



Seth Anandram Jaipuria  
Model United Nations  
2025



**LOK SABHA**

# INDEX

1. Letter from the Executive Board
2. Introduction to the Agenda
3. A Compilation of India's Waqf History
4. Waqf Amendment Bill 2024
5. Report of Joint Parliamentary Committee
6. Is Inclusion of Non-Muslims in Waqf a Violation of Articles 25 & 26 in the Constitution?
7. Waqf (Amendment) Act, 2025
8. Merits & Demerits of the Waqf Amendment Act
9. Articles of the Constitution Violated by Waqf Act Of 2025
10. Case Studies
  11. Landmark Judgements Pertaining To Waqf
12. A Note for the Delegates

# Letter from the Executive Board

Dear Delegates,

It gives us immense pleasure to welcome each one of you to the Lok Sabha to be simulated at Seth Anandram Jaipuria School Model United Nations, 2025. The committee shall be based on the following agenda-:

Deliberating upon issues and legal ambiguities in the Waqf (Amendment) Bill, 2024 with special emphasis on alleged violation of Article 26 and the report of the Joint Parliamentary Committee.

As we enter to debate on our agenda, **The Waqf (Amendment) Bill, 2025** has already been passed, so the committee moves in the direction to reconsider the Waqf Amendment Bill also known as Unified Waqf Management Empowerment, Efficiency and Development (**UMEED**) Bill. We, the executive board, invested hours researching to bring you this background guide, although it is far from exhaustive. This study guide does not represent the end of the research. Delegates are expected to explore new realms on the agenda and present them to the committee. The executive board is anticipating a factual and productive discussion. Also, we must remind you that protocol and decorum are fundamental necessities, and disobedience at any level will not be accepted. In cases when the parties dispute and the house is unable to reach an agreement, the chair's verdict shall be considered final and binding. Quality research combined with good argumentation and a solid representation of facts is what constitutes an excellent performance. Together, we can have significant discussions, challenge preconceptions, and broaden our viewpoints.

The Executive Board assures the delegates of an enriching learning experience here at Seth Anandram Jaipuria Model United Nations 2025. If you have any queries, feel free to reach out to us. With that, We welcome you all and wish you the best of luck.

Regards,

The Executive Board.

Shivank Shukla  
(Speaker)  
shivankshuklasb@gmail.com

Mahir Bhatia  
(Deputy Speaker)  
mahirbhatia4@gmail.com

Raafey Qureshi  
(Deputy Speaker)  
raafeyqureshi786@gmail.com

Yashika Uberoi  
(Scribe)  
yashikauberui09@gmail.com

# Introduction to the Agenda

Waqf, a concept introduced to India during the Islamic period, has evolved over time. During Muslim rule, Waqf properties were under strict central control, with the monarch as the supreme authority. During the British colonial period, there was a gradual shift towards decentralization in the administration of Waqf properties. Regulations such as the Bengal Code Regulation XIX of 1810 and the Madras Code Regulation VII of 1817 were introduced to manage rents and produce for Waqf properties. The Religious Endowments Act of 1863 formalized the policy of non-interference in religious endowments, including Waqf properties, and introduced local committee management. The Charitable Endowments Act of 1890 provided a legal framework for the management and administration of charitable endowments, ensuring funds and properties dedicated for charitable purposes were properly managed and utilized in accordance with donor objectives. The British government in India enacted several laws to address the Muslim practice of wakf, including the Mussalman Waqf Validating Act in 1913, which legalised family Waqfs for both family and charitable purposes. The Act protected Waqf properties from inheritance disputes and colonial property laws. The Mussalman Wakf Act of 1923 was a response to concerns over mismanagement, requiring trustees to maintain and submit accounts. The 1930 Mussalman Waqf Validating Act extended the Act's applicability across India. The Bengal Waqf Act of 1934 established a mechanism for supervising waqfs in Bengal, leading to the creation of the Bengal Waqf Board. The Mussalman Waqf (Bombay Amendment) Act of 1935 enhanced waqf management and its application to the Bombay Presidency. The United Provinces Muslim Waqfs Act of 1936 created the Central Waqf Board in Uttar Pradesh, followed by similar legislation in Bihar in 1948. The Hyderabad Endowment Regulation Act of 1939 was passed by the princely state of Hyderabad. The Delhi Waqf Board was established in 1943, further expanding Waqf Boards in India. The Waqf Enquiry Committee was formed in 1976 to investigate the management of Waqf properties and the implementation of the 1954 Act. The committee's findings raised significant issues such as corruption, encroachment, and the need for Waqf administration reforms. The Waqf Amendment Act of 1984 was enacted in response to the committee's recommendations, although its implementation was limited. In 1995, a comprehensive Waqf Bill was established, integrating crucial elements of the 1954 Act as well as provisions from the 1984 Act. The report identified inefficiencies in waqf management and proposed reforms, including improved financial methods and enhanced representation. In 2008, Shri K Rahman Khan led a Joint Parliamentary Committee on Waqf Board, which emphasised the importance of transparency, greater documentation, and computerisation of Waqf properties. In 2013 Waqf Amendment Act

of 2013 was introduced, the amendment aimed to promote transparency, tighten leasing requirements for Waqf properties, and strengthen Waqf Boards by mandating the nomination of legal and financial experts.

The law strengthened waqf management with penalties for intrusion and improved board representation.

India endeavours to regulate and preserve Waqf properties, which hold religious, social, and economic significance. The Waqf Act of 1954 established the legal framework for managing these properties. Over time, legislation has been amended to improve governance and prevent abuse. The Waqf Amendment Bill 2025 seeks to promote transparency, strengthen management, and safeguard Waqf assets. These revisions adhere to worldwide best practices.

The bill seeks to revamp the Act of 1995 to further enhance the administration and management of waqf properties in India. It seeks to address the flaws of the previous act by increasing the functionality of waqf boards, streamlining the registration procedure, and expanding the role of technology in keeping waqf records.

### **What is Waqf?**

Waqf refers to the permanent commitment of movable or immovable property for pious, religious, or charitable causes as recognised by Muslim law.

(Section 3(r), The Waqf Act of 1995). The term "Waqf" and its plural form, auqaf, originate from the Arabic root verb "Qif", which means "to stop" or "to hold". Another interpretation associates it with the term "waqafa," which has a similar meaning. The concept of 'waqf' is based on Islamic rules and customs. A Muslim endowment can be used to create public institutions like mosques, schools, and hospitals. Waqfs are inalienable, implying they cannot be sold, gifted, inherited, or constrained. Once a waqf's property is divested from its creator, it vests in God. According to Islamic religion, the 'waqf property' is everlasting, just as God is. Although the expression 'waqf' is not mentioned in the Holy Quran, various verses (ayahts) emphasise the virtue of charity, giving in God's way, and advocating communal welfare, which are closely related to the notion of waqf. For instance,

'Encouragement to Give in Charity Surah Al-Baqarah (2:261) , Spending for the Sake of Allah Surah Al-Baqarah (2:267),

Although the Quran demonstrates the framework for charitable contributions, the act of waqf originates primarily from Hadith. The Islamic institution of Waqf is centred on the Hadith Sahih al-Bukhari 2737, which states that wealth and property can be given to charity and income generated from the endowment used for charitable initiatives.

# A Compilation of India's Waqf History

**The Mussalman Wakf Validating Act, 1913** – The 1913 Act allowed Muslims to establish property settlements through "wakf" for their families, children, and descendants in Dadra and Nagar Haveli. Waqf refers to the permanent dedication of property for religious, pious, or charitable purposes.

**The Mussalman Wakf Act, 1923** – The U.P. Muslim Wakf Act of 1935, as well as the Merged States (Laws) Act 59 of 1949, abrogated the U.P. Muslim Wakf Act, which was established to improve wakf property administration.

**Bengal Waqf Act 1934**–It established a Board of Wakfs, appointed by the State Government and elected by the West Bengal Legislative Assembly, to manage waqf properties, establishing dispute resolution mechanisms through tribunals.

**The Mussalman Waqf (Bombay Amendment) Act, 1935**–The Mussalman Waqf (Bombay Amendment) Act, 1935, granted the state government the power to exempt specified waqfs from the 1923 Act, according to the Official Gazette.

**United Provinces Muslim Waqfs Act**–The United Provinces implemented provisions for registration and supervision of Muslim waqfs, ensuring better administration and supervision under Muslim law.

**Hyderabad Endowment Regulation Act, 1939**– The Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act was implemented through the 1939 Hyderabad Endowment Regulation, also known as 1348-F, which governed Islamic charitable endowments and Hindu religious institutions.

**Establishment of Delhi Waqf Board, 1943**– The Delhi Waqf Board became operational in 1943, and Act No. XIII of 1943 gave the district judge the authority to determine whether a property is waqf property.

**Waqf Act, 1954**: The first piece of post-independence legislation, the Waqf Act of 1954, was put into effect to oversee and manage Waqf holdings and guarantee that the proceeds from them were put towards the designated religious or charitable uses.

**1959, 1964, and 1969: Wakf Act, 1954 Amendments** –The 1954 Waqf Act gave rise to a number of challenges over time, such as poor leadership, erroneous and subpar record keeping, a lack of transparency, insufficient authority from the government, and inconsistencies with state laws. Even though specific problems have been addressed by amendments, additional enhancements were nevertheless required.

**1976**– While the Wakf Amendment Bill of 1969 was pending, there was a need for a committee to assess Waqf administration and recommend legislative changes. In 1976, the Indian government established the Waqf Investigation Committee to examine the

management of Waqf properties and the efficacy of the 1954 Act. Major challenges were identified in the committee's conclusions, such as encroachment, corruption, and the requirement for Waqf management reforms.

**The Waqf Amendment Act of 1984**– became law in response to the recommendations of the Wakf Enquiry Committee. Conversely, its implementation was limited stipulated that only two of its provisions were approved: (i) prolonging the time limit for bringing lawsuits against waqf properties in detrimental ownership from 12 to 30 years, and (ii) implementing the Waqf Act of 1954's provisions to the properties of evacuees.

**Waqf Amendment Act of 1995**– Subsequently, after an exhaustive examination of the 1984 Act's criticisms and in-depth talks with leaders of the Muslim community, it was determined to introduce a comprehensive bill on waqf matters that incorporated the essential components of the 1954 Act with the 1984 Act's provisions. The Act of 1954 and its Amendment Acts were repealed, and a comprehensive Wakf Act of 1995 was enacted. It was a sophisticated law designed to improve Waqf management.

### **SACHAR COMMITTEE REPORT**

<https://minorityaffairs.gov.in/WriteReadData/RTF1984/7830578798.pdf>

The Sachar Committee, a seven-member High Level Committee in India, was established in 2005 for investigating the socioeconomic and educational state of the Muslim community in India. The committee, led by former Chief Justice of the Delhi High Court Rajinder Sachar, proposed revising Section 83 (4) of the Wakf Act 1995 to guarantee that state Wakf Boards are effective in eradicating encroachment on Wakf property. The committee advocated that the Wakf Tribunal be led by a full-time presiding officer selected solely for Wakf purposes, with the authority to grant interim relief and award damages. The committee attempted to benefit the Wakf by revising numerous legislation and strengthening Wakf Boards through legal channels. The committees' main recommendations were improving the operation of Wakfs.. Few of the major recommendations made by the committees were–

- The Committee was of the firm view that law should not be used for acquiring Wakf properties and recommends that to ensure this on permanent basis the Government should take appropriate action
- Wakf Tribunal should be manned by full time presiding officer appointed exclusively for Wakf purposes.
- The Public Premises (Eviction of Unauthorized Occupation) Act, 1971 should be applied to remove encroachment from Wakf properties and arrears of rent, at market rates, should be recovered as arrears of land revenue.

- The Central Government may consider special grants through the Central Wakf Council to undertake this task and supervise the quality of documentation.
- The exemption of Wakf properties from some enactments would serve the greater philanthropic purpose of Wakf properties.
- It was recommended that all the Wakfs are compulsorily brought under the scheme of 'financial audit'
- An amendment exempting the Wakf properties from the purview of the RCA within the Wakf Act was urgently needed which could be done by introducing an overriding provision in the Wakf Act.

### **WAQF (AMENDMENT) ACT , 2013**

<https://www.minorityaffairs.gov.in/WriteReadData/RTFI984/1658315616.pdf>

The Waqf (Amendment) Act of 2013 rendered various revisions to the Waqf Act of 1995, with a focus on improving Waqf property management and administration. Key reforms included the establishment of three-member Waqf Tribunals to resolve disputes over Waqf properties, the nomination of two women to State Waqf Boards, the prohibition on the sale or giving of Waqf properties, and the extension of Waqf property leases. The Act also restricted the sale or donation of Waqf properties, guaranteeing that they are utilised for religious and philanthropic reasons. The Central Waqf Council was formed for oversight of the activities of State Waqf Boards and ensure uniformity, as well as to provide advice and coordination for the management of Waqf holdings across the country.



# Waqf Amendment Bill 2024

The Waqf (Amendment) Bill, 2024 was introduced in Lok Sabha on August 8, 2024. It amends the Waqf Act, 1995. The Act regulates waqf property in India. The Act defines waqf as an endowment of movable or immovable property for purposes considered pious, religious, or charitable under Muslim law. Every state is required to constitute a Waqf Board to manage waqf. The Bill renames the Act to 'United Waqf Management, Empowerment, Efficiency and Development Act, 1995'.

- **Formation of waqf:** The Act allows waqf to be formed by: (i) declaration, (ii) recognition based on long-term use (waqf by user), or (iii) endowment when the line of succession ends (waqf-alal-aulad). The Bill states that only a person practicing Islam for at least five years may declare a waqf. It clarifies that the person must own the property being declared. It removes waqf by user. It also adds that waqf-alal-aulad must not result in denial of inheritance rights to the donor's heir including women heirs.
- **Government property as waqf:** The Bill states that any government property identified as waqf will cease to be so. The Collector of the area will determine ownership in case of uncertainty, and submit a report to the state government. If deemed a government property, he will update the revenue records.
- **Power to determine if a property is waqf:** The Act empowers the Waqf Board to inquire and determine if a property is waqf. The Bill removes this provision.
- **Survey of waqf:** The Act provides for appointment of a Survey Commissioner and additional commissioners to survey waqf. The Bill instead empowers Collectors to do the survey. Pending surveys will be conducted as per the state revenue laws.
- **Central Waqf Council:** The Act constitutes the Central Waqf Council to advise the central and state governments and Waqf Boards. The Union Minister in-charge of Waqf is the ex-officio chairperson of the Council. The Act requires that all Council members be Muslims, and at least two must be women. The Bill instead provides that two members must be non-Muslims. MPs, former judges, and eminent persons appointed to the Council as per the Act need not be Muslims. Following members must be Muslims: (i) representatives of Muslim organisations, (ii) scholars in Islamic law, and (iii) chairpersons of Waqf Boards. Of the Muslim members, two must be women.
- **Waqf Boards:** The Act provides for election of up to two members each from electoral colleges of Muslim: (i) MPs, (ii) MLAs and MLCs, and (iii) Bar Council members, from the state to the Board. The Bill instead empowers the state government to nominate one person from each of the above background to the

- Board. They need not be Muslims. It adds that the Board must have: (i) two non-Muslim members. and (ii) at least one member each from Shias, Sunnis, and Backward classes of Muslims. It must also have one member each from Bohra and Agakhani communities if they have waqf in the state. The Act provides that at least two members must be women. The Bill states that two Muslim members must be women.
- **Composition of Tribunals:** The Act requires states to constitute Tribunals to address disputes over waqf. The Chairman of these Tribunals must be a Judge of the rank equivalent to a Class-1, District, Sessions, or Civil Judge. Other members include: (i) a state officer equal to an Additional District Magistrate, and (ii) a person knowledgeable in Muslim law and jurisprudence. The Bill removes the latter from the Tribunal. It instead provides the following as members: (i) a current or former District Court judge as its chairman, and (ii) a current or former officer of the rank of joint secretary to the state government.
  - **Appeal on orders of Tribunals:** Under the Act, decisions of the Tribunal are final and appeals against its decisions in Courts are prohibited. The High Court can consider matters on its own accord, on an application by the Board, or an aggrieved party. The Bill omits provisions deeming finality to Tribunal's decisions. Tribunal's orders may be appealed in the High Court within 90 days.
  - **Powers of the central government:** The Bill empowers the central government to make rules regarding: (i) registration, (ii) publication of accounts of waqf, and (iii) publication of proceedings of waqf Boards. Under the Act, state government may get the accounts of waqfs audited at any point. The Bill empowers the central government to get these audited by the CAG or a designated officer.
  - **Waqf Boards for Bohra and Agakhani:** The Act allows establishing separate Waqf Boards for Sunni and Shia sects if Shia waqf constitute more than 15% of all waqf properties or waqf income in the state. The Bill also allows separate waqf boards for Aghakhani and Bohra sects.

The Waqf Acts of 1913, 1923, 1954, and 1995 mandated that waqf be established in conformity with Islamic law. Pursuant to the Muslim Personal Law (Shariat) Application Act of 1937, the Muslim Personal Law (Shariat) will govern decisions involving waqf in which the parties are Muslims. As a result, these constitute unique regulations for Muslims, unlike secular laws like the Societies Registration Act of 1860 and the Indian Trusts Act of 1882, which also permit the implementation of charitable institutions. The Act mandated that all members of the bodies overseeing waqf must be Muslims. This is changed by the bill to mandate non-Muslim members in the bodies. A significant advance towards modernising the administration and management of waqf properties and bringing the nation's waqf governance into line is the Waqf (Amendment) Bill, 2024. An integral

component of Islamic philanthropy, waqf is crucial for promoting religious and social welfare initiatives. Important features of the Bill include tighter legal safeguards against abuse, more government control, and the centralised digital registration of waqf properties. Since Waqf regulations range from one nation to the next, a worldwide examination offers important insights into how various nations manage Waqf while striking a balance between Islamic precepts and sophisticated legal systems.



# Report of Joint Parliamentary Committee

[https://sansad.in/getFile/lsscommittee/Joint%20Committee%20on%20the%20Waqf%20\(Amendment\)%20Bill,%202024/18\\_Joint\\_Committee\\_on\\_the\\_Waqf\\_\(Amendment\)\\_Bill\\_2024\\_1.pdf?source=loksabhadocs](https://sansad.in/getFile/lsscommittee/Joint%20Committee%20on%20the%20Waqf%20(Amendment)%20Bill,%202024/18_Joint_Committee_on_the_Waqf_(Amendment)_Bill_2024_1.pdf?source=loksabhadocs)

On August 8, 2024, the Waqf (Amendment) Bill, 2024 was presented to the Lok Sabha. On August 9, 2024, Shri Kiren Rijiju, the Minister of Minority Affairs, moved in the Lok Sabha to send the Bill to a Joint Committee of both Houses of Parliament. The Rajya Sabha also agreed on the same day.

The committee did clause by clause examination of the waqf amendment bill 2024 and presented its views-

The Clause 2 of the Bill proposes to amend the Section 1 of the Principal Act.- The Committee approved the change in the nomenclature of the Waqf Act to "Unified Waqf Management, Empowerment, Efficiency, and Development Act," emphasizing unified administration, inclusivity, operational efficiency, and proactive development, thereby aligning Waqf management with contemporary needs and practices.

Amendment to section 3(r)- Waqf" means the permanent dedication by any person practising Islam for at least five years, of any movable or immovable property, having ownership of such property," for any purpose recognised by the Muslim law as pious, religious or charitable and include.

The Committee proposed an amendment to Clause 3(ix)(a) of the Islamic law, allowing only a person practicing Islam for at least five years to dedicate any movable or immovable property as waqf. The amendment requires the person to demonstrate ownership of the property, implying no contrivance involved in the dedication process, and to provide proof of ownership in the opening portion.

Clause 3(ix) of the Amending Bill has raised concerns among stakeholders and the Muslim community about the status of existing 'waqf by user' properties. To address this, a proviso has been proposed, stating that existing waqf properties registered as 'waqf by user' will remain as waqf properties, unless they are involved in a dispute or are a government property. This amendment will apply prospectively, ensuring the status of these properties remains unchanged.

The Committee recommends amendments to the definition of 'waqf-alal-aulad', expanding the scope of benefit for widows, divorced women, and orphans. The proposed amendments include inserting the phrase "if waqif so intends" after "orphan" in sub-clause (iv).

**For creation of waqf by lawful owner of property-**The creation of a waqf requires a lawful owner to be competent to transfer or dedicate property, as per Section 3A of the

Transfer of Property Act 1882. This includes competency to contract, entitlement to transferable property, and proper transfer manner.

**For 'waqf-alal-aulad' not denying inheritance rights to hiers-** Section 3A(2) ensures that the creation of 'waqf-alal-aulad' does not deny inheritance rights to women, ensuring a fair share in inheritance and extending the benefits of the waqf to wider society when succession ends.

**For updation of information on portal and database, Section 3B (1) & (2) of the Waqf (Amendment) Bill 2024** mandates that registered waqf properties must be updated on the WAMSI portal within six months of the Act's commencement. The details must include the waqf's identification, boundaries, use, occupier, creator's name, mode, date, and deed. The WAMSI portal currently contains details of 3,56,051 registered waqf estates, with 8,72,328 properties. However, UP Sunni waqf land is excluded due to erroneous entries. The amendment bill proposes completing updation work within six months, ensuring transparency and regular updating of waqf property details on a central portal and database.

The Ministry has clarified that the removal of clause 3B1 and B2 of the waqf (Amendment) Act 2024 will not negatively impact existing waqfs registered prior to the Act's commencement. Section 3B(1)&(2) ensures protection for properties declared as waqf by users, and waqf and property dedicated to the waqf must file their details on the central portal within six months.

**For an inappropriate declaration of government property as waqf property-** Section 3C of the Bill 2024 has retrospective effect, preventing government property from being considered waqf property. The burden of proof has been shifted to the person or organization claiming the property. The legal procedure under sub-sections (2), (3), and (4) of the section will be followed for determining wrongful declarations. As of 05.09.2024, 5973

government properties have been declared as waqf properties. The Land and Development Office has been responsible for 108 properties under control, while the JPC reported 280 protected monuments and 123 public domain properties as waqf properties. The proposed amendment allows the collector to validate government land and expedite survey of Auqaf, reducing litigation and ensuring compliance with Article 14 of the Constitution.

**Amendment for Preliminary survey of auqaf-** Clause 5 of the Bill replaces section 4 in the Principal Act, transferring responsibilities from the Survey Commissioner to the Collector.

The Collector, head of land revenue administration, will oversee the survey of auqaf properties, ensuring proper records and compliance with revenue laws.

The Committee has approved proposed amendments to transfer responsibilities from the

Survey Commissioner to the Collector, who will conduct surveys in accordance with state revenue laws. This will streamline the survey process, align it with the existing administrative framework, and increase the authenticity of land transactions. The Committee believes this change will demonstrate objectivity, enhance efficiency, reduce redundancies, and ensure a more integrated approach to managing Waqf properties.

**Publication of the list of auqaf**-Section 5 of the principal Act amends to include the addition of Bohra Auqaf and Aghakhani Auqaf to the list of waqf properties. The amendments include replacing Section 4(3) with Section 4(1), replacing the Survey Commissioner with the Collector, and replacing Section 4(1) with Section 4(1). The State Government will upload the notified list of auqaf on the portal and database within fifteen days of its publication in the Official Gazette. The details of each waqf must include identification, boundaries, use, occupier, creator, mode, date, purpose, present mutawallis, and management. The Ministry of Minority Affairs justifies the proposed amendments, stating that the amendments aim to provide a public notice of ninety days before deciding mutation in land records.

The Committee has approved proposed amendments for the publication of auqaf lists in the Official Gazette, uploading on the portal, and mutation in land records. However, a new sub-section (2) of Section 5 through Clause 6 (c) proposes a revised time period for uploading the notified list from fifteen days to ninety days, ensuring transparency and accountability in waqf property management.

**Disputes regarding auqaf**- The principal Act includes changes to the terms "Sunni waqf" and "Aghakhani waqf" to clarify the meaning of the term. The Tribunal's decision on such matters is now final, and the term "Survey Commissioner" is replaced with "Collector".

The Tribunal's rulings on Waqf matters have been criticized for weakening the decisiveness of their decisions, allowing for further legal challenges or appeals. The suggestion is to replace the Tribunal with a Competent Court whenever it occurs in the Bill, replacing the word "Tribunal" with "Civil Judge, Senior Division." The existing Section 6(1) empowers an aggrieved person to challenge a dispute about whether a property is Waqf, but the amendment proposes a 2-year period for filing a suit. The word "Tribunal" should be deleted wherever it occurs, as the property rights of citizens must be determined by a Civil Court within the scope of Section 9 of CPC. The Constitution recognizes a 3-tier judicial system, with the Civil Court having original jurisdiction over all civil cases. The omission of the sentence "and the decision of the Tribunal thereof shall be final" in section 6(1) of the Principal Act could provide a further forum for appeals against the Tribunal's decision, but there should be provisions for the Appellate Authority.

**Power of Tribunal to determine disputes regarding auqaf**- The principal Act's section 7 includes changes to the proviso, replacing "Sunni waqf" with "Aghakhani waqf

or Bohra waqf," and replacing "one year" with "two years." The Tribunal may entertain an application after the specified two-year period if the applicant has sufficient cause for not making the application. The Committee approves the proposed amendment to Section 7(1) of the Waqf Act 1995, extending the time period for approaching the Tribunal from one year to two years, ensuring fair and reasonable opportunities for aggrieved parties and allowing late applications with valid reasons.

**Establishment and constitution of Central Waqf Council-** The Council, under clause (c), consists of the Union Minister in charge of waqf, three Members of Parliament, and members appointed by the Central Government from amongst Muslims. The Council includes representatives from Muslim organizations, eminent scholars in Muslim law, Supreme Court judges, advocates of national eminence, and four persons of national eminence from various fields. The Secretary, who is ex officio, handles waqf matters in the Union Ministry or department. Two members appointed under clause (c) are women and two are non-Muslim. The Council ensures the protection of national eminence and the integrity of the waqf system in India.

The introduction of non-Muslim members in Waqf management violates Articles 14, 25, 26, and 13, and is void under Article 13. The appointment of non-Muslim members could be seen as interference in the religious affairs of the Muslim community. The proposed Bill contradicts established legal precedents across several Indian States and is against the principles of trust and endowment laws in India. The Central Waqf Council should have a retired Supreme Court Judge as its Member to ensure judicial oversight. Adequate representation should be given to members from Sufi backgrounds in the Council. Women are already members, but the implementation must ensure they are genuinely empowered. The Ministry of Minority Affairs has delayed a straightforward administrative task for over six months, and the Central Waqf Council's term has been reduced from five years to one year without following the proper rule-making procedure under Section 12 of the Waqf Act.

The Ministry of Minority Affairs has defended the inclusion of non-Muslim members in the Central Waqf Council, stating that it does not violate Article 14, 25, and 26 of the Indian Constitution. Section 3(a) of the Waqf Act 1995 defines beneficiaries as persons or objects for whose benefit a waqf is created, including religious, pious, and charitable objects. Non-Muslims can also be considered "persons interested" in accordance with Section 3(k) of the Act, as they can offer prayer, perform religious rites, and make donations to Waqf institutions under Section 72(1)(v)(f) of the Waqf Act, 1995.

The Central Waqf Council's duties include overseeing the functioning of State Waqf Boards, calling information from or direct State Boards to correct any irregularities in functioning, and playing an advisory role. It also ensures that the Auqaf under its superintendence are properly maintained, controlled, and administered, and the income

thereof is duly applied to the objects and for the purposes of which such Auqaf were created or intended. In the case of Syed Fazal Pookoya Thangal vs Union of India (UoI) And Ors., the Allahabad High Court held that the right of a Mutawalli is not equivalent to that of a mahant, as their duties are purely secular and not of a religious character. Section 5 (3) of the Waqf Act allows the Collector to be part of the board even if he is not a Hindu, thus regulating or restricting any economic, financial, political, or other secular activity associated with religious practice.

In conclusion, the inclusion of non-Muslim members in the Central Waqf Council does not infringe upon religious practices.





# Is Inclusion of Non-Muslims in Waqf a Violation of Articles 25 & 26 in the Constitution?

The inclusion of non-Muslim members in the Central Waqf Council and Waqf Board is not a violation of articles 25 and 26 of the Constitution. Article 25 of the Constitution provides as follows: "25. Freedom of conscience and free profession, practice and propagation of religion (1) Subject to public order, morality, and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practice, and propagate religion. (2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law— (a) regulating or restricting any economic, financial, political, or other secular activity that may be associated with religious practice; (b) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus. Explanation I.—The wearing and carrying of kirpans shall be deemed to be included in the profession of the Sikh religion. Explanation II.—In sub-clause (b) of clause (2), the reference to Hindus shall be construed as including a reference to persons professing the Sikh, Jaina or Buddhist religion, and the reference to Hindu religious institutions shall be construed accordingly." Article 26 of the Constitution provides: "26. Freedom to manage religious affairs Subject to public order, morality and health, every religious denomination or any section thereof shall have the right—(a) to establish and maintain institutions for religious and charitable purposes; (b) to manage its own affairs in matters of religion; (c) to own and acquire movable and immovable property; and (d) to administer such property in accordance with law." 126 Article 25 distinguishes between religious practices and secular activities associated with religious institutions. The state has the authority to regulate or restrict secular activities that may be associated with religious practices, such as economic, financial, political, or other secular activity unrelated to the core aspects of religion. Article 26 includes the right of religious denominations or any section thereof to manage their own religious affairs, including establishing and maintaining religious institutions, as long as they do not violate any other laws or public order.

## COMPARATIVE PROVISOS OF OTHER CASE LAWS

**Shri Jagannath Temple Puri Management Committee v. Chintamani, AIR 1997 SC 3839-**

The Supreme Court ruled that the state cannot interfere with a person's right to practice

eligion, but temple activities are not religious. State control over temple management, but violating articles 25 and 26 is not possible.

**N. Adithayan v. Travancore Devaswom Board, 2002 AIR SCW 4146-** The question was whether non-Brahmins could be appointed as priests in temples.

The Supreme Court ruled that Brahmins do not have exclusive rights to perform ceremonies at temples. The court ruled that non-Brahmins can be appointed as priests if they are well-versed in their profession.

**Tilkayat Shri Govindlalji Maharaj v. The State of Rajasthan, 1964 SCR (1) 561-** The legal challenge to the Act was based on Section 5 (3), a provision that permits the Collector to serve on the board despite not being a Hindu. A five-judge bench ruled that the right to administer temple properties is a secular matter and does not infringe Articles 25 and 26 (b) of the Constitution. Members of the Board can be of different religions without violating religious fundamental rights as outlined in the Constitution.

**Seshammal v. State of Tamil Nadu, MANU/SC/0631/1972-** The Tamil Nadu Religious and Charitable Endowments Act, 1970, was contested as being unconstitutional for violating the right to freedom to manage religious affairs by the hereditary position of Archakas and Mathadhipatis (an archaka is a person who is 127 accomplished and well-versed in the agamas and rituals) of Hindu temples in Tamil Nadu. The Supreme Court ruled that Archaka's position is secular. The appointment of Archaka is neither a fundamental component of any religion nor a religious practice.

There have been several other provisions that are discussed in the JPC report, which we as an executive board would like the delegates to come up with in the committee.

# Waqf (Amendment) Act, 2025

The Waqf (Amendment) Act, 2025, was enacted by Parliament in the Seventy-sixth Year of the Republic of India. The Act amends several sections of the Waqf Act, 1995, including the definition of waqf and its provisions. The Act comes into force on a date specified by the Central Government through notification in the Official Gazette.

In section 1, the word "Waqf" is substituted with "Unified Waqf Management, Empowerment, Efficiency and Development." This change is made to ensure that no law or decree applies to a trust established by a Muslim for a purpose similar to a waqf under any law for the time being in force.

In section 2, the proviso is inserted, providing that nothing in this Act shall apply to a trust established before or after the commencement of this Act or statutorily regulated by any statutory provision pertaining to public charities. The Act also introduces new clauses in section 3, such as "Aghakhani waqf" means a waqf dedicated by an Aghakhani waqif, "Bohra waqf" means a waqf dedicated by a Bohra waqif, and "Government Organisation" includes the Central Government, State Governments, Municipalities, Panchayats, attached and subordinate offices and autonomous bodies of the Central Government or State Government, or any organization or Institution owned and controlled by the Central Government or State Government.

The Act also introduces new sections, such as "3A," "3B," "3C," "3D," and "3E," which address certain conditions of waqf, filing of details of waqf on the portal and database, and wrongful declaration of waqf.

The Act also introduces new sections 3A, 3B, 3C, 3D, and 3E, which provide further details about the creation of waqfs, the creation of waqf-alal-aulad, and the requirements for waqf registration.

The Act also addresses the issue of wrongful declaration of waqf, the bar of declaring protected monuments or protected areas as waqf, and the bar of declaring land in scheduled or tribal areas as waqf.

The Act also addresses the issue of government property identified or declared as waqf property before or after the commencement of this Act. If any question arises as to whether any such property is a government property, the State Government may designate an Officer above the rank of Collector to conduct an inquiry and determine whether such property is a government property or not. If the designated officer determines the property to be a government property, they must make necessary corrections in revenue records and submit a report to the State Government.

The Act also amends the provisions of section 5 of the Waqf (Amendment) Act, 2025, which provides for the creation of waqfs and the establishment of a waqf board. The Board will be responsible for the registration, accounts, audit, and other details of waqfs

and the board.

The State Government is required to upload the notified list of auqaf on the portal and database within ninety days from its publication in the Official Gazette under sub-section (2). The details of each waqf shall contain the identification, boundaries of waqf properties, their use and occupier, details of the creator, mode and date of such creation, purpose of waqf, their present mutawallis and management in such manner as may be prescribed by the Central Government.

In section 6, the words "Sunni waqf" shall be substituted with "or Aghakhani waqf or Bohra waqf." The decision of the Tribunal in respect of such matters shall be final. In section 9, the words "and the decision of the Tribunal thereon shall be final" shall be omitted. In section 13, the State Government may, if it deems necessary, by notification in the Official Gazette, establish a separate Board of Auqaf for Bohras and Aghakhani.

In section 14, the following sub-sections shall be substituted:

1. The Board for a State and the National Capital Territory of Delhi shall consist of not more than eleven members, to be nominated by the State Government.

2. No Minister of the Central Government or, as the case may be, a State Government, shall be nominated as a member of the Board.

3. In case of a Union territory, the Board shall consist of not less than five and not more than seven members to be nominated by the Central Government under sub-section (1).

4. In determining the number of members belonging to Shia, Sunni, Bohra, Aghakhani or other backward classes among Muslim communities, the State Government or, as the case may be, the Central Government in case of a Union territory shall have regard to the number and value of Shia, Sunni, Bohra, Aghakhani and other backward classes among Muslim auqaf to be administered by the Board and appointment of the members shall be made, so far as may be, in accordance with such determination.

In section 16, the words "or Aghakhani waqf or Bohra waqf" shall be substituted with "or Aghakhani waqf or Bohra waqf" and "or Aghakhani waqf or Bohra waqf" respectively.

In summary, the State Government is required to upload the notified list of auqaf on the portal and database within ninety days from its publication in the Official Gazette under sub-section (2). The details of each waqf shall include the identification, boundaries of waqf properties, their use and occupier, details of the creator, mode and date of creation, purpose of waqf, their present mutawallis, and management in such manner as may be prescribed by the Central Government. The Tribunal may entertain an application after the period specified in the first proviso if the applicant satisfies the Tribunal that he has sufficient cause for not making the application within such period.

The Indian Evidence Act, 1872, and the Bharatiya Sakshya Adhiniyam, 2023 are two significant legislations that have significantly impacted the way we manage and enforce the rights of landowners.

The first section of the principal Act, section 76 of the Indian Evidence Act, 1872, was amended to include the provisions of section 75 of the Bharatiya Sakshya Adhiniyam, 2023.

The second section of the principal Act, section 30 of the principal Act, replaced the words and figures of section 76 of the Indian Evidence Act, 1872 with those of section 75 of the Bharatiya Sakshya Adhiniyam, 2023. This amendment was made to ensure that the provisions of the Waqf (Amendment) Act, 2025, were followed.

In section 36 of the principal Act, the words "in such form and manner and at such place as the Board may by regulation provide" were substituted with "to the Board through the portal and database." The Central Government was also provided with additional provisions for the registration of waqfs, such as providing notice of the application to the person administering the waqf and hearing him if he desires to be heard.

In section 37 of the principal Act, the words "in such a manner as prescribed by the Central Government" were substituted with "prescribed by the Central Government." The land record office was also required to give a public notice of ninety days in two daily newspapers circulating in the localities of such an area, one of which should be in the regional language and give affected persons an opportunity of being heard.

In section 46 of the principal Act, the words "in such form and manner and containing such particulars as may be provided by regulations by the Board of all moneys received" were substituted with "in such form and manner and containing such particulars as may be prescribed by the Central Government, of all moneys received from any source." The Central Government was also given the authority to direct the audit of any waqf at any time by an auditor appointed by the Comptroller and Auditor-General of India or by any officer designated by the Central Government for that purpose."

In addition to these amendments, section 48 of the principal Act was amended to include the disqualification of mutawalli. The amendments included the following:

1. The words "appointed by the Board" were substituted with the following:
2. The words "from out of the panel of auditors prepared by the State Government" were substituted with the following:
3. The accounts of the waqf having net annual income exceeding one lakh rupees shall be audited annually by an auditor appointed by the Board from out of the panel of auditors as specified in clause (a).
4. The Central Government may, by order, direct the audit of any waqf at any time by an auditor appointed by the Comptroller and Auditor-General of India or by any officer designated by the Central Government for that purpose.

In conclusion, the amendments to the principal Act and the Bharatiya Sakshya Adhiniyam have significantly impacted the way we manage and enforce the rights of landowners. The principal Act of India has been amended several times, with the most

recent amendments in section 48, section 51, section 52, section 64, section 73, and section 83. These amendments aim to improve the legal framework for mutawalli, a group of individuals who are not qualified for appointment or continuation as a mutawalli due to various factors such as being under 21 years of age, being unsound mind, undischarged insolvent, having been convicted of any offense and sentenced to imprisonment for not less than two years, being held guilty of encroachment on waqf property, being removed as a mutawalli on multiple occasions, or being removed by an order of a competent court or Tribunal for mismanagement or corruption.

In section 55A of the principal Act, the words "and the decision of the Tribunal thereon shall be final" have been omitted. In section 61, clauses (e) and (f) have been substituted. In section 64, amendments have been made to sections 51, 52, 55A, 61, 64, 65, 67, 69, 72, 73, and 83. These amendments aim to improve the legal framework for mutawalli, ensure that the proceedings and orders of the Board under sub-section (2) are published in a manner prescribed by the Central Government, and provide for the right to fair compensation and transparency in land acquisition, rehabilitation, and resettlement.

In addition to these amendments, the principal Act also includes provisions for other provisions such as the Right to Fair Compensation and Transparency in Land Acquisition Act, 2013, the Code of Criminal Procedure, 1973, and the Bharatiya Nagarik Suraksha Sanhita, 2023. These amendments aim to improve the legal framework for mutawalli and ensure that they are not subject to the same restrictions as those imposed under the Unlawful Activities (Prevention) Act, 1967. The Waqf (Amendment) Act, 2025, is a comprehensive legislation that amends the Land Acquisition Act, 1894, to ensure fair compensation and transparency in land acquisition, rehabilitation, and resettlement. The Act also amends section 91 of the principal Act to substitute the words "Land Acquisition Act, 1894" with "Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013".

The Act also amends section 101 of the principal Act to substitute the words "Survey Commissioner" with "Collector." Additionally, section 108 and 108A of the principal Act are omitted. Section 107 of the principal Act is replaced with "107. On and from the commencement of the Waqf (Amendment) Act, 2025, the Limitation Act, 1963 shall apply to any proceedings in relation to any claim or interest pertaining to immovable property comprised in a waqf."

The Central Government has the power to make rules to carry out the provisions of this Act, including the waqf asset management system for registration, accounts, audit, and other details of waqf and Board under clause (ka), the manner of payments for maintenance of widow, divorced woman, and orphan under clause (iv) of clause (r), any other particulars under clause (j) of sub-section (2) of section 3B, the manner in which

details of waqf to be uploaded under sub-section (2B) of section 5, the manner in which the Board shall maintain the register of auqaf under clause (f) of sub-section (3) of section 36, the form and manner and particulars of the statement of accounts under sub-section (2) of section 46, the manner for publishing audit report under sub-section (2A) of section 47, the manner of publication of proceedings and orders of Board under sub-section (2A) of section 48, and any other matter which is required to be prescribed.

Every rule made by the Central Government under this Act shall be laid before each House of Parliament, while it is in session, for a total period of thirty days. If both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be. However, any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

In conclusion, the Waqf (Amendment) Act, 2025, and the Limitation Act, 1963 are significant changes to the Indian legal framework. The amendments aim to ensure fair compensation and transparency in land acquisition, rehabilitation, and resettlement proceedings, while also enhancing the powers of the Central Government to make rules and regulations.

These were all the legal provisions fostered in the waqf amendment act 2025.

### **WHY IS IT OPPOSED?**

The Waqf Amendment Act 2025, is being opposed and is facing criticism over the increased governmental interference and authority changes. The inclusion of non-Muslim board members, and reforms that fuel property ownership disputes has made this act alienate the citizens.

The bill mandates the inclusion of Non-Muslims in the Central Waqf Council and state waqf boards, which critics argue to interfere with the Muslim religious affairs as such inclusion are not as much predominant in other religious boards present in the country. It seems to the masses that this act aims to seek the fervour of secularism from only one religion of the nation, trying to change a religious institution to a secular institution.

The Act has a rule that states only a Muslim person who has been practicing Islam for at least five years can declare a property as Waqf and the property must be owned by that person only. This had made critics argue that how the ruling government talks about secularism with terms to the membership in the waqf Councils but becomes exclusive and restrictive when it comes to the matter of donating the property as Waqf, presented as a religious infringement. Muslim leaders and organisations argue that the proposed changes will be detrimental rather than beneficial to the Muslim community. They claim that the Act is an attempt to weaken the autonomy of Waqf properties and seize lands that have been historically dedicated for religious and charitable purposes.

Another provision that makes this Act to be called 'draconian' is that it allows an officer above the rank of collector to investigate governmental properties claimed as Waqf, with final decision shifting from Waqf tribunals to senior government officials, which is alleged to lead to political bias. Opposition presents its resentment regarding this act by calling out this amendment trying to dilute the constitution, defame minorities and divide the Indian society and disenfranchise the minority communities. They articulate their notion by calling it to be an attack on the basic nature of the Constitution and was aimed at polarizing the minority.

The 'Waqf by User' classification is another aspect that fuels the protest. The Waqf Act of 1954 classified properties under the designation of 'waqf by user'. According to this provision, a property gains waqf status if it has served religious or charitable functions over an extended period, regardless of any formal paperwork or proceedings. However, this legislation eliminates this provision, creating uncertainty about the state of numerous such properties, creating wide spread state of agony among the civilians.





# Merits & Demerits of the Waqf Amendment Act

The Waqf (Amendment) Act, 2025 aims to streamline the management of Waqf properties, with provisions to safeguard heritage sites and promote social welfare. The Act aims to be more liberal and developmental in its approach, with focusing on proper administration of these properties.

By proposing modifications, including renaming the Act, revising the definitions of waqf, simplifying the registration procedure, and expanding the role of technology in keeping waqf records, it seeks to address the weaknesses of the previous act and improve the effectiveness of Waqf boards. With regards to this, the following statements are the merits of the Amendment Act:-

**1. Digital Transformation in the Council:** The Act introduces a centralized digital portal to track and manage all Waqf properties, significantly enhancing transparency and reducing opportunities for misappropriation. This digital portal shall serve as a platform for the better identification and monitoring of the waqf properties.

**2. Financial Accountability:** New auditing and accounting measures will establish strict oversight of Waqf finances, ensuring funds are used exclusively for designated welfare purposes. Regular audits and inspections will promote financial discipline and strengthen public confidence.

**3. Rights for Women and Legal Heirs:** It seeks to improve the economic and social status of muslim women, especially widows and divorced women by promoting self-help groups and financial independence programs. It guarantees them their rightful share in the family waqf. It shall even manage pension schemes for widows.

**4. Upliftment of the Poor:** It shall play a crucial role in serving religious and social welfare needs, especially for the needy and the underprivileged. Funds shall be allocated to healthcare, education, housing and livelihood support, directly benefiting the economically weaker sections. The legislation provides stronger mechanisms, protecting these valuable assets for their intended charitable uses.

**5. Inclusive Representation in Governance:** The Bill mandates representation from various Muslim sects including Bohra and Aghakhani communities, as well as backward classes, ensuring diverse perspectives in decision-making. It has provisions for the representation of women as well.

The waqf bill may be considered to be one of the most required amendment in recent times, but one cannot ignore its infamous demerits that makes an individual question this amendment and require further deliberations and discussion in the Parliament. Few of the demerits of the Waqf Amendment Act are as follows:-

**1.Non-Muslim Incorporation:** It is argued that incorporating non-Muslims into Waqf Boards and Councils defeats the purpose of religious autonomy protected under Article 26 of the Constitution, under which rights of religious communities to manage their affairs are preserved. This has been characterized as contradictory to law covering other religious endowments.

**2.Increased Government Control:** The delegation of power to District Collectors and government officials regarding property disputes is seen as excessive interference by the state, which may marginalize Waqf Boards and make them nothing more than "mute spectators."

**3.Five-Year Muslim Practice Requirement:** The Act prohibits Waqf formation by people following Islam for less than five years, a move criticized for infringing on Article 14 (right to equality) by making arbitrary distinction between converts and long-term Muslims without satisfactory rationale. The move also undoes the 2013 amendment enabling non-Muslims to form Waqf, curtailing property rights

**4.Risk of Marginalization and Community Tensions:** Perceived Anti-Muslim Bias: Muslim organizations and opposition parties, such as the All India Muslim Personal Law Board, contest that the Act discriminates against Muslims, cutting down their dominance over Waqf properties and fuelling the sense of marginalization. Protests, including violence in West Bengal and Tripura, reflect unrest in the community.

**5.Removal of the doctrine "waqf by user":** One of the strongest disadvantages of revoking the 'Waqf by user' concept, whereby properties are deemed to make waqf by continuous religious or charitable use, is the loss of legal protection to Islamic endowments in India. This would render unregistered waqf properties invalid, exposing them to commercialization, erasing the religious and cultural history of Muslim communities, and creating conflicts over historically dedicated assets.

# Articles of the Constitution Violated by Waqf Act Of 2025

**Article 14 (Right to Equality):** The Waqf Act, 1995, and its 2025 amendments are argued to violate Article 14 by granting Waqf Boards disproportionate powers, such as Section 8 (survey without participative processes), Section 28 (superior authority over district administration), and Section 107 (no limitation period for property recovery), seen as arbitrary and favoring Muslims over other communities. The five-year Islam practice requirement for creating a Waqf is criticized as irrational.

**Article 15 (Prohibition of Discrimination):** The Act allegedly breaches Article 15 by providing Muslim Waqf properties special privileges, like exemptions from legal limitations (Section 107) and unfair survey processes (Section 8), discriminating against non-Muslims by favoring one religious group.

**Article 21 (Right to Life and Personal Liberty):** Provisions like Section 40 (allowing Waqf Boards to claim properties without oversight) and the 2025 amendment's empowerment of district collectors (Section 3C) to determine property status without fair adjudication are seen as violating Article 21 by threatening property rights and personal liberty.

## **Alleged Violation of Article 25 by the Waqf Act:**

**Article 25 (Freedom to Practice and Propagate Religion):** The Waqf Act, 1995, and amendments of 2025 are claimed to infringe Article 25, which promises freedom of conscience and the freedom to practice religion, by laying down restrictions in Waqf establishment and management. The stipulation of five years' practice for the establishment of a Waqf (Section 3(r)) is claimed to be an arbitrary restriction on religious freedom. Inclusion of non-Muslims in Waqf Boards is also claimed to be interference by the state in Muslim religious practice.

## **Alleged Violations of Articles 26, 29, and 30 by the Waqf Act**

**Article 26 (Freedom to Manage Religious Affairs):** The Waqf Act, 1995, and its 2025 amendments are challenged on the basis of infringing Article 26, which grants religious denominations the freedom to manage their own religious affairs, including holding institutions for religious and charitable purposes. The addition of non-Muslims to Waqf Boards and the Central Waqf Council (Sections 9 and 14 of the 2025 Act) and the removal of the "Waqf by user" concept are seen as intruding into the Muslim community's freedom to administer Waqf properties, interfering with religious practice.

**Article 29 (Protection of Minority Rights):** The amendments to the Act are contended to infringe on Article 29, guaranteeing the cultural and educational rights of minorities, by bringing Waqf properties under government control and limiting the independence of

Muslims. The repeal of "Waqf by user" and the enforcement of the Limitation Act (which involves repeal of Section 107) are perceived as risking cultural heritage, as it may result in legal actions against long-established Waqf properties.

**Article 30 (Minority Right to Establish and Administer Educational Institutions):** The Act is alleged to violate Article 30, which grants minorities the right to start and manage educational institutions, as the majority of Waqf properties provide funds to these institutions. Placing non-Muslims under Waqf management and bringing the state into management through the imposition of district collectors governing Waqf property status (Section 3C) are seen to dilute Muslim management of institutions.

### **Issues Pertaining to Article 300A and the Waqf Act**

**Article 300A (Right to Property):** The Waqf Act of 1995 and the 2025 amendment are alleged to contravene Article 300A that guarantees no person is deprived of property except through the authority of law. Sections such as 40, under which Waqf Boards may acquire properties at their discretion, and the 2025 amendment that authorizes district collectors to decide Waqf properties as government land (Section 3C) are faulted for being pro-arbitrary acquisition without fair process, endangering property.

Under Entry 28 of the State List, "Charities and charitable institutions, charitable and religious endowments, and religious institutions" fall exclusively within the legislative domain of States. However, the (Amendment) Act, by empowering the Union government to unilaterally issue directives to State Waqf Boards (for instance under Section 9A or analogous provisions), encroaches upon the States' exclusive legislative and executive authority, violating the constitutional scheme of federalism. The current iteration of the Waqf (Amendment) Act 2025 fails to uphold the principles of reasonable classification and undermines the principles of secularism and federalism.

Such centralisation contradicts the federal balance, violating Article 246(3), which reserves exclusive legislative power over State List subjects to States, barring a constitutional exception under Article 252 or 249. Thus, the Amendment unconstitutionally subverts State sovereignty.

# Case Studies

## Uttarakhand High Court vs State Waqf Board

### The Case:

In November 2021, The State Waqf Board received a notice from the Uttarakhand High Court following an SDM-level investigation that found significant financial violations worth ₹2.5 crore. These anomalies were connected to the poor administration and dubious distribution of stores built on Waqf property, particularly those connected to Jama Masjid and Rehmania Madarsa in Khatima, Udham Singh Nagar district.

Significant differences between official records and actual rent collections were found during the preliminary investigation into the money collected from these commercial properties. Significant concerns regarding corruption and the theft of community resources were raised by the investigation's identification of cases of opaque leasing practices and a lack of regulatory monitoring.

### 1.1 Key Issues:

#### 1. Mismanagement of Waqf Property

The accusations made against the Uttarakhand Waqf Board are specifically related to violations of the Waqf Act, 1995, which was a central law passed in order to improve the management of Waqf estates across India. Here, two crucial clauses are highlighted:

Section 51: No sale, gift, exchange, mortgage, or transfer of Waqf property may be made without the Waqf Board's prior approval, according to Section 51. Additionally, it mandates a stringent application, investigation, and documentation process for giving authorization to lease or transfer property.

Section 52: Unauthorized alienation of Waqf properties carries criminal penalties under this section. Without the Board's consent, anybody who alienates or attempts to alienate a Waqf property faces a maximum two-year jail sentence, a fine, or both.

In this instance, it is reported that the commercial stores built on the property of Jama Masjid and Rehmania Madarsa in Khatima were leased or distributed without following these legal protections. The ₹2.5 crore financial irregularity raises the possibility of intentional embezzlement or underreporting of leasing proceeds, which would result in direct culpability under Section 52.

Additionally, Waqf properties must be valued by an accredited valuer prior to leasing, as required by the Central Waqf Council norms, which seems to have been broken in this case. As a result, this incident is a statutory offense that carries the possibility of criminal punishment in addition to administrative carelessness.

#### 2. Violation of the Public Trust Doctrine

Despite having common law roots, the public trust doctrine has been integrated into Indian constitutional jurisprudence by means of significant Supreme Court rulings (such

as *M.C. Mehta v. Kamal Nath*, AIR 1997 SC 388). This theory maintains that the government or controlling body is a trustee, not an owner, and that some resources (land, water, air, and forests) and institutions are protected for public use.

By definition, waqf property is a religious endowment intended for the community's benefit, usually for philanthropic, religious, or educational reasons. Thus, the Waqf Board serves as these assets' fiduciary trustee.

In this instance, the Waqf Board's public confidence is violated by the alleged diversion or misuse of ₹2.5 crore. Any failure to manage these resources in a way that is both beneficial to the public and in good faith may be interpreted as a breach of fiduciary duty, making it subject to both statutory and constitutional examination.

### **3. Lack of Oversight Mechanisms**

Despite the existence of legal frameworks, the financial irregularities reveal significant systemic flaws in the supervision of Waqf institutions.

Section 32 of the Waqf Act, 1995, requires the Uttarakhand Waqf Board to keep accurate records, carry out routine inspections, and guarantee the best possible use of Waqf properties. Additionally, under Sections 9 and 13, respectively, State Waqf Councils and the Central Waqf Council have the authority to oversee, evaluate, and provide advice on how Waqf Boards operate.

The fact that an SDM-level investigation rather than internal audit found the anomalies suggests that there have been institutional failures on several levels:

- Absence of regular property appraisals and internal audits.
- Vigilance committees that are ineffective or non-operational.
- The State Waqf Council does not take the initiative to ensure compliance.

### **1.2 Legal Proceedings**

A Public Interest Litigation (PIL) was filed at the Uttarakhand High Court in early November 2021 after the SDM's findings were received. The PIL raised concerns over financial embezzlement and called for prompt remedial action. Under the leadership of Justice R.C. Khulbe, the High Court bench admitted the PIL and issued notices to:

- Uttarakhand Waqf Board
- District Administration of Udham Singh Nagar
- State Government of Uttarakhand

The notice, which was sent on November 15, 2021, asked the Waqf Board to provide a thorough affidavit outlining the administrative action that was done following the SDM's investigation. The court also asked if the officials in charge of the unlawful allocations were the subject of departmental or criminal actions.

### 1.3 Aftermath

In accordance with Article 226's writ jurisdiction, the Uttarakhand High Court sent out a notice of motion requiring the Waqf Board to reply within a certain amount of time. The court stressed the significance of:

- Maintaining fiduciary accountability in the administration of religious assets.
- Ensuring that public charitable assets are not diverted for private or political advantage.
- Looking into potential infractions of the Indian Penal Code (IPC), such as Sections 420 (cheating and dishonestly inducing delivery of property) and 409 (criminal breach of trust by a public worker).

Depending on how well the Board responds, the High Court further stated that it is willing to suggest a special audit by the Comptroller and Auditor General (CAG) or an outside forensic team.

As of the most recent update, the Waqf Board acknowledged administrative supervision and record-keeping errors in a preliminary reply. But according to reports, the affidavit fell short in addressing responsibility for the ₹2.5 crore disparity. According to media reports,

- At the time, no FIRs had been filed against negligent officials.
- The Board had not yet established independent inquiry committees or carried out internal changes.

Therefore, in the event that the authorities did not take significant action, the High Court reserved the power to start contempt proceedings. Citing public interest and the possible involvement of higher-level officials, the court further cautioned against moving the probe to the Vigilance Department to the CBI.

## Delhi Waqf Board vs Land and Development Office

### 2.1 The Case:

The Delhi Waqf Board vs Land and Development Office (L&DO) case emerged from a dispute over the control of 123 properties which were historically maintained by the Delhi Waqf Board. The dispute started when the L&DO sent out a letter declaring that the Waqf Board had been "absolved" of all responsibility for these assets, therefore nullifying the Board's ownership and management authority.

In their plea to the Delhi High Court, the Delhi Waqf Board argued that it had been managing these properties for more than a century, with some of them being included in waqf documents dating back to India's pre-independence era. The Board contended that it had the statutory right to oversee, manage, and safeguard all waqf holdings in the area under Section 32 of the Waqf Act of 1995. It asserted that the L&DO's unilateral action was against statutory law and natural justice grounds.

## 2.2 Historical Development:

The British government purchased these estates, which were once in Muslim-majority villages near Raisina Hills, between 1911 and 1915 in order to build New Delhi. Among these were cemeteries, madrasas, and mosques. Despite opposition from the Muslim community, the British decided to save religious properties and, between 1943 and 1945, formal agreements gave Muslims control of them under the 'Sunni Majlis Auqaf'. These were

given to the Delhi Waqf Board (DWB) after independence. Given their desirable locations, the Delhi Development Authority (DDA) and Land and Development Office (L&DO) contested the notices and asserted ownership even though they had been designated as waqf properties in 1970.

In an attempt to address the problem, the Congress administration established two committees, the Burney Committee and the Mir Nasrulla Committee, which located hundreds of waqf estates. The Burney Committee, however, made the contentious recommendation to lease 123 properties to the DWB, with the Central government keeping ownership. This contradicted waqf laws, which state that such properties are owned by Allah, and the government is merely a trustee. The flawed recommendation invited intervention from the Vishva Hindu Parishad (VHP), which challenged the decision in court, leading to a stay order that remained in place until 2011.

The procedure continued to be delayed even after a court ruling in 2011 directed the administration to address the issue. The 123 properties were de-notified by the UPA government in March 2014, enabling DWB to reclaim them. The transfer was stopped, though, when the VHP contested the action before the Delhi High Court and the Election Commission. The Aryan Committee and a two-member panel were then established by the NDA government, which took office in May 2014, to reevaluate the situation.

The Aryan committee submitted its report in June 2017, however, it was kept secret. Additionally, it was not disclosed to the DWB. However, according to sources with knowledge of the DWB, the Aryan committee suggested giving the Delhi Waqf Commissioner the last word on who would hold the 123 Waqf properties.

In response to this suggestion, the Union government formed a two-person committee in August 2018 to reevaluate the 123 properties' condition. In its report to L&DO, the two-member committee declared that the DWB has no stake in the 123 properties under consideration.

## 2.3 Recent Development:

The conflict over the 123 waqf properties in Delhi intensified dramatically after the Land and Development Office (L&DO) issued a notification on February 8, 2023. Citing the Board's purported inability to appropriately react to previous letters, the L&DO wrote that



the Delhi Waqf Board was "absolved" from all proceedings relating to the 123 properties. Although many of the assets had been notified as waqf properties since 1970 and were being actively used for religious and communal purposes, this notification essentially said that the central government no longer recognized the Waqf Board's claim over these properties.

In the Delhi High Court, the Delhi Waqf Board swiftly contested the notice, claiming that it went against the Waqf Act's provisions, which give the Board statutory control over waqf assets. The Board was able to continue managing the properties for the time being when the High Court responded by issuing an interim order instructing the central government to preserve the status quo. The Court then allowed the Center to inspect the properties under stringent guidelines to prevent any disturbances. The legal battle is still pending, and the next significant hearing was scheduled for February 17, 2025, which is not public.

## **2.4 Timeline of the Case:**

1911-1914

The British colonial government acquires 123 properties in Delhi. Post-independence, these properties are inherited by the Government of India.

April 16 & December 31, 1970

The 123 properties are notified as waqf properties in the Delhi Gazette under the Waqf Act of 1954. This notification is contested by the Delhi Development Authority (DDA) and the Land and Development Office (L&DO), leading to legal disputes.

2011:

Vishwa Hindu Parishad Files a petition for the 123 properties.

March 5, 2014

Just before the Model Code of Conduct for the general elections comes into effect, the UPA government transfers the 123 properties to the Delhi Waqf Board. Of these, 61 are owned by the L&DO and 62 by the DDA.

December 2, 2021

In reference to the 123 properties, the Delhi Waqf Board submits an application to the L&DO. The Board does not, however, appear or file any representations regarding these properties, according to the L&DO.

February 8, 2023

Citing the Board's lack of reaction, the L&DO writes that the Delhi Waqf Board is released from all responsibility regarding the 123 waqf assets. A physical examination of all 123 properties is also ordered by the letter.

March 2023

The Delhi Waqf Board in the Delhi High Court, contests the L&DO's ruling, claiming that it has been in charge of these assets for more than a century and that the Waqf Act gives it control over them.

April 26, 2023

The Delhi High Court hears the plea from the Delhi Waqf Board against the February 8 letter from the L&DO. The court allows the Centre to carry out inspections of the 123 properties, ensuring minimal disruption to the Board's day-to-day administration.

August 2023

A notice to take over the 123 properties from the Delhi Waqf Board, including well-known locations like Delhi's Jama Masjid, is issued by the Union Housing and Urban Affairs Ministry.

August 2024

On February 17, 2025, the Delhi High Court will hear arguments against the delisting of the 123 waqf properties.

February 17, 2025

As of now, there is no publicly available information regarding the outcome of the Delhi High Court hearing held on February 17, 2025, concerning the Delhi Waqf Board's petitions against the Centre's decision to de-list 123 waqf properties.



# Landmark Judgements Pertaining To Waqf

- Syed Shah Muhammad Kazim vs Syed Abi Saghir And Ors
- Mazhar Husain Khan vs Abdul Hadi Khan
- Beli Ram and Brothers vs Chaudari Mohammad Afzalors
- Khalil Uddin vs Sir Ram And Ors.
- The Karnataka State Board Of Wakfs vs Mohamed Nazeer Ahmed
- Mst. Peeran W/O Abdul Razzaq vs Hafiz Mohammad Ishaq
- Ratilal Panachand Gandhi vs The State Of Bombay And

## Others

- Mohammad Yasin vs Rahmat Ilahi
- Abul Fata Mahomed Ishak And Ors. vs Rasamaya Dhur

## Chowdhuri

- Radhakanta Deb & Anr vs Commissioner Of Hindu Religion
- Munawar Sultana vs B. Pratap Reddy
- Syed Shah Yousuf Hussaini vs The Karnataka State
- G.H.Basheer Ahamed vs P.Baskar

## A WAY FORWARD

The Waqf (Amendment) Bill, 2025, is a significant reform aimed at enhancing the governance, transparency, and efficiency of waqf property management in India. It addresses long-standing issues such as litigation and lack of judicial oversight, aiming to create a more structured and accountable framework. Key changes include redefining the formation of waqf, improving the survey and registration process, empowering government oversight, and ensuring inclusivity by incorporating non-Muslim members and women into waqf-related bodies.

The government should engage in extensive consultations with various stakeholders, including Muslim community leaders, legal experts, and civil society organizations. Public awareness campaigns can help dispel misconceptions and educate the community about their rights and responsibilities under the new framework. The bill also establishes dedicated waqf benches, judicial oversight through fast-track benches or High Court cells, and a centralized national waqf registry linked with state records, GIS, and public portals for transparency and real-time updates.

The UMEED Act of 2025 represents a significant reform to align Waqf administration with the principles of transparency, justice, and secular constitutionalism. It aims to address long-standing irregularities but hinges on balancing community autonomy with

state oversight and ensuring that reforms are driven not only by legal mandates but also by inclusive consultation and ethical governance. The bill promotes inclusivity and equitable distribution of Waqf resources, ensuring representation from various Muslim sects, including Bohra and Aghakhani communities, and mandates the inclusion of members from backward classes in State and Central Waqf Boards. Additionally, two non-Muslim members will be included in the Boards to enhance transparency and accountability.

By reforming the legal and administrative framework of Waqf management, the Waqf (Amendment) Bill, 2025 establishes a fair and transparent system that prioritizes social welfare, economic empowerment, and community development. The role of Waqf Boards and the Central Waqf Council is regulatory rather than religious, ensuring legal compliance and safeguarding public interest. By introducing checks and balances, empowering stakeholders, and improving governance, the bill paves the way for a progressive and effective Waqf administration in India.

In conclusion, the Waqf (Amendment) Bill 2025 is a significant step toward reforming Waqf governance, ensuring transparency, and preventing misuse. Collaborative efforts between the government and Muslim communities will be crucial in realizing the economic and social potential of Waqf assets.



# A Note for the Delegates

Greetings, delegates!

The Executive Board gladly welcomes all of you to the eleventh edition of Seth Anandram Jaipuria Model United Nations, 2025. We hope that this background guide helped you by serving as the foundation of your research, as it was intended to. Reiterating the aforementioned, this background guide is only the starting point of your research and not an exhaustive document. Since the topic is vast and profoundly linked with the history of India, the Executive Board recommends all delegates delve deep into the agenda, explore political stances, legal and judicial aspects, case studies, etc. It must be kept in mind that factual information can only be collected through PTI (Press Trust of India)-approved websites. One often finds unusual instances such as a minority overruling the majority, observers overpowering the debates, and the oldest of enemies becoming allies upon entering this committee. The committee shall be bilingual, allowing delegates to vocalise their opinions in either English or Hindi. Ensure that you make all efforts to maintain the required decorum of the committee when in session. Regards, The Executive Board.

See you in the committee!

