj Shekhar
18. Shri Ravneet Singh
19. Shri Harsh Vardhan
20. Shri Bhausahab Rajaram Wakchaure
21. Shri Dinesh Chandra Yadav

#### **SECRETARIAT**

1. Shri P.P.K. Ramacharyulu, Director
2. Shri Bhupendra Bhaskar, Assistant Director
3. Shri Sanjeev Khokhar, Committee Officer

#### **Obituary Reference**

2.0 At the outset, the Chairman made a reference to the passing away of Sri Sathya Sai Baba, world renowned spiritual leader and philanthropist revered by millions of followers as a living God on 24<sup>th</sup> April, 2011.

2.1 The Committee then observed silence, all Members standing, as a mark of respect to the departed soul.

**Enemy Property (Amendment & Validation) Second Bill, 2010.**

3.0 The Chairman then informed the Members that the Committee may constitute a Sub-Committee to examine and report to it on the Enemy Property (Amendment & Validation) Second Bill, 2010. After some discussion, the Committee agreed to the proposal and decided that the sub-Committee may comprise the following Members:

- |    |                                  |   |          |
|----|----------------------------------|---|----------|
| 1. | Shri M. Venkaiah Naidu           | - | Chairman |
| 2. | Shri S.S. Ahluwalia              | - | Convenor |
| 3. | Shri Naresh Chandra Agrawal      |   |          |
| 4. | Shri D. Raja                     |   |          |
| 5. | Shri Neeraj Shekhar              |   |          |
| 6. | Shri Harsh Vardhan               |   |          |
| 7. | Shri Rattan Singh Ajnala         |   |          |
| 8. | Dr. V. Maitreyan                 |   |          |
| 9. | Shri Mohd. Maulana Asrarul Haque |   |          |

3.1 The Committee authorized its Chairman to constitute the sub-Committee.

**Draft 151<sup>st</sup> Report on Arms (Amendment) Bill, 2010**

4.0 The Committee then took up for consideration the draft 151<sup>st</sup> report of the Committee on the Arms (Amendment) Bill, 2010. The Chairman recapitulated that there is a difference of approach between the Government and the Committee. He added that the Government didn't give adequate and due respect to the views of the Committee and in such a scenario, it was not possible to take up clause-by-clause consideration of the Bill. He further added that the Committee should convey its displeasure in this regard to the Government.

4.1 Thereafter, the Committee discussed in detail the draft 151<sup>st</sup> Report and adopted the same with some changes. The Committee decided to lay the Evidence tendered before it, alongwith the Report. The Committee also decided to present 149<sup>th</sup> and 150<sup>th</sup> Reports, which were earlier adopted by it, along with the 151<sup>st</sup> Report. Since, the 151<sup>st</sup> Report had to be presented before 10<sup>th</sup> June, 2011, being the last date for presenting the same and since the House would not be in Session till then, the Committee decided to present the above mentioned three Reports to Hon'ble Chairman, Rajya Sabha during the current inter-session period. The Committee authorized its Chairman to do the needful.

5.0 A verbatim record of the proceedings of the meeting was kept.

6.0 The Committee then adjourned at 12.50 P.M.

# **ANNEXURE**