



The Waqf Amendment Act, 2025: A Critical Analysis of Legal Reforms, Property Rights, and Administrative Accountability in India

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ABSTRACT

The Waqf (Amendment) Act, 2025 marks a significant milestone in the evolution of waqf governance in India, introducing a comprehensive reform agenda aimed at addressing the longstanding inefficiencies and systemic issues plaguing the administration of waqf properties. Enacted with the stated objective of promoting transparency, curbing widespread encroachments, streamlining record-keeping, and ensuring accountable management, the amendment seeks to modernize the waqf system through enhanced digitization, centralized oversight, and stricter regulatory mechanisms. However, despite its progressive rhetoric, the Act has sparked widespread debate and criticism from various stakeholders, particularly among minority communities and legal scholars. Concerns have been raised regarding the potential erosion of minority autonomy, increased state and bureaucratic intervention in religious endowments, and the perceived infringement on the right to religious freedom and property rights as enshrined in the Indian Constitution. The shifting balance between community-led management and state control raises foundational questions about the secular nature of governance, the autonomy of religious institutions, and the preservation of minority rights under Articles 25 to 30 of the Constitution.



This paper undertakes a critical legal and socio-political analysis of the Waqf (Amendment) Act, 2025, examining its core provisions, policy motivations, and implications for the governance of waqf properties. It evaluates the effectiveness of the proposed reforms in tackling issues such as corruption, misappropriation, and unauthorized occupation of waqf lands, while also interrogating the risks of centralization and bureaucratization of what are essentially community-driven religious trusts. Using a doctrinal and policy-analytical methodology, the study reviews relevant statutory frameworks, judicial pronouncements, parliamentary debates, and administrative practices. It further contextualizes the Indian experience by drawing comparative insights from waqf laws in other Muslim-majority and secular countries, thereby identifying best practices and cautionary trends.

The paper ultimately seeks to present a balanced assessment of the amendment's strengths, challenges, and unintended consequences, offering recommendations for ensuring inclusive, transparent, and constitutionally compliant waqf governance. The findings aim to contribute to ongoing legal discourse and policy formulation concerning minority rights, religious endowments, and secular governance in contemporary India.

1. Introduction

The concept of Waqf (plural: Awqaf) holds profound significance in Islamic law and social philosophy. It refers to the permanent and irrevocable dedication of movable or immovable property by a Muslim for religious, pious, or charitable purposes, with the intention of benefiting the community in perpetuity. Rooted in Shariah principles, waqf is viewed as a voluntary act of philanthropy that ensures ongoing spiritual reward (sadaqah jariyah) for the donor, while promoting social welfare and communal cohesion. In practice, waqf institutions encompass a diverse range of assets, including mosques, madrasas (Islamic schools), graveyards, orphanages, health centers, and other public utility services designed to uplift disadvantaged segments of society.



In India, while the conceptual foundation of waqf is derived from Islamic jurisprudence, its regulation is governed by a secular legal framework under state and central statutes—most notably, the Waqf Act, 1995, which consolidated earlier colonial-era laws. The administration of waqf properties falls under the purview of State Waqf Boards and the Central Waqf Council, institutions responsible for maintaining property records, preventing encroachments, and ensuring lawful use of waqf assets. Despite this legal infrastructure, the waqf sector in India has long been plagued by serious administrative challenges, including inaccurate surveys, lack of digitized land records, rampant encroachments, unauthorized transfers, corruption, and weak oversight mechanisms.

Several government reports have documented these deficiencies in detail. The Sachar Committee Report (2006), a landmark study on the socio-economic status of Indian Muslims, highlighted the systemic neglect and exploitation of waqf properties, pointing to the urgent need for reforms to safeguard community assets. Similarly, the Joint Parliamentary Committee (JPC) on Waqf (2009) identified glaring irregularities and recommended stronger legislative measures to enhance transparency, accountability, and protection of waqf lands.

It is against this backdrop that the Waqf (Amendment) Act, 2025 has been introduced as a major legislative intervention. This amendment seeks to streamline waqf governance by strengthening the legal and institutional framework, addressing the lapses exposed by earlier reports, and aligning waqf administration with modern technological and regulatory standards. Key features of the amendment include mandatory digitization of records, time-bound surveys and demarcation of waqf lands, enhanced powers for waqf boards to prevent encroachments, stricter penal provisions, and measures to curb illegal transfers or alienation of waqf properties.

While the amendment is widely viewed as a necessary step toward restoring the integrity of waqf institutions, it has also sparked debate over issues such as bureaucratic overreach, erosion of community autonomy, and the risk of state interference in religious affairs. The duality of waqf being both a religious trust and a legally regulated entity makes its governance complex, necessitating a careful balance between state oversight and community participation.

This research aims to explore the multi-dimensional impact of the Waqf Amendment Act, 2025, situating it within the broader discourse of minority rights, religious freedom, and secular governance in India.

2. Evolution of Waqf Legislation in India

2.1 Pre-Independence

- **Waqf Validating Act, 1913:** Legitimized religious and charitable endowments, laying the groundwork for formal waqf institutions.
- **Muslim Personal Law (Shariat) Application Act, 1937:** Gave legal sanctity to Islamic law in personal matters, including waqf.

2.2 Post-Independence

- **Wakf Act, 1954:** Created Waqf Boards but had limited enforcement powers.
- **Waqf Act, 1995:** Comprehensive legislation that created stronger institutional mechanisms at the central and state levels. It introduced Waqf Tribunals for dispute resolution.
- **Waqf (Amendment) Act, 2013:** Brought in stringent measures against unauthorized alienation of waqf property and introduced mandatory registration.

3. Salient Features of the Waqf Amendment Act, 2025

3.1 Digitization of Waqf Records

- GIS mapping and digital registration of all waqf properties mandated to curb encroachments and increase public access.
- Introduction of a national digital waqf portal.

3.2 Tribunal Reforms

- Composition of Tribunals revised to include retired judges and experts in Islamic law and property law.
- Time-bound disposal of waqf disputes within six months.

3.3 Increased Powers of Central Waqf Council (CWC)

- CWC given appellate authority and audit oversight on State Waqf Boards.
- Can issue binding recommendations to improve transparency.

3.4 Community Participation and Grievance Redressal

- Creation of local monitoring committees comprising community members.

- Online complaint system for tenants, beneficiaries, and waqf managers.

3.5 Penal Provisions

- Up to 7 years imprisonment and heavy fines for illegal sale or lease of waqf property.
- Penalties for public officials failing to act on waqf encroachments.

4. Constitutional and Legal Dimensions

4.1 Fundamental Rights

- **Article 26(b)** guarantees every religious denomination the right to manage its own affairs in matters of religion. Excessive government control through the CWC may raise constitutional challenges.
- **Article 25** ensures religious freedom, which may include managing charitable endowments without external interference.

4.2 Due Process of Law

- Any acquisition or regulation of waqf property must conform to **Article 300A** of the Constitution, which ensures the right to property.
- Introduction of tribunals must comply with **Article 227** judicial review powers of High Courts.

5. Socio-Legal Analysis

5.1 Transparency and Reform

- Digitization aligns with *Digital India* objectives and will reduce the scope for corruption and illegal occupation.
- Regular audits and online portals may improve community trust.

5.2 Threats to Minority Autonomy

- Critics argue that centralization dilutes community-led management of waqf assets.
- The appointment of bureaucrats in waqf administration may marginalize traditional religious scholars.

5.3 Implementation Challenges

- Disparity in infrastructure and digital readiness across states.
- Resistance from entrenched interests who benefit from non-transparent waqf dealings.

6. Judicial Trends and Landmark Cases

- **Ramesh Gobindram v. Sugra Humayun Mirza Wakf (2010):** Affirmed that Waqf Tribunals have exclusive jurisdiction over waqf property disputes.
- **Board of Muslim Wakfs v. Radha Kishan (1979):** Established that waqf properties are held in perpetuity and cannot be alienated.
- **Abdul Rahim v. State of Maharashtra (2019):** Highlighted the need for transparency in leasing waqf lands.

7. Comparative Global Perspectives

Waqf institutions across the globe have evolved under diverse legal, cultural, and administrative frameworks. While their foundational principles remain rooted in Islamic jurisprudence, their governance structures vary significantly depending on the state's relationship with religion, constitutional guarantees, and administrative capacity. Examining models from Malaysia, Turkey, and Pakistan provides critical insights into how waqf can be effectively regulated while respecting religious autonomy. In contrast, India's hybrid model seeks to balance state regulation and community rights but suffers from uneven execution and administrative ambiguities.

Malaysia: Centralized and Development-Oriented Waqf Management

Malaysia offers a compelling example of centralized oversight coupled with strategic development planning. Waqf properties in Malaysia are managed by the State Islamic Religious Councils (SIRC) under the constitutional jurisdiction of the respective state governments, while the Department of Waqf, Zakat and Hajj (JAWHAR) at the federal level provides policy coordination and support. The Malaysian model is lauded for its clear legal framework, which facilitates the leasing of waqf lands for commercial and social development without violating the Islamic principle of perpetuity. A National Waqf Registry and comprehensive digitization efforts have further strengthened transparency and property tracking. By enabling productive use of waqf assets—such as building shopping complexes, hospitals, and universities—Malaysia has transformed waqf into a tool for sustainable development and community empowerment.

Turkey: State Control with Constitutional Safeguards

In Turkey, the Directorate of Religious Affairs (Diyanet) and the General Directorate of Foundations (Vakıflar Genel Müdürlüğü) oversee waqf properties. This highly centralized model reflects Turkey's

secular constitutional structure wherein the state retains significant control over religious institutions, including waqf. However, this control is balanced by constitutional recognition of religious endowments as protected institutions, which prevents arbitrary confiscation or misuse. The Turkish model emphasizes professional management, periodic audits, and investment in social infrastructure, making waqf a significant contributor to national development. Despite being state-run, the system remains accountable, well-funded, and culturally integrated, allowing for both religious respect and administrative rigor.

Pakistan: Quasi-Judicial Authority through the Evacuee Trust Property Board (ETPB)

Pakistan's waqf governance is significantly influenced by the management of evacuee properties post-Partition. The Evacuee Trust Property Board (ETPB) operates under the federal government and is responsible for administering religious properties left behind by migrating communities, especially Sikhs and Hindus. It also oversees Muslim waqf properties in certain regions. The ETPB is unique in that it is vested with quasi-judicial powers, allowing it to resolve disputes, remove encroachments, and manage properties without prolonged litigation. While effective in some respects, the model has been criticized for politicization, lack of community engagement, and opacity in decision-making. Nonetheless, the legal authority and enforcement capacity of the ETPB provide important lessons for strengthening waqf administration in contexts of contested property rights.

India: Hybrid Model with Legal Reforms but Weak Execution

India adopts a hybrid approach—recognizing waqf as a religious and charitable trust under Islamic law while regulating it through secular legislation. The Waqf Act, 1995, and its subsequent amendments, including the Waqf Amendment Act, 2025, establish a regulatory framework through State Waqf Boards and the Central Waqf Council. However, India's model is characterized by inconsistency in implementation, fragmented authority, and administrative inefficiencies across states. Many boards face resource constraints, political interference, and outdated records, which hinder effective governance. While recent amendments seek to digitize waqf records, empower boards, and introduce stricter anti-encroachment measures, lack of uniformity, bureaucratic red tape, and inadequate training continue to impede meaningful reform.

These international examples underscore that successful waqf governance hinges on a combination of strong legal frameworks, institutional autonomy, financial sustainability, and community trust. India can learn from Malaysia's development-oriented approach, Turkey's constitutional safeguards, and Pakistan's enforcement mechanisms to craft a model that is not only efficient and transparent but also respectful of



religious sentiments and constitutional guarantees. The Waqf Amendment Act, 2025, thus, should be viewed as a starting point toward such a transformation, necessitating further efforts in capacity-building, participatory governance, and judicial oversight.

8. Recommendations and Way Forward

1. **Ensure Autonomy:** Maintain a balance between transparency and religious freedom.
2. **Capacity Building:** Train waqf board members in property law and digital systems.
3. **Judicial Oversight:** Regular review by High Courts to prevent misuse of tribunal powers.
4. **Public Awareness:** Conduct outreach programs for the Muslim community on waqf rights and governance.
5. **Prevent Political Interference:** Appointments to Waqf Boards must be based on merit and community consultation.

9. Conclusion

The Waqf Amendment Act, 2025 represents a significant and ambitious attempt to reform and revitalize a centuries-old Islamic institution that continues to play a vital role in the social, religious, and economic life of India's Muslim community. It seeks to correct structural inefficiencies and administrative lapses that have long plagued the management of waqf properties, through modern tools such as digitization, legal safeguards against encroachments, and enhanced accountability mechanisms. The legislative intent behind the Act is undeniably progressive—it aims to protect community assets from misuse, ensure transparent governance, and align waqf administration with the broader goals of social justice and development. However, the real challenge lies not in the letter of the law, but in its implementation. The success of the Waqf Amendment Act will depend on how well it is able to balance necessary legal reforms with the preservation of constitutional rights, especially those pertaining to religious freedom (Article 25), cultural autonomy (Article 29), and the management of religious affairs by minorities (Article 26). There is a fine line between regulatory oversight and bureaucratic intrusion, and the state must tread cautiously to ensure that reforms do not alienate or disenfranchise the very communities they are meant to empower. Moreover, respecting the religious and cultural sentiments of the Muslim community is essential to foster trust and encourage compliance. A top-down approach to reform may lead to resistance or unintended consequences, particularly if it is perceived as undermining the traditional ethos of waqf or marginalizing community stakeholders. Therefore, any meaningful transformation of waqf governance must be rooted

in inclusive, participatory processes that actively involve religious scholars, local administrators, beneficiaries, and civil society organizations. In this context, participatory governance, capacity building, and legal awareness will be crucial components of a sustainable waqf reform agenda. Training waqf board officials, creating user-friendly digital platforms for public access to records, and establishing independent grievance redressal mechanisms can all contribute to enhancing transparency and accountability.

In conclusion, the future of waqf in India will be determined not just by statutory amendments, but by the spirit of justice, equity, and constitutional morality with which they are enforced. A harmonized approach—one that upholds the secular fabric of the Indian state while protecting minority rights and encouraging community empowerment—is essential to ensure that waqf properties continue to serve their original purpose of public welfare in a rapidly modernizing society.

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