

Select Committee Report Summary

The Enemy Property (Amendment and Validation) Bill, 2016

- The Select Committee of Rajya Sabha (Chairperson: Mr. Bhupender Yadav) submitted its report on the Enemy Property (Amendment and Validation) Bill, 2016 on May 6, 2016. The Bill was passed by Lok Sabha on March 9, 2016, and referred by Rajya Sabha to a Select Committee on March 15, 2016. It seeks to amend the Enemy Property Act, 1968.
- The central government had designated some properties belonging to nationals of Pakistan and China as ‘enemy property’ during the 1962, 1965 and 1971 conflicts. It vested these properties in the ‘Custodian of Enemy Property’, an office of the central government. The 1968 Act regulates enemy property, and specifies the powers of the Custodian. The Bill seeks to amend the Act retrospectively from 1968 to expand the powers of the Custodian. The Committee recommended that the Bill be passed with a few amendments. Additionally, it noted some issues with administration of the 1968 Act.
- **Review of vesting by central government:** The Bill states that a person may apply to the central government against an order that vests a property, that is not enemy property, in the Custodian. It specifies that the person must apply within 30 days from the date of receiving the order. The Committee recommended that 30 days be counted from: (i) date of receipt of order, or (ii) date of its publication in the Official Gazette, whichever is earlier.
- **Bar against jurisdiction:** The Bill seeks to bar civil courts and other authorities from entertaining disputes against enemy property. The Committee recommended that a provision be added allowing a person aggrieved by an order of the central government to appeal to the High Court, regarding whether a property is enemy property. Such an appeal will have to be filed within 60 days (extendable upto 120 days).
- **Power of Custodian to evict:** The Committee recommended that while securing possession of enemy property, the Custodian must take care of the interests of the present occupants and tenants. A reasonable time period may be given to such persons to arrange for alternative accommodation.
- **Identification and disposal of enemy property:** The Committee noted that the process of identifying which properties are enemy property has not been completed. It recommended that all enemy property in the country must be identified within two years from date of enactment of the Bill. It also suggested that proper and transparent investigations must be carried out to identify enemy property. Further, the Custodian should dispose of all enemy property (which are not subject matter of disputes) without delay.
- **Notes of Dissent:** Six members of the Committee (K.C. Tyagi, K. Rahman Khan, D. Raja, P.L. Punia, Husain Dalwai, Javed Ali Khan) submitted dissent notes with regard to recommendations of the Committee. They recommended several amendments to the Bill. These include: (i) deleting the provision that declares Indian citizens, who are legal heirs of enemies, to be enemies, (ii) allowing Indian citizens who are legal heirs to inherit enemy property, (iii) removing the provision that grants the Custodian title over enemy property, and (iv) re-instating the right of the enemy to transfer enemy property.

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