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## Reforming Faith: A Critical Appraisal Of The Waqf (Amendment) Act, 2025

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### ABSTRACT

The Waqf (Amendment) Bill, 2025, represents a dynamic change that was necessary to enhance the transparency, accountability, and inclusivity of the Waqf Properties' governance. Moreover, with the advent of digitalization and modern and updated technologies, the present bill demands the digitalization of the Waqf property records. Not only this, but restructuring the composition of Waqf Boards, introducing representation for Muslim women and backward communities, was highly commendable work done by this bill.

Notably, it permits the inclusion of non-Muslims in Waqf boards, making it more accountable and transparent, restricts the concept of "waqf by user," and applies the Limitation Act, 1963, to claims over Waqf land, which indeed a need of hour so that illegal encroachment and corruption in the name of God and Religion can be reduced to some extent.

Though every coin has two sides, certain criticisms are faced by the present bill. Scholars contended that this bill will violate their Freedom of Religion and religious autonomy guaranteed under Article 26 of the Indian Constitution, and this will hamper their private religious spaces and undermine their religious sentiments and values.

Legal proceedings have also been instituted, questioning its constitutional validity and religious significance. It is yet to be determined whether the good implication of the bill weighs more on the weak side or vice versa. But whatever the result will be, it must be ensured that it will respect the religious boundaries, autonomy, and well-being of the community and will not hamper justice.

This paper examines the objectives, provisions, historical overview, arguments put forward, and implications of the Amendment in detail. It also examines the socio-political implications of the reforms and the emerging concerns of state involvement in the management of religious endowments.

**KEYWORDS:** Waqf (Amendment) Bill, 2025, Waqf properties, Muslim personal law, Waqf Board reforms, religious autonomy, Digitalization, accountability.

## INTRODUCTION

“The inevitable truth is that law is not static and immutable but ever increasingly dynamic and grows with the ongoing passage of time.”

S. Ratnavel Pandian.

Waqf is a Muslim law concept in which a person can donate their property, whether movable or immovable, for religious or charitable purposes to a Waqf. Waqf means “to stop” or “to tie up”. It is permanent in nature, and the donation of the property became a Waqf. The donor of property is called Waqif or Wakif. The transfer of ownership is permanent in the name of God. Hence, “Once a Waqf, always a Waqf!”

The property goes to the State Waqf Board, which can be land or property. It is the Waqf Board that decides the use of property for construction like a mosque, a graveyard, or a madrasa, etc. Waqf Board is the third largest land owner in India after the Armed Forces and the Railway with 8.7 lakh properties and 9.4 lakh acres of land.

To manage its affairs Waqf Board appoints a Mutawalli (caretaker manager). These Mutawallis cannot sell or transfer the property, but they need to produce income from the property. Mutawallis are answerable to the State Waqf Board only. The income generated from the property will be used for religious and charitable purposes, but 7% of the income is taken by the State Waqf Board. The year 1913, when British rule was prevalent has marked the establishment of the Waqf boards. Presently, there are 30 Waqf Boards across the country in 28 states and Union territories.

State Waqf Board members are nominated by State Government while at Central level Waqf Council is formed as a statutory body under the administrative control of the Ministry of Minority The Waqf Act, which was passed in the year 1954, allowed for the creation of Advisory Committees to the Central Government about the functioning of the Waqf properties. The Waqf Boards were set up in 1964 as per this provision.

Recently, the Government of India has passed the Waqf Amendment Act 2025, also known as the UMEED (Unified Management Empowerment Efficiency and Development) Act, in the Parliament in April 2025, which suggested restructuring and transformative governance modifications and management of Waqf estates in India.

## HISTORY OF ORIGIN OF WAQF: -

Waqf is not a new concept and has its deep historical and religious roots that trace back to the early days of Islamic society when Prophet Muhammad advised Khalifah Omar to give a piece of land to be used for the welfare of humanity, not to be sold, gifted, or inherited. Hence, many associates of the Prophet followed this example and established Waqfs for the benefit of society. Soon, Waqf in the Islamic world became a foundation for social welfare with providing resources to the poor and needy.

In India, Waqf is closely related to conversion and religious as well as cultural appropriation. During the Delhi Sultanate and other subsequent Islamic dynasties that flourished in India, the number of Waqf properties grew. In the British era, the Privy Council criticized Waqf as “perpetuity of the worst kind” and declared it invalid.

### ➤ Early Laws:

The British had their critiques on the waqf system in India, but it was still upheld during the colonial period by Leviathan, a state monstrosity regulating constitutional contracts with Indian constituents. It aimed to improve Waqf management and proper accounting, and transparency.

### ➤ **Waqf Act, 1954: -**

In 1954, along with Nehru, the Indian government launched the Waqf Act and subsequently set up the Central Waqf Council in 1964 as a statutory body, and then came to establish State Waqf Boards (SWBs) to manage Waqf properties.

### ➤ **Waqf Act, 1995: -**

This Act provided a comprehensive framework for strengthening the management and regulation of Waqf properties. It also established Waqf Tribunals, which function as substitutes for civil courts within their jurisdiction and were made for the settlement of disputes. Hence, Waqf assets were to be administered under Islamic law while providing protections against encroachments and mismanagement.

### ➤ **Waqf (Amendment) Act, 2013: -**

In 2005, Manmohan Singh, the then Prime Minister, constituted the Sachar Committee under Justice Rajinder Sachar (Former CJ of Delhi High Court) with six other members to study the social, economic, and educational conditions of Muslims. This council initiated a comprehensive re-evaluation of Indian Muslims, which was followed by state councils that managed Muslim socio-educational initiatives at a regional level. Based on extensive fieldwork conducted across multiple states over several years, in 2006, they published “Social, Economic and Educational Status of Muslim Community of India: A Report”. The 403-page report had suggested solutions for the inclusive development of Muslim people in India. In this report, under the section “Status & Potential of Waqf Properties,” some major considerations were highlighted.: -

- According to the Report, there were 4.9 lakh registered Waqf with a total area of 6 lakh acres, its Market value was 1.2 lakh crores, and its Book value is 6000 crores.
- But annual income generation from these properties was only 163 crores, which means only 2.7% of the rate of return.
- This poor income generation shows underutilization and mismanagement of Waqf properties.

Sachar Committee suggested some recommendations to these problems, which are the following: -

- Focused on improving governance issues about waqf properties.
- Emphasizing Transparency through Digital record keeping.
- The Committee suggested the addition of two female members to the State Waqf Board and one female member to the Central Waqf Council (CWC]
- For Better development of Waqf properties, non-Muslim expertise should also be included.
- Timely surveys and financial audits should be conducted to ensure accountability.
- The Committee also suggested for appointment of Joint Secretary-level officers in CWC and SWBs with the establishment of the Waqf Development Corporation to improve waqf properties.

The Waqf Amendment bill, 2013 was then presented in the Parliament with reforms recommended by the Sachar Committee, and it got the assent of the President of India on 20<sup>th</sup> September, 2013.

## **NEED AND REASONS FOR THE WAQF AMENDMENT ACT, 2025**

There is always a strong reason behind any amendments and modifications to existing laws, as the process of amending legal provisions is lengthy and time-consuming. It cannot be initiated for minor or trivial issues; it requires a concrete rationale for being made. Here are certain grounds that were strongly condemned in the Amendment:

Increases in illegal possession and encroachment on Waqf properties, which were, according to a report, increased to 70%. This strongly demands stringent laws, which in turn will empower the Waqf board to resolve these issues.

Lack of Transparency and accountability resulted in the amendment in the Act, as there are uncertainties in the records, audit books, the process of lease and sale, and most importantly, there are many Waqf properties whose records are incomplete or are not registered.

To balance the Constitutional Rights like the Right to Property (Article 300A), Fundamental Rights like the Right to Freedom of Religion (Articles 25-28), and the Religious Rights like the "By Use Doctrine" (where properties used for religious purposes over a long period could be claimed as waqf) was allegedly misused in certain cases.

There was an immediate need to introduce necessary reforms in the composition of the Waqf Boards, as there was a lot of political interference and pressure. The appointments of the waqf members were also not up to the mark; they were only from the Muslim community and hence denied the representation of women, experts, and members from diverse backgrounds, which is needed for the efficient working of the board.

The previous laws had certain loopholes and lacunae, such as the non-applicability of the Limitation Act, 1963, allowing endless legal claims over waqf properties even after so many years. There were no adequate legal provisions for the protection of women's and children's inheritance rights in waqf matters. Hence, a new legal framework was necessary.

Lastly, with the advancement of technology and the introduction of Digital India, the previous Act became obsolete as there are no such provisions for the Digitalization of records, which was made mandatory by the Amended Act for the prevention of mismanagement of records and corruption.

### **PROPOSED AMENDMENTS TO THE EXISTING WAQF ACT**

The Present Waqf Act of 2025 made certain changes to the existing Waqf Act of 1995, which has long governed the administration of waqf properties in India. This amendment was introduced to improve transparency, accountability, and responsibility, and the Waqf Properties will be managed efficiently and effectively. Here are the detailed aspects of the amendments introduced:

The first and foremost was to put an end to the Arbitrary property claims or the illegal encroachment in the name of God by empowering Waqf Boards with quasi-judicial powers to impose penal provisions for illegal occupation, and also to streamline the management of the property, e.g., to distinguish the heritage site and individual property and to manage them accordingly.

In addition to it, the mandatory Digitalisation of the records, thereby linking waqf property data with land records. So that there is a cost, and time-effective access to the records without any prolonged and delayed procedures. It also mandates annual audits by independent agencies and penalties in the case of mismanagement to ensure accountability.

Furthermore, there are some very pivotal and necessary changes introduced in the composition of the Waqf Board. For instance, the board will consist of the two non-Muslim members in the Central Waqf Council and State Waqf Boards, as per the Ministry of Minority Affairs. Two Muslim members must be women for their financial security, and also, the state government to nominate one person from each background to the Board. They need not be Muslims.

The name of the Act was also changed to the Unified Waqf Management, Empowerment, Efficiency, and Development Act (UMEED), 2025, which is considered the new ray of hope for the betterment of society. It also removes the practices of establishing a waqf by the user and allows the future Waqf properties to be established by declaration or endowment by the donor, who must be practicing Muslims for at least five years and must own the property.

More authority has been given to the Waqf Tribunal to try, hear, and resolve matters related to the Waqf properties. It also made the slight changes in the composition of the Tribunal by removing the Muslim law expert and instead of him appoints a current or former District Court judge as chairman and a current or former joint secretary to the state government.

Lastly, it allows the appeal of the tribunal order to the High Court within 90 days, and also mandates the applicability of the Limitation Act. It has also excluded the dominant and arbitrary powers of the trust by removing their influence and clout over the Waqf property.

### RELEVANT CASE LAWS

#### Board of Muslim Wakfs, Rajasthan v. Radha Kishan

The Supreme Court ruled that the Limitation Act applies, preventing indefinite claims over waqf property.

#### M. Siddiq (D) Thr. LRs v. Mahant Suresh Das & Ors (Ayodhya Case, 2019)

The Supreme Court commented on "By Use Doctrine", stating that long use does not automatically establish a property as waqf. It highlighted the need for a clear title and ownership, which aligns with the amendment's provisions restricting waqf claims over properties used for religious purposes without formal dedication.

#### Abdul Rahim v. Sk. Abdul Zabar & Ors.

The Court held that a long-standing usage alone does not create a waqf unless it is proved that the property was validly dedicated under waqf law.

### COMPARATIVE ANALYSIS: WAQF ACT, 1995 VS. WAQF (AMENDMENT) ACT, 2025

Here is a detailed comparison between WAQF ACT, 1995 VS. WAQF (AMENDMENT) ACT, 2025, which shows the loopholes in the former Act and its effective solution in the latter Act.

Aspect	Waqf Act, 1995 (Old)	Waqf (Amendment) Act, 2025 (New)
<b>Definition of Waqf</b>	Included long usage under the By Use Doctrine for declaring a property as waqf.	By using Doctrine removed. Waqf can only be established by express dedication by a person of the Muslim faith.
<b>Encroachment Eviction (Sec 54)</b>	Waqf Board could apply to the Tribunal for eviction; lengthy process.	Eviction process simplified: The Board can issue a notice and take action directly. The Limitation Act applies, restricting claims.
<b>Lease of Waqf Property (Sec 51)</b>	Complex procedure; often misused.	Clear guidelines for leasing were introduced, including mandatory transparency and an auction process.
<b>Representation in Waqf Board (Sec 14)</b>	Members are mainly from the Muslim community.	Inclusion of non-Muslim members, women, and legal experts is mandatory for balanced decision-making.
<b>Tribal Areas (5th &amp; 6th Schedule)</b>	No specific protection; a waqf could be created.	Waqf creation is restricted in Scheduled/Tribal areas to protect tribal land rights.
<b>Protection of Women</b>	No explicit provision; risk of	Protection of inheritance rights for women



<b>and Children's Rights</b>	family rights being overridden.	and children: Waqf cannot override their legal share.
<b>Application of the Limitation Act, 1963</b>	Not applicable. Waqf claims could be raised at any time.	Limitation Act explicitly applicable: Claims must be filed within a time limit.
<b>Auditing and Accountability</b>	Annual audit provisions existed, but were not strictly enforced.	Stricter audit rules: Annual audit by a certified auditor is mandatory; failure leads to penalties.
<b>Public-Private Partnership (PPP) for Development</b>	No explicit provision for PPP models.	PPP models encouraged: Waqf properties can be developed through partnerships for education, healthcare, etc.
<b>Doctrine of "By Use"</b>	Allowed waqf status to be claimed based on long religious usage.	Abolished: Only a valid waqf declaration through a legal instrument is acceptable.
<b>Judicial Remedies</b>	Waqf Tribunal decisions binding; limited High Court review.	Appeals allowed to High Court; faster disposal of disputes mandated.
<b>Digital Record-Keeping</b>	Records are maintained manually, prone to manipulation.	Mandatory digitalization of waqf properties and public access to records.

## ARGUMENTS

According to the Press Information Bureau, the Waqf Amendment Bill 2025 was introduced by the Government of India with the primary objective of addressing shortcomings in the management and governance of Waqf properties on August 8, 2024. On August 9, 2024, Parliament referred the Bill to a Joint Committee comprising 21 Lok Sabha and 10 Rajya Sabha members to scrutinize and report on the matter. The Committee had decided to call for memoranda to obtain the views from the public in general and experts/stakeholders and other concerned organisations in particular on the provisions of the aforesaid Bill. The first sitting took place on August 22, 2024, and the key organizations/ stakeholders consulted during the sittings were:

- All India Sunni Jamiyatul Ulama, Mumbai;
- Indian Muslims of Civil Rights (IMCR), New Delhi
- Muttaheda Majlis-e- Ulema, J&K (Mirwaiz Umar Farooq)
- Zakat Foundation of India
- Anjuman E Shiteali Dawoodi Bohra Community
- Chanakya National Law University, Patna
- All India Pasmada Muslim Mahaaz, Delhi
- All India Muslim Personal Law Board (AIMPLB), Delhi
- All India Sufi Sajjadanashin Council (AISSC), Ajmer
- Muslim Rashtriya Manch, Delhi
- Muslim Women Intellectual Group - Dr. Shalini Ali, National Convener
- Jamiat Ulama-i-Hind, Delhi
- Shia Muslim Dharamguru and Intellectual Group
- Darul Uloom Deoband

The Joint Committee submitted its report to the Hon'ble Speaker of Lok Sabha on 31.01.2025 and laid it in both the Houses of the Parliament on 13<sup>th</sup> February, 2025. The Second Reading of the bill took place on 2nd April, 2025, and the bill was passed on 3rd April, 2025, with 288 votes for and 232 votes against the Bill. In the Parliament, Minority Affairs Minister Kiren Rijiju said that “crores of poor Muslims will benefit from this legislation and in no way does it harm any single Muslim,” and “The government is not going to interfere in any religious institution. The changes made in the Waqf law by the UPA government gave it overriding effect over other statutes, hence the new amendments were required”.

The Minister said, “The Narendra Modi government works with the vision of Sabka Saath and Sabka Vikas, and it does not discriminate against any community”. He said that “poor and Pasmenda Muslims came to meet him and urged that the bill should be passed soon”. He also said that “the legislation does not interfere in the Waqf properties and added that the Waqf Board is a statutory body and it should be secular.

Former Union Minister Mukhtar Abbas Naqvi, backing the Bill, said that “India is a country of reforms and that the Waqf system needed reform, and that the amendments brought by the government rectify problems administratively without encroaching on matters of faith.”

On the composition of the Central Waqf council and state boards, Naqvi said, “They claim Hindus have been included in the Waqf Council and waqf boards, but we need to understand that after Partition, Muslims went to Pakistan in large numbers while Hindus and Sikhs came to India in large numbers. The Muslims who chose to leave India left their properties behind, while those Hindus and Sikhs who chose India left theirs in Pakistan. The Muslims in Pakistan were allowed to occupy the vacant properties, and today they own them. But Hindus who chose India are neither owners nor tenants of those properties that the Muslims left behind. A sword constantly dangles over their heads. Hence, non-Muslims are also stakeholders in the Waqf system.”

While Dr. Syed Naseer Hussain of the Congress said that “this bill is misleading and has been brought with the intention of communal polarization”. He alleged that the BJP is trying to divide the communities.

Union Minister and Leader of the House in Lok Sabha JP Nadda added that “the basic aim of this Bill is to bring in reforms and proper management of Waqf properties”.

Leader of the Opposition Mallikarjun Kharge opposed the Bill and said that “there are shortcomings in the bill and it is against the Constitutional norms”.

AIMIM Chief Osaduddin Owaisi said that “it is not a Waqf bill, it's Waqf Barbaad(Destroy) Bill” stating that ‘the Bill is a violation of Article 14, 25, 26 and 29’.

The Waqf Amendment bill was then challenged in the Supreme Court by several individuals and organizations.

## CONCLUSION

The crux of the above discussion is that the Waqf (Amendment) Bill, 2025, which was passed on April 4, 2025, in the Indian Parliament, was a dynamic decision taken by the Government. Though many were turning it down, others welcomed it with open arms. Critics argue that the Waqf (Amendment) Bill, 2025, is an infringement on the right to manage religious affairs and administer endowments, while at the same time grants the government excessive power over waqf matters. The bill allows non-Muslim representation in Waqf boards, which is seen as an intrusion into the internal matters of the Muslim community and a violation of Article 26(b) and 26(d). The Union government, on the other hand, holds up the amendment, arguing that it was brought in to curb the misuse of waqf provisions that were being invoked to encroach on private and government properties. We think that the amendments in the Waqf bill are a clean slate, which was necessary for a proper administration of Waqf properties, put an end to

corruption prevailing under it, and show a strong effort to protect and manage Waqf properties for society's benefit. But perception plays an important role, which affects the outcome, which can be seen in riots in West Bengal. We consider that the government's approach towards the bill is secular, but it still affected the religious sentiments of Muslims. The Government, through discussions and deliberation, should try to find a middle path so that harmony can be maintained.

We consider the Waqf (Amendment) Bill, 2025, as an important step toward making Waqf management more transparent, responsible, and inclusive. However, the matter is in the Supreme Court under a Bench led by Chief Justice of India (CJI) B.R. Gavai. The final decision by the Supreme Court will be accepted.

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