
THE EFFECT OF THE WAQF AMENDMENT ACT OF 2025 ON MUSLIM ENDOWMENTS IN INDIA

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ABSTRACT

An important turning point in the development of waqf governance in India has been reached with the Waqf (Amendment) Act, 2025, which introduces a comprehensive reform agenda meant to address the structural problems and long-standing inefficiencies that plague the management of waqf properties. The amendment aims to modernize the waqf system through improved digitization, centralized oversight, and stronger regulatory mechanisms. It was enacted with the stated goals of fostering transparency, preventing widespread encroachments, simplifying record-keeping, and guaranteeing accountable management. But in spite of its progressive language, the Act has generated a lot of discussion and criticism from a range of stakeholders, especially legal scholars and minority populations. Increased state and bureaucratic involvement in religious endowments, the possible erosion of minority autonomy, and the alleged violation of the Indian Constitution's guarantees of property rights and religious freedom have all drawn criticism. Fundamental concerns regarding the autonomy of religious institutions, the secular character of government, and the protection of minority rights under Articles 25 to 30 of the Constitution are brought up by the shifting balance between governmental authority and community-led management. The main clauses, policy reasons, and ramifications for the governance of waqf properties are all examined in this paper's critical legal and socio-political analysis of the Waqf (Amendment) Act, 2025. It examines the hazards of centralizing and bureaucratizing what are primarily community-driven religious trusts and assesses how well the suggested reforms address problems like corruption, misappropriation, and unlawful possession of waqf properties. The paper examines pertinent legislative discussions, judicial rulings, administrative procedures, and statutory frameworks using a doctrinal and policy-analytical methodology.

Keywords: Waqf, Indian Constitution, Minority, Amendment, Protection

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INTRODUCTION

A permanent charitable endowment of property, typically for religious or philanthropic reasons, is referred to as a waqf, a basic institution in Islamic jurisprudence. The Waqf Act of 1995, which establishes the Central Waqf Council and State Waqf Boards as the official administrators of waqf properties, governs it in India. However, because of its substantial divergence from other statutory frameworks, the Waqf (Amendment) Act, 2025 has sparked national discussion. In order to determine if the amendment is a true attempt at reform or a kind of legal repression, this study will examine the constitutional, legal, and societal aspects of the amendment.

According to the notion of waqf in Muslim law, an individual may give their property—whether immovable or movable—to a waqf for philanthropic or religious reasons. Waqf means "to tie up" or "to stop." It is permanent, and the property was donated to become a Waqf. Waqif, often known as Wakif, is the name of the property grantor. In God's name, the ownership transfer is irrevocable. "Once a Waqf, always a Waqf!" is the result. The State Waqf Board receives the property, which may be real estate or land. The Waqf Board makes decisions about how to use land for building a madrasa, mosque, cemetery, etc. With 8.7 lakh houses and 9.4 lakh acres of land, the Waqf Board is the third-largest landowner in India, behind the Railways and the Armed Forces.

The Waqf Board designates a Mutawalli (caretaker manager) to oversee its operations. These Mutawallis must generate revenue from the property but are unable to sell or transfer it. Only the State Waqf Board has jurisdiction over mutawallis. While the State Waqf Board keeps 7% of the property's revenue, the remainder will be allocated for philanthropic and religious endeavors. The Waqf boards were first established in 1913, during the height of British rule. There are currently thirty Waqf Boards spread throughout the nation's twenty-eight states and Union territories.

While the Central Waqf Council is established as a statutory entity under the administrative jurisdiction of the Ministry of Minorities, State Waqf Board members are chosen by the State Government. The Waqf Act of 1954 made it possible to establish advisory committees to advise the Central Government on how the Waqf properties should be run. In accordance with this clause, the Waqf Boards were established in 1964.

The Waqf Amendment Act 2025, also referred to as the **UMEED (Unified Management Empowerment Efficiency and Development)** Act, was recently passed by the Indian

government and introduced in the Parliament in April 2025. It proposed radical changes to governance and the administration of Waqf estates in India.

HISTORY OF WAQF IN INDIA

The idea of waqf is not new; it has strong religious and historical origins that date back to the early days of Islamic culture, when Prophet Muhammad counseled Khalifah Omar to donate a plot of land for the benefit of all people rather than for sale, gift-giving, or inheritance. As a result, several of the Prophet's colleagues founded Waqfs for the good of society, following his example. In the Islamic world, waqf quickly developed into a social welfare institution that provided aid to the underprivileged and destitute. Waqf is intimately associated with conversion and cultural and religious appropriation in India. The quantity of Waqf properties increased throughout the Delhi Sultanate and other later Islamic regimes that prospered in India. Waqf was deemed invalid by the Privy Council during the British rule, which denounced it as "perpetuity of the worst kind."

- **Early Laws:**

Despite British criticism, Leviathan, a state abomination that governed constitutional agreements with Indian constituents, continued to enforce the waqf system in India during the colonial era. It sought to enhance transparency, appropriate accounting, and Waqf management.

- **Waqf Act in 1954.**

Together with Nehru, the Indian government introduced the **Waqf Act in 1954**. The Central Waqf Council was subsequently established as a statutory entity in 1964, and State Waqf Boards (SWBs) were also established to oversee Waqf holdings

- **Waqf Act, 1995**

A thorough framework for improving the administration and control of Waqf properties was made available by this Act. Additionally, it created Waqf Tribunals, which were designed to adjudicate disputes and serve as alternatives to civil courts within their authority. Waqf assets were therefore to be managed in accordance with Islamic law, including safeguards against intrusions and poor administration.

- **Waqf (Amendment) Act, 2013**

The Sachar Committee was established in 2005 by then-prime minister Manmohan Singh and Justice Rajinder Sachar (former chief justice of the Delhi High Court) with six additional members to investigate the social, economic, and educational circumstances of Muslims. State councils that oversaw Muslim socio-educational programs at the regional level took over when this council started a thorough re-evaluation of Indian Muslims. In 2006, they released "Social, Economic and Educational Status of Muslim Community of India: A Report," which was based on years of intensive fieldwork in numerous states. Solutions for the inclusive development of Muslims in India were proposed in the 403-page report

OVERVIEW OF WAQF AMENDMENT ACT, 2025

With the claimed objectives of enhancing transparency, preventing encroachment or exploitation, and streamlining the administration of waqf holdings, the Indian government sponsored the Waqf Amendment Act 2025. The Act would partially revise the Waqf Act, 1995, which has traditionally governed the administration of Muslim religious endowments across the country. According to the Ministry of Minority Affairs, the modification was necessary to address shortcomings in the existing structure and ensure that waqf assets were protected from unauthorized transfers and theft.³

Among the primary features of the proposed amendment are stricter regulatory controls over the leasing, transfer, or alienation of waqf properties. The Act recommends enforcing the digitization of waqf records, centralizing the registration of waqf assets, and creating a National Waqf Property Management System in order to administer waqf land and structures across the states⁴. The goal of these changes is to reduce the number of fraudulent transactions and encroachments that have been repeatedly revealed in reports by the Central Waqf Council and the Sachar Committee⁵.

Another significant component of the Act is the expanded central government involvement in matters that are normally managed by State Waqf Boards. This has raised concerns about

³ Ministry of Minority Affairs, Press Release on Introduction of the Waqf Amendment Act 2025, Government of India, January 2025.

⁴ The Hindu, "Waqf Properties to be Digitized under New Act: Minority Affairs Ministry," January 14, 2025.

⁵ Government of India, Report of the Sachar Committee: Social, Economic and Educational Status of the Muslim Community of India, 2006, Chapter 10.

potential abuses of state autonomy because property and religious endowments are listed on the State List under the Indian Constitution⁶. Critics claim that the enhanced governmental oversight could compromise the community-led management of places of worship and erode the independence of Waqf Boards⁷. Supporters argue that the Amendment ensures better protection of Muslim endowments, while opponents have raised concerns about the concentration of waqf governance, the lack of community involvement, and the possibility of arbitrary land purchases. The Act has therefore spurred debate on the delicate balance that needs to be struck between regulatory oversight and the protection of minority rights as outlined in Article 26 of the Indian Constitution⁸.

The Act seeks to improve waqf management's efficiency, inclusivity, and transparency. Important clauses include:

1. In order to better represent its larger goals, the Act suggests changing the Waqf Act, 1995 to the Unified Waqf Management, Empowerment, Efficiency, and Development (UMEED) Act, 1995.
2. Definition and Establishment of Waqf
 - Section 3(b): Describes "waqf" as a commitment made by any individual who has owned land and practiced Islam for at least five years.
 - Section 3(c): Guarantees that the establishment of waqf-alal-aulad does not deprive women of their right to inherit.
 - Section 3(d): Leaves out clauses pertaining to "waqf by user," which calls for official documents in order to create a waqf.
3. Muslim and non-Muslim women's participation: Provisions to involve Muslim women and non-Muslim members in the management of waqf institutions are introduced by the Waqf (Amendment) Act, 2025. The following inclusions are specifically addressed by the modifications to Sections 9 and 14:
 - Central Waqf Council: Two non-Muslim members will now be a part of the Council.

⁶ Constitution of India, Seventh Schedule, List II – State List, Entry 18

⁷ Indian Express, "Experts Raise Alarm over Centralization in Waqf Amendment Act," February 2025.

⁸ Constitution of India, Article 26: "Freedom to manage religious affairs."

It also encourages gender diversity by requiring the participation of a minimum of two Muslim women.

- State Waqf Boards: In order to ensure representation from the Shia, Sunni, and Backward Muslim classes, state governments must designate members from a variety of backgrounds, including non-Muslims. Additionally, the boards must include at least two Muslim women.
4. Creation of Independent Waqf Boards: Section 13A permits the Bohra and Agakhani communities to have their own Waqf Boards. To meet their particular needs and provide more specialized administration of their waqf properties, provisions have been created for the establishment of distinct Waqf Boards for particular Muslim sects, such as the Bohras and Aghakhani.
5. Dispute Resolution and Appeals:
- Section 6: Gives the District Collector the authority to decide disagreements over whether a piece of property is government or waqf property.
 - Section 83: Allows appeals against Tribunal rulings to the High Court within ninety days and restructures the Waqf Tribunal to have two members.
6. Criteria for Mutawalli (Custodian) to be disqualified: Age, mental health, insolvency, criminal conviction, encroachment on waqf property, or prior removal due to corruption or poor management are among the disqualification requirements for appointment as a mutawalli that are introduced in Section 50A.

CONSTITUTIONAL AND LEGAL IMPLICATIONS OF THE WAQF (AMENDMENT) ACT, 2025

In order to improve administrative efficiency, transparency, and inclusion in waqf governance, the Government of India introduced the Waqf (Amendment) Act, 2025, which aims to change the legal framework governing waqf properties⁹. The Act has brought up significant constitutional and legal issues even while it suggests a number of progressive improvements, including the digitization of waqf records, the preservation of inheritance rights, and the

⁹ Cabinet approves Waqf Amendment Act, 2025", PIB Release, 3 April 2025, available at: <https://pib.gov.in/PressReleasePage.aspx?PRID=2118799>

inclusion of diverse participation on waqf boards. The removal of the idea of waqf by user, the admission of non-Muslim members on waqf boards, and the authority of executive authorities to settle waqf-related conflicts are among of the most contentious issues. Fundamental rights and constitutional principles may be affected by these changes, such as the autonomy of religious denominations and freedom of religion under Article 26, the rights of minorities under Articles 29 and 30, the right to property under Article 300A, and judicial independence under the basic structure doctrine¹⁰.

Furthermore, because religious endowments and land are included in the State List under Schedule VII of the Constitution, the centralization of waqf administration creates issues with federalism and parliamentary competence.

- **Federalism and Legislative Competence**

By means of Schedule VII's Union List (List I), State List (List II), and Concurrent List (List III), the Union and States share legislative authority under the Indian Constitution. The entries listed below are very pertinent to the Waqf Act:

- "Charities and charitable institutions, charitable and religious endowments and religious institutions" is the entry for Entry 28 of the State List.
- Land, that is, rights in or over land, land tenures, including the relationship between a landlord and a tenant, is covered under Entry 18 of the State List. These entries unequivocally show that states have legislative authority over waqf properties, which are religious endowments that include real estate.

In India, the concept of federal supremacy grants Parliament precedence over State and Union law when it comes to Concurrent List matters (Article 254). However, under Article 252, Parliament cannot enact laws pertaining to matters that are only on the State List without a presidential proclamation or a constitutional amendment. It may be argued that the Waqf Amendment Act 2025's expansion of central authority, especially with regard to land management and local religious administration, violates the States' exclusive jurisdiction and upsets the constitutionally established federal balance.

¹⁰ The Constitution of India, 1950.

In this historic case, the Supreme Court ruled that unless specifically permitted by the Constitution, Parliament cannot enact laws on topics that are only included in the State List. The case upheld the Constitution's federal nature, especially with relation to land and property¹¹. The Court further ruled that States are not merely representatives of the Center and that federalism is a fundamental component of the Constitution. It may be argued that laws that undermine the role of states violate this fundamental framework.¹²

- **Article 26: Religious Institutions' Autonomy**

An essential part of India's secular and pluralistic framework is the freedom granted to each religious denomination by Article 26 of the Indian Constitution to manage its own religious affairs. Given this, there are serious constitutional issues with the Waqf (Amendment) Act of 2025, which fundamentally alters how Muslim religious endowments (waqf) are managed and administered. Whether the Act violates the sovereignty of Muslim religious institutions, especially waqf boards and waqf properties, as guaranteed by Article 26 of the Constitution is one of the most controversial questions surrounding it.

- **Access to Justice and Judicial Independence**

The absence of intervention from the legislative and executive branches of government is a prerequisite for judicial independence. The Supreme Court emphasized in *S.P. Gupta v. Union of India* 1981¹³ that judicial independence is crucial to the fundamental structural idea as well as being necessary for just adjudication. According to the Waqf (Amendment) Act of 2025, quasi-judicial bodies like Waqf Tribunals should be established or expanded, and their rulings should be final with little room for judicial review. Self-reliance and the availability of justice. By substituting executive-controlled entities for constitutionally established courts, such laws may endanger judicial independence. In *L. Chandra Kumar v. Union of India*¹⁴, the Supreme Court ruled that judicial review under Articles 226 and 32 is a component of the fundamental framework and that any legislation that aims to restrict or abolish it would be unconstitutional, notwithstanding the fact that tribunals are not intrinsically illegal.

¹¹ *State of West Bengal v. Union of India*, AIR 1963 SC 1241

¹² *S.R. Bommai v. Union of India*, (1994) 3 SCC 1

¹⁴ (1997) 3 SCC 261

- **Minority Rights under Articles 29 and 30**

Articles 29 and 30 of the Indian Constitution, which safeguard the cultural, educational, and religious identities of minority communities, serve as the cornerstones of minority rights. There has been discussion on the Waqf (Amendment) Act, 2025's potential effects on minority rights, especially those of the Muslim community, as it suggests significant structural changes to the management of Muslim endowments. This section assesses whether the Act's provisions align with the protections provided by Articles 29 and 30 of the Constitution.

“Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same¹⁵.”

“All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice¹⁶.”

For Muslims, the Waqf system, which involves endowments for religious, charitable, and educational reasons, is fundamentally religious and culturally significant. Significant changes brought about by the 2025 Amendment Act create constitutional concerns in light of Articles 29 and 30.

- **Removal of Waqf by User Doctrine**

The Act aims to end the "waqf by user" doctrine, which holds that properties used for religious purposes over time are assumed to be waqf even if they haven't been officially recognized. Cultural and customary practices, which fall under Article 29(1)'s protection of the right to preserve culture, may be impacted. This reform may jeopardize long-standing religious arrangements in communities where waqf endowments are developed via oral history and usage.

- **Effects on the Muslim Community of the Waqf (Amendment) Act, 2025**

For the Muslim community, the Waqf (Amendment) Act, 2025, which aims to enhance the administration and control of waqf holdings in India, has significant legal, economical, and cultural repercussions. Academics, religious leaders, and members of civil society have voiced

¹⁵ Article 29(1), Constitution of India

¹⁶ Article 30(1), Constitution of India

concerns regarding the Act's impact on religious autonomy, community welfare, and constitutional rights, despite the government's assertion that it fosters efficiency and transparency.

KEY AREAS OF IMPACT

- **Reduced Independence Regarding Religious Organizations**

The Act's provision allowing non-Muslims to serve on Waqf Boards is among its more contentious features. According to Islamic waqf principles, a religious minority has historically had the authority to control its own institutions and endowments, and this is viewed as a direct interference with that minority's internal governance.

- **Reduced Function of Judicial Oversight and Civil Courts**

The Act restricts the scope of judicial review and the jurisdiction of civil courts by giving Waqf Tribunals exclusive authority. This has an impact on the community's access to justice, particularly when it comes to instances of property encroachment or waqf board mismanagement.

- **Waqf is abolished by user doctrine.**

Eliminating the "waqf by user" concept has important practical and cultural ramifications. This school of thought holds that even if a property hasn't been formally proclaimed as waqf, it is considered to be so if it has been continuously used for religious purposes (such as a mosque or dargah). If it is removed, a number of historically significant but unverified waqf properties may become available for purchase or demolition.

- **Impact on Beneficiaries on a Socioeconomic Level**

Historically, waqf properties have been utilized to support social welfare, housing, healthcare, and education for the Muslim community's economically disadvantaged segments. The welfare impact on beneficiaries may be lessened if the money from waqf lands is used for government-led development projects or administrative costs.

CONCLUSION

In the legal and constitutional dispute over religious endowments in India, the Waqf (Amendment) Act, 2025, marks a turning point. The Act's stated purpose is to improve waqf property administration and transparency, but in its current form, it causes serious constitutional, legal, and social issues. The Act runs the risk of weakening the independence of Muslim religious institutions, excluding community involvement, and violating fundamental rights protected by the Indian Constitution by seeking to alter the makeup of Waqf Boards, restrict the authority of civil courts, and supersede customary waqf practices by usage. This amendment seems to violate the principles of a pluralistic constitutional democracy, which uphold the freedom of minorities to manage their religious organizations and activities. The Act's provisions could have significant socio-legal ramifications and go beyond simple administrative change, especially for grassroots Muslim communities that depend on waqf institutions for social welfare, education, religious practice, and burial grounds.

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