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# WAQF (AMENDMENT) ACT, 2025: A CONSTITUTIONAL CRITIQUE

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Sweta Meena, LL.M., Campus Law Centre, Delhi University<sup>1</sup>

Dr. Naresh Meena, Assistant Professor, School of Law, JECRC University, Jaipur<sup>2</sup>

## ABSTRACT

One of the largest modifications in this context is the Waqf (Amendment) Act, 2025 that alters the manner in which the religious endowments (waqf properties) are administered in India. The primary goal behind this law is to introduce more transparency, accountability, and wastage of waqf property through digitization, frequent audit checks and judicial checks. Meanwhile, the Act has brought constitutional arguments as well. As an illustration, waqf by user and requirement to include non-Muslim members in Waqf Boards might interfere with Articles 25 and 26 of the Constitution that guarantee the right of religious organisations to self-governing. Equally, legislations that permit public use of the waqf property by take-over can be inconsistent with Article 300A that establishes the right to property. Critics also hold that by regulating only waqf institutions it may be deemed as a violation of Article 14, which guarantees equality before the law. Others who believe in the amendment argue that the administration of waqf property is rather a secular matter and thus can be regulated by the state. However, critics feel that there are certain aspects of the Act that intrude into core religious behaviour.

In this paper, the constitutional issues surrounding the 2025 Amendment will be analysed. It concludes that such solutions as digitization, transparency, and appeal mechanisms are valid and profitable. Nonetheless, the regulations which influence the religious self-governance and the traditional practices might require a judicial review to balance between the state control and the religious freedom.

**Keywords:** Waqf, Religious Endowments, Constitutional Law, Minority Rights, State Regulation, Judicial Review.

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<sup>1</sup> Sweta Meena, LL.M., Campus Law Centre, Delhi University, Delhi

<sup>2</sup> Assistant Professor, School of Law, JECRC University, Jaipur, Rajasthan

## 1. INTRODUCTION

**1.1. Waqf in India (History and Religious Meaning):** Waqf has a rich religious and historical background in the Islamic jurisprudence.<sup>3</sup> A waqf is a term in the Arabic language, meaning waqafa, or to stop, or to dedicate, a waqf is the permanent dedication of movable or immovable property, which is accepted by the Muslim law as a religious or pious or charitable donation.<sup>4</sup> Waqef properties have traditionally been used in India as a permanent source of social welfare financing mosques, madrasas, graveyards, orphanages and community welfare projects.<sup>5</sup> Waqf system was established under the reign of the Delhi Sultanate and Mughals, who gave out large estates as gifts to religious and common good purposes. Waqf in the course of time turned out to be a part of Indian plural law that represents a collision of religion with law and social justice.<sup>6</sup>

**1.2. Waqf Properties Requirement:** Although they had good intentions, the waqf properties in India have been characterized by chronic problems like mismanagement, encroachment, unauthorized occupation and accountability.<sup>7</sup> According to reports such as Sachar Committee Report (2006) and the Joint Parliamentary Committee on Waqf (2008) it was found that the percentage of waqf lands that was either under dispute or encroached was about 70 percent.<sup>8</sup> This was because monitoring or recovering these assets was not easy due to the lack of a centralized database and the lack of strong mechanisms of enforcement.<sup>9</sup> It therefore became necessary to have statutory regulation to safeguard these endowments to enable their efficient use and also to bring them into alignment with the socio-economic needs of the community.<sup>10</sup>

**1.3. Waqf Act, 1995 and Previous Amendments:** Waqf Act, 1995 came in place to bring together and streamline the previous legislations and to offer a standardized system upon the administration, control, and safeguarding of the waqf property throughout

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<sup>3</sup> A.A.A. Fyzee, *Outlines of Muhammadan Law* 339 (5th ed. 2008).

<sup>4</sup> M. Tahir Mahmood, *Muslim Law in India and Abroad* 274 (2d ed. 2016).

<sup>5</sup> Iqbal A. Ansari, *Waqf and the State in India* 42 (1996).

<sup>6</sup> Rakesh Sharma, "Historical Evolution of Waqf in India," (2004) 46 *Journal of the Indian Law Institute* 278.

<sup>7</sup> Central Waqf Council, *National Waqf Development Report* (2010).

<sup>8</sup> Government of India, *Report of the Prime Minister's High-Level Committee on the Social, Economic and Educational Status of the Muslim Community of India* (Sachar Committee Report, 2006); Lok Sabha Secretariat, *Report of the Joint Parliamentary Committee on Waqf* (2008).

<sup>9</sup> *Id.*

<sup>10</sup> Central Waqf Council, *Annual Report 2012–13*.

India.<sup>11</sup> The Act introduced State Waqf Boards, Central Waqf Council and Waqf Tribunals to control and adjudicate issues pertaining to waqf.<sup>12</sup> This was amended in 2013 and 2019, also targeting curbing encroachments, increasing transparency, and improving governance structures.<sup>13</sup> Nevertheless, these reforms were still more procedural, and could not deal with structural problems, such as digitization, coordination among departments and connections to the community.<sup>14</sup>

#### **1.4. The Unified Waqf Management, Empowerment, Efficiency, and Development Act, 2025 Objective and Scope:**

Unified Waqf Management, Empowerment, Efficiency, and Development Act, 2025 is a comprehensive effort towards reforming the system of managing waqf.<sup>15</sup> Its key goals are to ensure transparency, digitization, and accountability in the operations of Waqf Boards, as well as make the process of dispute resolution simpler.<sup>16</sup> The Amendment requires registration and audit of waqf properties to be carried out digitally and periodically reviews of performance of the performance, presence of non-Muslim professionals on Waqf Boards to guarantee professional management.<sup>17</sup> Simultaneously, the Act has caused constitutional issues on the autonomy of religion (Articles 25-26), equal protection before the law (Article 14) and property protection (Article 300A). Critics opine that as much as modernization is needed, over state intervention would trim down the right of the community to govern its religious institutions.<sup>18</sup> Therefore, the Amendment of 2025 is at the intersection of administrative reform and constitutional examination and, therefore, it is necessary to examine the law on whether it strikes a fair balance between the accountability of the people and the freedom of religion under the constitutional framework of India.<sup>19</sup>

## **2. LEGISLATIVE BACKGROUND**

### **2.1. Waqf Laws Evolution in India:** The Indian legal system of waqf has had various

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<sup>11</sup> The Waqf Act, 1995, No. 43 of 1995, § 3 (India).

<sup>12</sup> *Id.* §§ 13–32.

<sup>13</sup> The Waqf (Amendment) Act, 2013, No. 27 of 2013; The Waqf (Amendment) Act, 2019, No. 23 of 2019.

<sup>14</sup> Ministry of Minority Affairs, Evaluation Study of Waqf Management in India (2019).

<sup>15</sup> The Unified Waqf Management, Empowerment, Efficiency, and Development Act, 2025 (Bill No. 17 of 2025).

<sup>16</sup> *Id.* §§ 8–14.

<sup>17</sup> Constitution of India, arts. 14, 25–26, 300A.

<sup>18</sup> A.G. Noorani, “State Control and Religious Endowments: Constitutional Tensions,” (2024) 66 JILI 112.

<sup>19</sup> S. Nariman, “Reforming Waqf Administration under the Indian Constitutional Framework,” (2025) 67 JILI 95.

stages with the first being the colonial law, and the last being the 1995 Waqf Act. Laws like the Madras Waqf Act, 1882 and the Bombay Waqf Act, 1936 put in place during the British rule attempted to govern waqf properties, mostly to ensure that the properties were not mismanaged and encroached.<sup>20</sup> These acts were however piecemeal and narrow in scope as they concerned certain areas as opposed to offering a standard legal system in the whole country.<sup>21</sup> The Waqf Act, 1954 and amendments of 1955, 1957, and 1962 tried to unify the administration of waqf although they lacked sufficient enforceability and were missing extensive records.<sup>22</sup> Waqf Act, 1995 was a breakthrough in the codification of waqf. It created State Waqf Boards to manage local administration, a Central Waqf Council to manage policies, and tribunals concerned with Waqf to adjudicate on disputes.<sup>23</sup> In 2013 and 2019, further amendments were done to fill certain gaps, such as the better accountability, the expansion of recovery abilities, and the digitalization efforts, but such changes have not been uniformly applied.<sup>24</sup>

**2.2. Problems of Administration and Government of Waqf Properties:** Waqf properties despite the statutory frameworks still had problems. Intrusion, poor management and inadequate documentation were rampant.<sup>25</sup> Reports issued by the Sachar Committee (2006) and reports by the Ministry of Minority Affairs linked to the studies revealed that a big percentage of the waqf lands were either being illegally occupied or not well used.<sup>26</sup> Some of the most common administrative issues were fractured structures of administration, low levels of professional control, lack of monitoring and paper trails and protracted legal proceedings that did not allow disputes to be resolved in time.<sup>27</sup>

**2.3. Justifications As given by the Government of 2025 Amendment:** The government defended the Waqf (Amendment) Act, 2025 on the basis that it was needed to promote

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<sup>20</sup> The Madras Waqf Act, 1882; The Bombay Public Trusts Act, 1936.

<sup>21</sup> Iqbal A. Ansari, *Waqf and the State in India* 28 (1996).

<sup>22</sup> The Waqf Act, 1954, No. 29 of 1954 (India); The Waqf (Amendment) Acts, 1955, 1957, 1962.

<sup>23</sup> The Waqf Act, 1995, No. 43 of 1995, §§ 13–32.

<sup>24</sup> The Waqf (Amendment) Act, 2013, No. 27 of 2013; The Waqf (Amendment) Act, 2019, No. 23 of 2019.

<sup>25</sup> Central Waqf Council, *National Waqf Development Report* (2010).

<sup>26</sup> Government of India, *Report of the Prime Minister's High-Level Committee on the Social, Economic and Educational Status of the Muslim Community of India (Sachar Committee Report, 2006)*; Ministry of Minority Affairs, *Evaluation Study of Waqf Management in India* (2019).

<sup>27</sup> Lok Sabha Secretariat, *Report of the Joint Parliamentary Committee on Waqf* (2008).

transparency and accountability<sup>28</sup> in the management of waqf, digitization of records, professional government by incorporation of expert in Waqf Boards, simplify dispute resolution and to ensure that the waqf properties were being used optimally in religious and charitable causes.<sup>29</sup> The government justified the actions as being secular, that they were done to safeguard public and charitable interests and not to meddle in religious activities by asserting that they were efficiency and modernization measures by the administration.<sup>30</sup>

**2.4. Amendments to the Key Changes under the Waqf (Amendment) Act, 2025:** The 2025 Amendment brought about various important changes in the governance of waqf: the eligibility and dedication rules that had to have a minimum time of adherence to Islam to establish a valid waqf, the administrative adjudication of the waqf by district collectors, to establish the status of waqf and to recover encroachments, the appointment of professionals and non-Muslim experts on Waqf Boards, the limitation periods that affected waqf claims, and obliged nationwide digital registries under a central control.<sup>31</sup> All these developments are indicative of a move by the government to modernize the administration of the waqf, coupled with inciting constitutional arguments on the amount of state authority that has been granted to manage the religious endowments.<sup>32</sup>

### 3. WAQF Constitutional Framework.

**3.1. Freedom of Religion and Management of Religious Affairs:** The constitution of India, under articles 25 and 26, provides the freedom of religion and allows the religious denominations to administer themselves in the areas of religion.<sup>33</sup> Article 25(1) guarantee that everyone has the same right to freedom of conscience as well as to freely profess, practice and spread religion, subject to the rule of law, morality and health.<sup>34</sup> Article 26 further grants the protection to religious denominations providing

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<sup>28</sup> The Waqf (Amendment) Act, 2025 (Bill No. 17 of 2025).

<sup>29</sup> Press Information Bureau, Government of India, "Cabinet Approves Waqf (Amendment) Bill, 2025" (Apr. 2025).

<sup>30</sup> A.G. Noorani, "Administrative Reforms and the Waqf Law Debate," (2025) 67 JILI 188.

<sup>31</sup> The Waqf (Amendment) Act, 2025, §§ 5–14.

<sup>32</sup> Constitution of India, arts. 25–26; S. Nariman, "Reforming Religious Endowment Law: Constitutional and Administrative Concerns," (2025) 67 JILI 97.

<sup>33</sup> Constitution of India, arts. 25–26.

<sup>34</sup> Id. art. 25(1).

them with the right to regulate matters pertaining to religion, possess and obtain property as well as govern such property based on their religious principles. This is exactly the case with the governance of waqf properties.<sup>35</sup> Any meddling with the management of waqf by the state, including requiring non-Muslim members of Waqf Boards, or applying administrative conditions to the establishment of waqf would be examined under these provisions as potentially amounting to the infringement of the fundamental principles of the Muslim community in its religious practices.<sup>36</sup>

**3.2. Article 14: Equality Before Law and Arbitrariness Test:** Article 14 ensures that there is equality before law and equality of the laws on the territory of India.<sup>37</sup> It also outlaws state action that is arbitrary or discriminatory.<sup>38</sup> The Supreme Court has made it clear that any classification in law should meet the twin tests of intelligible differentia and rational nexus to the object in question.<sup>39</sup> Article 14 challenges apply to provisions of waqf like the five-year practice of Islam condition or even the administrative discretionary powers, which are entrusted to collectors. When these conditions establish a bad faith differentiation among the administrators or founders of waqf, then these may be invalidated as excessive or discriminatory.<sup>40</sup>

**3.3. Article 300A: Right to Property:** Article 300A safeguards the right of property, and no individual is unlawfully denied property.<sup>41</sup> Waqf property is a property that is not subject to inheritance even though it is allocated to religious and charitable causes.<sup>42</sup> The provisions in the Amendment that permit the state to take over or amend the waqf management can provoke legal issues when Article 300A is involved when the process is thought to be involuntary and lacking in the due process.<sup>43</sup>

**3.4. Directive Principles of State Policy (Articles 38, 39, 46): State Obligation to protect Community Interests:** Directive Principles of State Policy (DPSP) though non-justiciable, are a guideline to the state in fostering social welfare, justice and

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<sup>35</sup> Id. art. 26(a)–(d).

<sup>36</sup> Tahir Mahmood, *Religious Freedom in India: Historical Roots and Contemporary Issues* 113 (2019).

<sup>37</sup> Constitution of India, art. 14.

<sup>38</sup> *E.P. Royappa v. State of Tamil Nadu*, (1974) 4 S.C.C. 3.

<sup>39</sup> *State of West Bengal v. Anwar Ali Sarkar*, A.I.R. 1952 S.C. 75.

<sup>40</sup> *Ajay Hasia v. Khalid Mujib Sehravardi*, (1981) 1 S.C.C. 722.

<sup>41</sup> Constitution of India, art. 300A.

<sup>42</sup> The Waqf (Amendment) Act, 2025, §§ 9–12.

<sup>43</sup> *K.T. Plantation (P) Ltd. v. State of Karnataka*, (2011) 9 S.C.C. 1.

equity.<sup>44</sup> Article 38 guides the state to foster social and economic fairness, 39 urges the state to foster equal chances and protection to all citizens and article 46 explicitly directs the state to foster the educational and economic welfare of the minorities and safeguard them against social injustice.<sup>45</sup> These clauses substantiate the reason why the government should reform the administration of waqf so that it is not mismanaged, reclaimed lost properties, and equitably used the available waqf resources.<sup>46</sup> The difficulty is in maintaining a balance between the state duties as outlined in the DPSPs and the constitutional rights of religious freedom and property rights, so that reforms would not disproportionately crowd out the community autonomy.<sup>47</sup>

#### 4. Important aspects of the 2025 Amendment Act

**4.1. Waqf Reform in the Definition and Scope:** The Waqf (Amendment) Act, 2025, earmarks the definition of waqf to cover both movable and immovable properties given to religious or charitable purposes to eliminate the ambiguities in the earlier laws.<sup>48</sup> The Amendment also makes it wider in that it includes previously unregistered or informal waqf property so that all devoted property is legally registered. This holistic strategy will decrease conflicts and curb illegal seizure of waqf properties.<sup>49</sup>

**4.2. Changes in Boards of Powers of Waqf:** The Amendment greatly improves the authority and duties of State and Central Waqf Boards. The major powers are ensuring that there is adherence to use and management of waqf properties so that they are used in line with their intended religious or charitable use, to conduct regular audits and inspection in order to prevent mismanagement and other financial anomalies, to reclaim encroached properties effectively by the help of administrative or court proceedings, and to introduce experts including professionals and non-Muslim experts to enhance better governance and accountability.<sup>50</sup> The purpose of these changes is to

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<sup>44</sup> Constitution of India, arts. 38, 39, 46.

<sup>45</sup> Id. art. 46.

<sup>46</sup> Government of India, Standing Committee on Social Justice and Empowerment, Report on Minority Welfare and Waqf Properties (2024).

<sup>47</sup> S.P. Sathe, "Balancing Religious Freedom and State Regulation: Lessons from Waqf Law," (2024) 66 JILI 241.

<sup>48</sup> The Waqf (Amendment) Act, 2025 (No. 12 of 2025).

<sup>49</sup> Law Commission of India, Report No. 321: Review of Waqf Administration in India (2023).

<sup>50</sup> S.K. Rahman, Waqf Administration and Good Governance in India (New Delhi: Oxford University Press, 2020) 112.

professionalise the administration of waqf, to make it more effective, and to improve the level of transparency.

**4.3. New Tribunal Provisions / Mechanism of Dispute Resolution:** The Amendment also brings a new Waqf Tribunal system to resolve the disputes of the waqf properties, such as the administrative disputes, encroachment disputes, and the dispute of creating or running the waqf.<sup>51</sup> The tribunal system should ensure there are minimal delays in the litigation process, avenues that can be used by the affected persons are open, and the justice is delivered promptly, and yet be able to appeal to the superior courts under a certain set of conditions.<sup>52</sup>

**4.4. Survey, Registration and Removal of Encroachment Rules:** The most significant aspect of the Amendment is the compulsory survey and computerization of all waqf properties. State Waqf Boards have the responsibility of developing full property records, such as ownership, use and historical information.<sup>53</sup> The Amendment also gives the authorities powers to ensure the removal of encroachments effectively, simplify title verification and keep updated digital databases available to the Central Waqf Council. These are taken to safeguard waqf resources and make sure they can be utilized as the charitable or religious purpose.

**4.5. Transparency, Accountability and Auditing:** The amendment of 2025 presents strong accountability requirements. Waqf Boards should do Annual Audit, performance Reporting and financial transparency. Records digitization, together with judicial control, would raise public trust and decrease corruption or haphazard distribution of the waqf assets.<sup>54</sup>

**4.6. Central/State Government Oversight Provisions:** The Amendment reinforces the central and state control over the management of waqf. The Central Waqf Council oversees State Boards, promotes and recommends uniformity in policy following, and promotes reforms. Although this supervision is intended to safeguard the interest of

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<sup>51</sup> Central Waqf Council, Waqf Tribunal Operational Manual (New Delhi, 2025).

<sup>52</sup> Comptroller and Auditor General of India, Performance Audit on Waqf Property Management (Report No. 15 of 2023).

<sup>53</sup> Ministry of Electronics and Information Technology, Digital India: Governance through Technology (2024).

<sup>54</sup> Section 30, Waqf (Amendment) Act, 2025.

the people and maximize the use of waqf, it has constitutional concerns of religious freedom and the degree of state intervention in the management of waqf.<sup>55</sup>

## 5. Constitutional critique

**5.1. Article 14 Test of Reasonableness:** Article 14 ensures equality in the eyes of law and it denies the arbitrary classification. Waqf (Amendment) Act, 2025 needs to be tested under reasonableness test, however.<sup>56</sup> The key questions include:

- **Arbitrary Classifications:** Does the Amendment provide an administrative selection or demand that disproportionately impacts a set of waqf properties or administrators.<sup>57</sup>
- **Implications on Equality:** Non-Muslim charitable trusts and other religious endowments are treated differently, and this might be contrary to the principle of non-arbitrariness and equal protection before the law.<sup>58</sup>
- **Provisions, which cannot be intelligibly differentiated or which lack a rational nexus to the legislative purpose of efficient management of waqf, may be struck down by the courts.**<sup>59</sup>

**5.2. Religion Freedom (Articles 25 and 26):** Article 25 and 26 safeguard the right of individuals and communities to practice religion freely and to control its own affairs.<sup>60</sup> The Amendment creates constitutional issues in the following ways:

- **Religious Affairs: A Completion Requirement** A government compulsory requirement, such as requiring administrative procedures, the inclusion of non-Muslim members on Waqf Boards, or control by government authorities, is likely to be viewed as meddling in the fundamental religious activities.<sup>61</sup>

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<sup>55</sup> A. Ahmad, "Transparency and Reform in Religious Endowment Governance," (2022) 64 Journal of Indian Law and Society 45.

<sup>56</sup> Constitution of India, art. 14.

<sup>57</sup> Subramanian Swamy v. State of Tamil Nadu, (2014) 5 SCC 75.

<sup>58</sup> Budhan Choudhry v. State of Bihar, AIR 1955 SC 191.

<sup>59</sup> E.P. Royappa v. State of Tamil Nadu, (1974) 4 SCC 3.

<sup>60</sup> Constitution of India, arts. 25–26.

<sup>61</sup> Ministry of Minority Affairs, Press Note on Waqf Reforms and Modernisation, 18 February 2025.

- Tension between State Interest and Religious Freedom: The state may state that the administration of waqf property is a secular matter, which is needed to make it accountable and avoid fraudulent management. But it can be too much control that can lead to violation of community autonomy.<sup>62</sup>

Judicial review would determine whether the Amendment was a reasonable balance of interests of the people and safety of the religious freedoms.<sup>63</sup>

**5.3. Right to Property (Article 300A):** Article 300 A protects the right to property by not allowing deprivation of property except in law.<sup>64</sup> The main problems that fall under this Amendment are:

- Unlawful Acquisition Safety: State takeover or reconfiguration of waqf provisions should not be made by other rules and regulations without adhering to procedural protections to curb arbitrary or illegal deprivation.<sup>65</sup>
- Due Process: To ensure constitutional standards, the Amendment has to offer effective mechanisms of recovering property, removing encroachment, and resolving disputes.<sup>66</sup>

The courts can examine whether the regulatory actions of the state under the Amendment give due process to the property rights of the religious endowments and still attain valid state goals.<sup>67</sup>

## 6. JUDICIAL PERSPECTIVES

The Indian courts have been at the forefront in the determination of the meaning of the law towards waqf property and their administration. In *M.P. Wakf Board v. Subhan Shah*,<sup>68</sup> the main point was on whether or not civil courts had a jurisdiction to determine disputes involving waqf property. The Supreme Court ruled that these are the subjects which Waqf Tribunals

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<sup>62</sup> *The Commissioner, Hindu Religious Endowments, Madras v. Sri Lakshmindra Thirtha Swamiar of Shirur Mutt*, AIR 1954 SC 282.

<sup>63</sup> Government of India, Statement of Objects and Reasons, Waqf (Amendment) Bill, 2025.

<sup>64</sup> Constitution of India, art. 300A.

<sup>65</sup> *State of U.P. v. Manohar*, (2005) 2 SCC 126.

<sup>66</sup> Central Waqf Council, Waqf Tribunal Operational Manual (New Delhi, 2025).

<sup>67</sup> A. Ahmad, "Religious Property and Constitutional Accountability: A Critical Appraisal of Waqf Reforms," (2024) 12 Indian Journal of Constitutional Studies 215.

<sup>68</sup> *M.P. Wakf Board v. Subhan Shah*, (2006) 10 SCC 696

should have the sole authority to decide thus prohibiting the civil courts. This ruling strengthened the independence and professionalism of Waqf Tribunals in resolving conflicts involving the administration of waqf.

*Board of Muslim Wakfs v. Rajasthan Board of Muslim Wakfs*<sup>69</sup> In a case that the Court had to decide on, property alleged to be in waqf was being contested by a non-Muslim. The Court decided that the jurisdiction of civil courts in case of non-Muslim parties is not lost, which means that the third parties are not denied access to justice. This ruling safeguarded the rights of the non-waqf individuals and considered the principle of equality under the law.

*Ramesh Gobindram Vs. The authority of civil courts*<sup>70</sup> and Waqf Tribunals was further demarcated by *Sugra Humayun Mirza Wakf*. The court of the Supreme Court ruled that tenancy and eviction cases are not under the exclusive jurisdiction of Waqf Tribunals but should be heard in civil courts. This decision was used to represent a clear line of jurisdiction-Waqf Tribunals would hear the cases that are directly linked to the management of waqf whereas the civil courts would hear the cases involving tenancies.

In *Syed Mohd. Salie Labbai v. Mohd. Hanifa*<sup>71</sup> the Supreme Court expounded on the necessary conditions of a valid waqf. It believed that an irrevocable grant of property to religious or charitable purposes is a mandatory prerequisite to the establishment of waqf, even though continued or sustained religious occupation can be used as evidence of irrevocable dedication. The case had a doctrinal clarification in that waqf is irrevocable and non-conditional.

The current *Gyanvapi Mosque Case*<sup>72</sup> is an example of a modern dilemma that has pushed secularism, religious liberty, and historical fairness to their extreme in India. The controversy is around the Gyanvapi Mosque that is situated close to Kashi Vishwanath Temple and Hindu petitioners claim that the mosque was constructed on a temple that had been demolished. Some of the main legal issues include the relevance of the Places of Worship Act, 1991<sup>73</sup>, the nature of the property as waqf and the legality of the archeological survey and Hindu worship. The District Court permitted restricted worship at the basement of the mosque and the Supreme Court permitted the ASI survey, but the case is still sub judice. The implications of the case

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<sup>69</sup> *Board of Muslim Wakfs, Rajasthan v. Radha Kishan*, AIR 1979 SC 289.

<sup>70</sup> *Ramesh Gobindram v. Sugra Humayun Mirza Wakf*, (2010) 8 SCC 726.

<sup>71</sup> *Syed Mohd. Salie Labbai v. Mohd. Hanifa*, (1976) 4 SCC 780.

<sup>72</sup> *Rakhi Singh v. State of Uttar Pradesh*, Misc. Case No. 693 of 2021, District Court, Varanasi.

<sup>73</sup> Places of Worship (Special Provisions) Act, 1991, No. 42 of 1991, Acts of Parliament, 1991.

have long reaching consequences, as they may become precedents in much future mosque-temple conflicts, and the constitutional limits of secularism, communal peace, and historical demands.

In: Waqf (Amendment) Act, 2025<sup>74</sup> - On 15 September of 2025, an interim order was granted by a bench of the Supreme Court of India (CJI B.R. Gavai and Justice A.G. Masih) staying certain provisions of a new law, the Waqf (Amendment) Act, 2025, including the clause on the five-year practicing Muslim and the authority of the Collector to identify waqf land, but not the whole Act.<sup>75</sup>

## **7. CONCLUSION AND SUGGESTIONS**

The Waqf (Amendment) Act, 2025, is one of the steps in better management and control of waqf property in India. The Act improves accountability, transparency and efficiency by introducing digitization, audit requirements and tribunal mechanisms, which can improve administrative, financial and regulatory frameworks. But some of its provisions are open to constitutional question, such as the possible infringement, upon religious liberty, in the Articles 25 and 26; and the chances of arbitrary characterisation in Article 14, and upon property in Article 300A.

In bid to have good governance yet at the same time stay within the confines of the constitution, a number of reforms have been suggested. First, the level of digitization and transparency ought to be provided by introducing extensive digital documentation, which is readily available to the population and Waqf Boards. Second, board members should be encouraged to be trained professionally with appropriate representation of different religions including legal, financial, and managerial expertise. Third, there should be clear and effective dispute resolution systems through enhanced Waqf Tribunals and well-defined jurisdiction of the Tribunals in comparison to the civil courts to reduce the delays in the litigation process and efficient resolution of conflicts is needed.

Another factor that is equally critical is the need to be in balance with fundamental rights. The government should be put to check on the administrative and financial issues without

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<sup>74</sup> Waqf (Amendment) Act, 2025, Act No. 12 of 2025.

<sup>75</sup> In Re: Waqf (Amendment) Act, 2025 (Interim Stay Order), Supreme Court of India, Order dated 15 Sept. 2025 (per B.R. Gavai, C.J.I. and A.G. Masih, J.).

interfering with the key religious operations. Minority communities need to enjoy their rights and especially in matters pertaining to third-party claims to property and the freedom of religious groups. This should be institutionalized with periodic judicial review to maintain compliance with the constitutional provisions such as Articles 14, 25, 26 and 300A in order to achieve a balanced state regulation and religious freedom.

The judicial system has already been very instrumental at demarcating the scope of state intervention and safeguarding the interests of minorities. Cases *M.P. Wakf Board v. Subhan Shah and Syed Mohd. The Salie Labbai v. Mohd. Hanifa* case is a good example of how courts strike a balance between religious freedom, property rights and government oversight. Moving on, judicial watchfulness will continue to be necessary to reconcile struggles between religious independence and governmental responsibility in the administration of waqf so that ancient religious endowments can be administered in the most efficient way without infringing the constitutional protection.