
EXPLORING CONSTITUTIONAL BOUNDARIES IN THE JUDICIAL INTERPRETATION OF THE WAQF ACT

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ABSTRACT

The Waqf Act serves as a critical legislative instrument for the management of religious endowments in India, primarily within the Muslim community. However, recent amendments to the Act and pending judicial scrutiny have raised complex constitutional questions regarding the balance between religious autonomy and state control. This paper explores the evolving judicial interpretation of the Waqf Act by the Supreme Court of India, particularly in the context of the 2025 amendments, which have triggered debate and legal challenges from political and religious organizations. The interpretation of the Waqf Act lies at the intersection of several constitutional provisions such as Articles 25 and 26, which guarantee freedom of religion, and Articles 14 and 21, which ensure equality and protection of life and liberty. The inclusion of non-Muslim members in Waqf Boards, the shifting authority to district collectors for property disputes, and the curtailment of religious communities' exclusive rights to manage their institutions represent areas where constitutional boundaries are being tested. This paper critically assesses whether the judiciary can uphold constitutional principles without encroaching upon religious freedoms, or whether its interpretations risk undermining secular governance by deferring to state interests. It further examines the role of the judiciary in safeguarding minority rights while addressing administrative efficiency and legal uniformity. By analysing recent petitions, public responses, and precedent-setting judgments, the paper provides a nuanced understanding of how the Supreme Court navigates the legal and cultural complexities inherent in Waqf-related cases. Ultimately, the discussion underscores the importance of judicial balance in interpreting statutes that directly impact the country's secular and pluralistic foundations.

Keywords: Waqf Act, constitutional interpretation, religious autonomy, state control, Supreme Court

1. INTRODUCTION

The interplay between law, religion, and the Constitution remains a complex and evolving domain within India's secular framework, particularly in the context of the regulation of religious endowments. The Waqf Act, which governs the administration of Waqf properties religious and charitable trusts established under Islamic law stands as a significant legislative instrument where these domains intersect. Over the years, amendments to the Waqf Act have reflected the State's attempt to maintain this delicate balance, responding to the changing needs of society and addressing longstanding issues such as mismanagement, encroachment, and lack of accountability. Overtime, amendments to the Act have sought to address persistent issues such as mismanagement, encroachment, and lack of accountability. The Waqf (Amendment) Act, 2025 represents a significant development, aiming to enhance transparency, administrative efficiency, and socioeconomic use of waqf assets. While the amendment seeks to reinforce constitutional values, it also raises concerns about increased State control potentially undermining the autonomy of religious communities under Article 26 and creating new administrative hurdles for genuine religious bodies.

2. THE CONSTITUTIONAL FOUNDATION

The Constitution of India, being the supreme law of the land, is rooted in the principles of justice, liberty, equality, and fraternity, as specified in its Preamble. It guarantees the right to religious freedom under Articles 25 and 26, allowing individuals to profess, practice, and propagate their faith, while also empowering religious groups to manage their own religious affairs. Although property rights were initially fundamental under Article 31, they are now protected as constitutional rights under Article 300A, ensuring that no person is deprived of property except by lawful authority. Additionally, Article 14 reinforces the commitment to equality before the law, mandating equal treatment for all individuals, thereby forming a foundational pillar of India's democratic system.

A waqf is a charitable endowment under the law of Islam, involving the irrevocable dedication of property for religious or philanthropic purposes. As defined in Section 3(r) of the

Waqf Act, 1995, it refers to the enduring dedication of movable or immovable property for any purpose deemed pious or charitable under Muslim law. The term "waqf" stems from the Arabic word "Qif," meaning "to hold" or "to stop," symbolizing the permanent nature of the

endowment¹. A defining feature of waqf property is its inalienability once dedicated, it cannot be sold, gifted, or inherited. India, with the largest number of waqf properties in the world, ranks as the third-largest landholder in the country after the Armed Forces and Indian Railways. This vast volume highlights the importance of efficient waqf governance. Within the constitutional framework, waqf properties embody a unique intersection of religious significance and property rights. The Waqf (Amendment) Act, 2025 continues the reform process, but its implementation must uphold the constitutional balance between religious autonomy, property protection, and legal equality.

3. EVOLUTION OF WAKF ACT

a. MEDIEVAL PERIOD

Waqf in India originated during the Delhi Sultanate and evolved through colonial and postindependence legislation, including the Waqf Acts of 1954 and 1995. Subsequent amendments in 2013 and 2025 aimed to enhance governance, ensure transparency through digitization, and strengthen protections for waqf assets, while addressing longstanding issues of encroachment and mismanagement.

b. BRITISH COLONIAL PERIOD

The Waqf Validating Act of 1913 marked the first significant legal recognition of waqf properties under British colonial rule, providing a framework for their legitimacy. This was further reinforced by the Waqf Validating Act of 1930, which strengthened the legal standing of waqf dedications and affirmed their continuity under the law.

c. POST-INDEPENDENCE INDIA

Post-independence, India introduced the Wakf Act, 1954 as the first comprehensive legislation to regulate waqf properties, establishing Central and State Wakf Boards for effective administration. Between 1959 and 1984, several amendments were made to strengthen this Act. In 1995, the Act was repealed and replaced by the Wakf Act, 1995, which mandated compulsory registration of waqf properties, introduced property surveys, established Wakf Tribunals for

¹ *Waqf*. (n.d.). Drishti Judiciary. Retrieved April 30, 2025, from <https://www.drishtijudiciary.com/editorial/waqf>

dispute resolution, and significantly enhanced the powers and responsibilities of Wakf Boards.

d. 21ST CENTURY REFORMS

The Government of India enacted the Waqf Act in 1954 to ensure better management and administration of waqf properties across the country. This Act was subsequently amended in the years 1959, 1964, 1969, and 1984. In due course of time, it was repealed and replaced by the Waqf Act, 1995. Immediately before the 2025 Amendment Act, the administration of waqf in India was governed by the Waqf Act, 1995, as amended by the Waqf (Amendment) Act, 2013. The Act comprised 9 chapters and contains a total of 113 sections.²

e. PHILANTHROPIC WAQF

Philanthropic Waqf plays a vital role in promoting public welfare by supporting a range of initiatives that benefit both marginalized groups and society at large. These include establishing libraries, advancing scientific research, providing education and healthcare, supporting animal and environmental welfare, offering microloans to small businesses, and developing public infrastructure such as parks, roads, and bridges. Its origins trace back to Prophet Muhammad, who converted a Jewish man Mukhairiq's orchards into a charitable waqf in Madinah³. While Waqf institutions exist in India, several Islamic countries including Türkiye, Libya, Egypt, and Iraq do not currently maintain formal waqf systems⁴. In India currently it has 32 Waqf Boards managing such endowments across States and Union Territories⁵. Recognizing the need for structured governance, the Government of India enacted the Wakf Act, 1954, post-independence, to create a uniform legal framework. However, persistent issues such as political neglect and a lack of committed leadership plagued its efficacy. In 1995, the Wakf Act was overhauled to make waqf property registration mandatory, introduce surveys, establish specialized Tribunals, and empower Waqf Boards⁶. Yet, challenges like encroachment, poor documentation, and mismanagement continued. In response, the Wakf (Amendment) Act, 2013

² Tabasum Rasool. (n.d.). Waqf administration in India: Issues and challenges of state waqf boards. *Journal Of Islamic Thought and Civilisation*, Volume 7(Issue 1).

³ Mohd Owais, Zati Ilham Abdul Manaf. (n.d.). Comparative analysis of waqf institutions governance in india and singapore. *Journal of Islamic Economics and Business*, 6 (2), 2023, 257–282.

⁴ Ariff, Mohamed (1991). *The Islamic voluntary sector in Southeast Asia*. Institute of Southeast Asian Studies. p. 42.

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⁵ Accessed on October 15, 2016, http://wamsi.nic.in/wamsi/progress/WAMSI_MPR_SEP2016.pdf

⁶ Abdullah, D. M. (n.d.). *Waqf in India: A critical appraisal*. Retrieved April 28, 2025, from https://www.academia.edu/5815417/Waqf_in_India_a_critical_appraisal

introduced stronger protections, stricter penalties, and mandatory consultations before acquisition of waqf land.

f. RECENT DEVELOPMENTS

The latest reform, the Wakf (Amendment) Act, 2025, was influenced by the work of a 31-member Joint Parliamentary Committee. It renamed the law as the “Unified Waqf Management, Empowerment, Efficiency and Development Act, 1995,” reflecting its modernized objectives⁷. The amendment promotes digitization of records, tighter financial oversight of mutawallis, and efficient dispute resolution mechanisms. Despite these legislative strides, the waqf system continues to grapple with implementation challenges, underscoring the ongoing struggle to balance religious autonomy with public accountability in waqf governance⁸.

Thus, the historical evolution of the Wakf Act reveals a continuous legislative effort to reconcile religious freedoms with public accountability, albeit with persistent tensions that each amendment has sought, yet struggled fully, to resolve.

4. JUDICIAL PROTECTION OF RELIGIOUS AUTONOMY AND STATE REGULATION

The Indian judiciary has consistently recognized the delicate balance between religious autonomy and the regulatory powers of the State, as mandated by the Constitution. Articles 25 and 26 of the constitution confers the freedom of religion and the right of every religious denomination to manage the religious affairs on its own. The Supreme Court, in landmark cases such as *The Commissioner, Hindu Religious Endowments, Madras v. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt (1954)*⁹ has firmly held that while the State may regulate secular activities associated with religious practice, it cannot interfere with essential religious practices themselves. In *Sardar Syedna Taher Saifuddin Saheb v. State of Bombay*¹⁰, the Supreme Court upheld the autonomy of religious denominations in managing internal affairs,

⁷ India Today, "21 Lok Sabha MPs on Waqf bill panel, here's who is on it". (last visited on 9 April, 2025) 5.

⁸ Waqf amendment act 2025: A case of bigoted law making. (n.d.). Retrieved April 28, 2025, from <https://www.liberation.org.in/detail/waqf-amendment-act-2025-a-case-of-bigoted-law-making>

⁹ The Commissioner, Hindu Religious Endowments, Madras v. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt, AIR 1954 SC 282.

¹⁰ Sardar Syedna Taher Saifuddin Saheb v. State of Bombay, AIR 1962 SC 853 (India).

provided they do not violate public order, morality, or health. However, the State may regulate secular aspects such as property, finances, and administration to prevent mismanagement and ensure public welfare.

In *Shri Jagannath Temple Puri Management Committee v. Chintamani*¹¹, the Court held that while religious belief is protected, the management and discipline of temples are secular matters subject to State control. Similarly, in *Seshammal v. State of Tamil Nadu*¹² and *N. Adithayan v. Travancore Devaswom Board*¹³, the Court affirmed that appointing priests is a secular function, not an essential religious practice. In *Tilkayat Shri Govindlalji Maharaj v. State of Rajasthan*¹⁴, it ruled that State involvement in temple property management does not violate constitutional rights. Further, in cases like *Syed Fazal Pookoya Thangal v. Union of India*¹⁵ and *Basheer v. State of West Bengal*¹⁶ confirmed that Waqf Boards are secular statutory bodies, not religious denominations, and are thus subject to State regulation. This balanced approach—respecting religious freedom while allowing for reasonable regulation—has shaped the constitutional framework around religious endowments especially related to the Waqf Boards.

5. SAFEGUARDING WAQF UNDER CONSTITUTIONAL RIGHTS

Article 30 of the Indian Constitution grants religious and linguistic minorities the fundamental right to establish and administer their own educational institutions, thereby protecting their cultural identity and ensuring educational autonomy. While the Article primarily addresses education, its underlying principle of minority self-governance has broader implications, especially for religious and charitable institutions such as waqf. Waqf properties, which significantly contribute to the religious, educational, and social aspects of the Muslim community's life, are not specifically referenced in Article 30. However, judicial interpretations have emphasized that State regulation of waqf must not erode the community's right to manage its own institutions.

Courts have consistently warned against undue State control that may infringe upon

¹¹ *Shri Jagannath Temple Puri Management Committee v. Chintamani Khuntia*, AIR 1997 SC 2110 (India).

¹² *Seshammal v. State of Tamil Nadu*, (1972) 2 SCC 11 (India).

¹³ *N. Adithayan v. Travancore Devaswom Board*, (2002) 8 SCC 106 (India).

¹⁴ *Tilkayat Shri Govindlalji Maharaj v. State of Rajasthan*, AIR 1963 SC 1638 (India).

¹⁵ *Syed Fazal Pookoya Thangal v. Union of India*, 1993 (1) KLT 604 (Kerala HC, India). ¹⁶ *Basheer v. State of West Bengal*, AIR 1976 Cal 176 (Calcutta HC, India).

constitutionally protected minority rights. Oversight mechanisms are essential to prevent corruption and ensure accountability, but they must be carefully designed so as not to compromise the autonomy and spiritual essence of these institutions. With the introduction of the Waqf (Amendment) Act, 2025, which emphasizes digitization, streamlined dispute resolution, and improved financial transparency, it becomes imperative to assess whether these reforms align with the spirit of Article 30. The amended framework must strike a balance between necessary governance reforms and the preservation of minority control over waqf assets. Any attempt to centralize authority or dilute the community's participation in waqf management risks violating the constitutional guarantees afforded to minorities.

Therefore, policy and legislative frameworks must continue to evolve with sensitivity to both the rights and responsibilities inherent in waqf administration, ensuring that efforts to modernize do not come at the cost of eroding the very freedoms Article 30 seeks to protect.

6. NATURAL JUSTICE AND DUE PROCESS IN WAQF LEGAL PROCEEDINGS

Waqf institutions, which are deeply embedded in the religious and charitable framework of Muslim communities, often face disputes related to ownership, administration, and beneficiary rights. To address such issues fairly, it is essential that waqf adjudications adhere to the principles of natural justice and are backed by robust procedural safeguards. Natural justice, a cornerstone of fair legal practice, encompasses two fundamental principles: the right to a fair hearing (*audi alteram partem*) and the rule against bias (*nemo iudex in causa sua*). These principles ensure that decisions affecting the rights of parties are made impartially and only after giving both sides a reasonable opportunity to be heard¹⁶.

In waqf-related adjudications whether conducted by Waqf Tribunals, State Boards, or civil courts it is imperative that proceedings maintain transparency, provide reasons for decisions, and allow the affected parties to present evidence and defend their case. Procedural safeguards such as timely notice, access to relevant documents, the right to legal representation, and reasoned orders are vital in upholding the legitimacy and credibility of these adjudications¹⁷.

¹⁶ *The cornerstones of fairness: Principles of natural justice* | legal service india - law articles - legal resources. (n.d.). Retrieved April 30, 2025, from <http://www.legalserviceindia.com/legal/article-14692-the-cornerstones-of-fairnessprinciples-of-natural-justice.html>.

¹⁷ *Waqf tribunal has the jurisdiction to adjudicate all suits related to waqf properties unless explicitly barred by statute: Calcutta hc.* (2024, July 1). <https://lawchakra.in/high-court/waqf-tribunal-has-the-jurisdiction/>.

Moreover, the Waqf Act (1995) and its subsequent amendments provide for specialized tribunals and appellate mechanisms. However, concerns remain regarding the appointment procedures, independence, and effectiveness of these forums. Any shortcomings in procedural fairness can undermine public trust and potentially infringe upon the constitutional rights of minorities, especially under Articles 25, 26, and 30 of the Indian Constitution.

7. STATE ACQUISITION OF WAQF ASSETS WITHIN CONSTITUTIONAL LIMITS

Waqf properties, dedicated for religious, charitable, or pious purposes under Islamic law, are granted a unique legal status in India. While the State holds the power to acquire land for public purposes under the doctrine of eminent domain, such acquisition must be exercised in a manner that respects constitutional safeguards, particularly when it involves waqf assets¹⁸.

Article 300A of the Indian Constitution provides that no person shall be deprived of property except by authority of law¹⁹. In the context of waqf, the situation is further nuanced due to the deep religious importance and the collective interest of the community associated with these properties. Although waqf lands are not immune from acquisition, courts have consistently emphasized that any such acquisition must be justified by a compelling public purpose, carried out under a valid law, and accompanied by fair compensation.

Additionally, Articles 25 and 26 guarantee the right to freely practice and manage religious affairs, including the administration of waqf institutions. Therefore, any State action that disproportionately interferes with these rights can be constitutionally challenged.

Courts have consistently emphasized the importance of exercising caution and ensuring proportionality when it comes to the acquisition of waqf lands. In several cases, courts have invalidated acquisitions that failed to demonstrate overriding public interest or where compensation was inadequate. The Waqf Act, 1995, also requires prior consultation with the Waqf Board before any acquisition, reinforcing procedural safeguards²⁰.

Balancing developmental needs with religious freedoms and minority rights is a constitutional

¹⁸ Tomlinson, J., Kasoulide, E., Meers, J., and Halliday, S. (2023). Whose procedural fairness? *Journal of Social Welfare and Family Law*, 45(3), 278–293. <https://doi.org/10.1080/09649069.2023.2243150>

¹⁹ *Right to property under article 300A of constitution* | Law column. (2021, June 18). <https://lawcolumn.in/right-to-property-under-article-300a-of-constitution/>

²⁰ *The doctrine of precedent: How past judgments shape present cases » lawful legal*. (2025, March 19). <https://lawfullegal.in/the-doctrine-of-precedent-how-past-judgments-shape-present-cases/>.

imperative. Arbitrary or excessive acquisition of waqf properties undermines community trust and may violate both statutory protections and constitutional provisions. Thus, any such acquisition must pass strict judicial scrutiny to ensure it adheres to the principles of fairness, necessity, and legality .

8. INTERPRETING WAQF LAW THROUGH THE LENS OF SECULARISM

Secularism, as enshrined in the Indian Constitution, mandates that the State maintain an equal distance from all religions while ensuring freedom of religion under Articles 25 to 28. This principle becomes particularly significant in the interpretation and application of waqf law, which governs religious endowments in the Muslim community²¹. The judiciary plays a crucial role in maintaining this delicate balance ensuring religious autonomy while upholding constitutional values of equality, non-discrimination, and public interest.

Waqf law involves the administration and regulation of properties dedicated to religious, pious, or charitable purposes under Islamic principles. While these properties enjoy a distinct religious character, their management often intersects with public administration and civil law. In such cases, courts are required to interpret waqf-related disputes without compromising the secular ethos of the Indian State²².

Judicial interpretations have emphasized that secularism does not imply hostility towards religion but rather equal treatment of all religions. Thus, while courts respect the sanctity of waqf, they have also intervened to ensure transparency, prevent mismanagement, and uphold the rights of beneficiaries. For instance, the Waqf Act, 1995, empowers State Waqf Boards to regulate waqf properties, a power that is often scrutinized by courts to ensure it does not amount to excessive State interference.

9. BARRIERS TO EFFECTIVE WAQF GOVERNANCE

Waqf institutions hold immense social, religious, and economic significance within the Muslim community. Entrusted with the management of properties dedicated to charitable and religious purposes, waqf boards and administrators play a crucial role in ensuring the proper use and

²¹ Ifeadmin. (2024, April 13). Secularism and the indian constitution: An analysis. *Law For Everything*. <https://lawforeverything.com/secularism-and-the-indian-constitution/>

²² Devaraju, T. (2025, April 9). *understanding the waqf act 1995 (With 2025 amendments): A complete legal overview*. SAIRAMLAWASSOCIATES. <https://www.sairamlawassociates.in/post/understanding-the-waqf-act-1995with-2025-amendments-a-complete-legal-overview>.

preservation of these assets. However, effective governance of waqf properties in India faces several persistent barriers that hinder transparency, accountability, and development.

One of the most significant challenges is the lack of updated and digitized records.

Many waqf properties remain unregistered or poorly documented, leading to disputes, encroachments, and loss of revenue. This lack of clarity obstructs legal enforcement and efficient administration. In addition, political interference and bureaucratic delays often undermine the autonomy of waqf boards, affecting their ability to function independently and in the community's best interest.

Corruption and mismanagement within waqf institutions have also been widely reported, with insufficient internal auditing mechanisms and weak oversight contributing to the problem. Despite the Waqf Act, 1995 and its subsequent amendments, implementation continues to vary widely across different states. The absence of professional training for mutawallis (caretakers) further complicates the management process, leading to inefficient use of assets and delayed service delivery.

Judicial and administrative delays in resolving waqf disputes also pose a substantial barrier. Though specialized waqf tribunals exist, they are often under-resourced and overburdened, limiting access to timely justice. Additionally, limited community participation and awareness restrict grassroots involvement in waqf governance, distancing the beneficiaries from decision making processes²³.

10. CONCLUSION

In India, the management of waqf institutions operates at the crossroads of constitutional safeguards, religious freedom, and the need for public accountability. As seen throughout the historical evolution and recent amendments to the Waqf Act, the Indian legal system has made continuous efforts to modernize waqf administration while safeguarding minority rights. However, persistent barriers such as poor recordkeeping, bureaucratic delays, inadequate oversight, and political interference continue to undermine the efficacy and credibility of waqf

²³ *Supreme court order on waqf (Amendment) act 2025 challenges: A legal analysis - thelawmatics*. (2025, April 17). <https://thelawmatics.in/supreme-court-order-on-waqf-amendment-act-2025-challenges/>.

governance²⁴.

Judicial interpretations have played a vital role in delineating the boundaries of State regulation vis-à-vis religious freedoms. While the courts have upheld the State's authority to regulate secular aspects of waqf for transparency and public interest, they have equally emphasized the inviolability of essential religious practices under Articles 25 and 26. Moreover, the application of principles of natural justice and procedural fairness remains central to waqf adjudication, ensuring that all parties are heard and decisions are rendered with transparency and reason.

In addition, the doctrine of secularism has shaped the judicial approach toward waqf, compelling the State to act as a neutral guardian rather than an interfering authority. This is especially crucial in matters of acquisition or regulation of waqf lands, where constitutional limits under Article 300A and judicial scrutiny protect against arbitrary action.

Moving forward, achieving effective waqf governance requires a multi-pronged approach: Digitizing records, empowering waqf boards, ensuring timely justice through well-resourced tribunals, and fostering community involvement. Above all, reforms must respect the foundational constitutional values religious freedom, equality, and rule of law. Only by harmonizing legal, administrative, and community-driven reforms can the waqf system fulfill its intended role in promoting social justice and public welfare in a secular democracy like India.

²⁴ Constitutionality of the waqf act, 1954. (2023, July 11). *The Amikus Qriae*. <https://theamikusqriae.com/constitutionality-of-the-waqf-act-1954/>