

## THE WAQF (AMENDMENT) BILL 2025 - POLITY

NEWS: Recently, the Lok Sabha passed the Waqf (amendment) Bill 2025. The **Waqf (Amendment) Bill 2025** amends the **Waqf Act, 1995**, which governs the administration of Waqf properties in India.

- The government moved the revised version of the Waqf (Amendment) Bill, the **Unified Waqf Management Empowerment, Efficiency and Development Bill (UMEED)**.

### WHAT'S IN THE NEWS?

#### Key Provisions of the Bill

- **Composition of Waqf Boards/Councils:** Mandates at least **two non-Muslim members** in State Waqf Boards and Central Waqf Council.
  - Two Muslim women members are required in Waqf Boards.
  - Authorises the Centre to nominate **three Members of Parliament**—two from the Lok Sabha and one from the Rajya Sabha—to the Central Waqf Council without requiring them to be Muslims.
- **Formation of Waqf:** Only a **practising Muslim for at least 5 years** can create a Waqf.
  - **Abolishes “Waqf by user”:** Properties can no longer be deemed Waqf based on long-term usage unless already registered.
- **Survey of Waqf Properties:** Replaces **Survey Commissioner** with **District Collector** (or higher-ranking officer) to verify Waqf properties.
  - If identified as Waqf, ownership reverts to the government after the Collector’s inquiry.
- **Dispute Resolution:** Removes the requirement of an **expert in Muslim law**; now comprises a **judicial officer + government officer**.
  - Tribunal decisions can be challenged in **High Courts** within 90 days of receiving the tribunal’s order (removes finality clause).
- **Transparency Measures:** Requires **mandatory registration** of Waqf properties within **6 months** to enhance transparency.
  - Waqf institutions earning **more than ₹1 lakh per year** must undergo **state-appointed audits** for financial accountability.

- **Limitation Act Applicability:** Repeals **Section 107** of the 1995 Act, making the **Limitation Act, 1963** applicable to Waqf property disputes (12-year limit for reclaiming encroached land).

### About Waqf

- **Waqf** (also spelled *Wakf*) is an Islamic legal concept referring to the **permanent dedication of property for religious, charitable, or social welfare purposes**.
  - Once designated as Waqf, the property **cannot be sold, inherited, or gifted**—it remains dedicated in perpetuity to serve the community.
- **Purpose:** To serve the **community** and enhance the welfare of society, with particular emphasis on **public welfare** projects like **mosques, schools, hospitals, or welfare organizations**.

### Types of Waqf

Type	Purpose	Example
<b>Public Waqf</b>	Serves the general Muslim community.	Jama Masjid (Delhi), dargahs.
<b>Private Waqf</b>	Benefits the donor's family ( <i>Waqf-alal-aulad</i> ), but must include charity.	Family trusts with a mosque/clinic.
<b>Hybrid Waqf</b>	Combines family and public benefits.	A graveyard, school for the poor.

### How is Waqf Created?

- **Declaration:** A Muslim (**Waqif**) donates property via a written deed (*Waqfnama*) or oral declaration.
- **Registration:** Must be registered with the **State Waqf Board**.
- **Dedication:** Property ownership is transferred to **Allah (God)** and managed for **public good**.

### Historical Background of Waqf in India

#### Early Islamic Period (12th–16th Century)

- **Introduction by Ghurids:**
  - **1192 CE:** After defeating Prithviraj Chauhan, **Muhammad Ghori** established the first recorded Waqf in **Multan** (now Pakistan), dedicating two villages to the Jama Masjid.
  - **Delhi Sultanate:** Sultans like **Iltutmish** and **Alauddin Khilji** expanded Waqfs to fund mosques, tombs (*dargahs*), and water reservoirs (*hauz*).
- **Mughal Era: Akbar and Shah Jahan** institutionalized Waqfs for grand projects:
  - **Taj Mahal:** Maintained through Waqf income from 30 villages.
  - **Fatehpuri Masjid (Delhi):** Built by Shah Jahan's wife, funded by Waqf.

### Colonial Period (18th–20th Century)

- **British Intervention:**
  - **1810–1827:** Bengal, Madras, and Bombay Presidencies passed laws to regulate Waqfs, fearing mismanagement by local trustees (*Mutawallis*).
  - **1913: Mussalman Wakf Validating Act** recognized Waqfs but barred non-Muslims from creating them.
  - **1923: Mussalman Wakf Act** mandated Waqf registration to prevent fraud.
- **Land Grab Concerns:** British courts often dismissed Waqf claims, calling them “perpetuities of the worst kind.”

### Post-Independence (1947–Present)

- **1954: Waqf Act** created Central Waqf Council (CWC) and State Waqf Boards.
- **Waqf Act, 1995** (replaced 1954 law): Strengthened **Central Waqf Council (CWC)** for oversight.
  - **Survey Commissioner** to document Waqf properties.
  - **Waqf Tribunals** for dispute resolution.
- **2013 Amendment:** Criminalized Waqf land encroachment (2-year jail term).
  - Expanded definition of “encroacher.”
  - **Explicitly prohibit the sale, gift, exchange, mortgage, or transfer of Waqf property.**

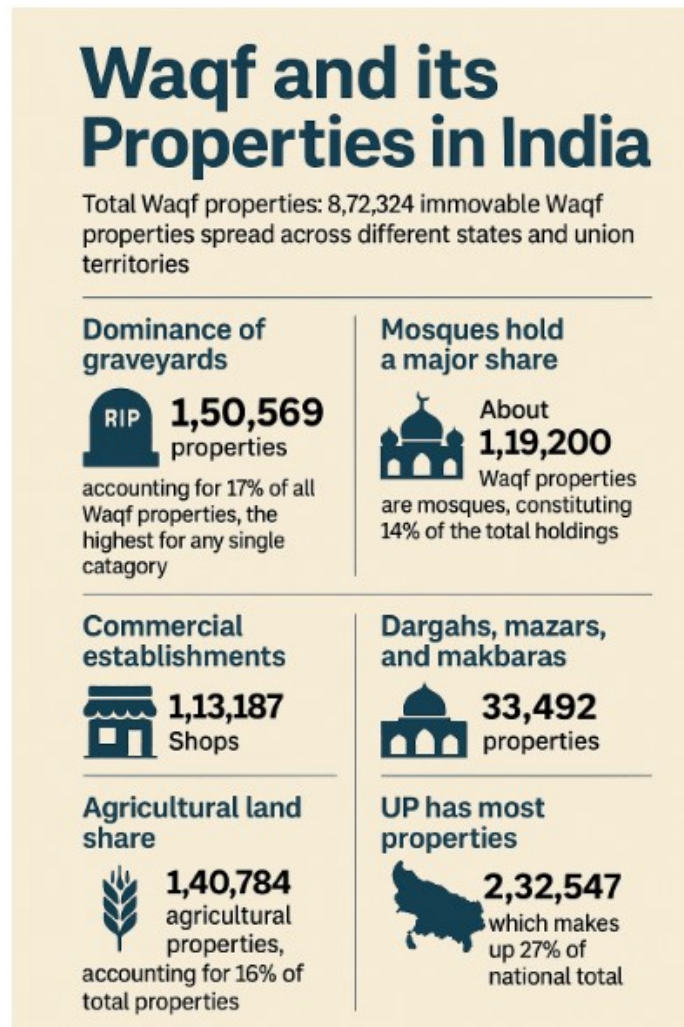
### Key Historical Controversies

- **Ayodhya Dispute (1949):** Sunni Waqf Board claimed Babri Masjid land, leading to a century-long legal battle.
- **Delhi Land Grab (2013):** Government transferred **123 prime properties** to Delhi Waqf Board days before elections.
- **Tiruchendur Temple Land (2022):** Tamil Nadu Waqf Board claimed **400 acres** of a 1,500-year-old Hindu temple's land.

### Governance of Waqf in India

- Waqf properties in India are governed by the **Waqf Act, 1995**.
  - Under the **Waqf Act, 1995**, Waqf properties are administered by the **Waqf Boards**, which ensure the management and proper utilization of such properties in line with the Waqf's intended purpose.
  - Each state has its own **State Waqf Board (SWB)**, and there is a **Central Waqf Council (CWC)** for oversight.
- **Maintenance of List:** The Waqf law provides for the appointment of a **survey commissioner** who maintains a list of all Waqf properties by making **local investigations, summoning witnesses, and requisitioning public documents**.
- **Managed by:** A Waqf property is managed by a **mutawalli (caretaker)**, who **acts as a supervisor**. Waqf properties are managed in a way that is **similar to** how properties under **Trusts are managed under the Indian Trusts Act, 1882**.
- **Dispute Resolution:** The Waqf Act states that any dispute related to Waqf properties will be decided by a **Waqf Tribunal**.
  - The Tribunal is **constituted by the state government**, and **comprises three members**:
    - **A chairperson who is a state judicial officer not below the rank of a District, Sessions or Civil Judge, Class I**
    - **An officer from the state civil services**
    - **A person with knowledge of Muslim law and jurisprudence**

## About Waqf Board



- A Waqf Board is a body **under the state government**, which works as a **custodian for Waqf properties** across the state.
- **Coverage:** In most states, there are **separate Waqf Boards for the Shia and Sunni communities**.
  - **Almost all prominent mosques in the country are Waqf properties** and are under the Waqf Board of the state.
- **Membership:** A Waqf Board is **headed by a chairperson**, and has **one or two nominees** from the state government, **Muslim legislators and parliamentarians**, **Muslim members of the state Bar Council**, **recognised scholars of Islamic theology**, and **mutawallis of Waqfs with an annual income of Rs 1 lakh and above**.
- **Powers:** A Waqf Board has powers under the law to **administer the property** and **take measures for the recovery** of lost properties of any Waqf, and

to **sanction any transfer of immovable property** of a Waqf by way of sale, gift, mortgage, exchange, or lease.

- However, the sanction shall not be given unless at least two thirds of the members of the Waqf Board vote in favour of such a transaction.

## **Key Constitutional Provisions Related to Waqf**

### **Fundamental Rights (Part III of the Constitution)**

- **Article 25: Freedom of Religion**
  - Ensures the right to **profess, practice, and propagate religion**.
  - Waqf, being a **religious endowment**, falls under the right to manage religious affairs.
- **Article 26: Right to Manage Religious Institutions**
  - Gives religious groups the right to establish and manage **religious and charitable institutions** like Waqf.
  - Waqf Boards operate under this provision.
- **Article 27: Freedom from Taxation for Religious Promotion**
  - Ensures that **no person is forced to pay taxes for the promotion of a particular religion**.
  - Waqf properties **used for religious purposes** benefit from this exemption.
- **Article 28: Freedom in Religious Education**
  - Allows religious institutions (including Waqf-supported madrasas) to provide religious education.
- **Cultural & Educational Rights (Part III): Article 29 & 30 (Protection of Minority Rights)**
  - **Article 29:** Protects **religious and cultural rights** of minorities, including their institutions.
  - **Article 30:** Grants **minorities the right to establish and administer educational institutions**, which can be funded by Waqf endowments.

### **Directive Principles of State Policy (DPSP) (Part IV)**

- **Article 38 & 39: Promote Social Justice & Equitable Distribution of Resources**
  - Waqf properties serve **public welfare objectives** like education, healthcare, and social service.
- **Article 46: Promotion of Educational and Economic Interests of Weaker Sections**
  - Waqf supports **Muslim minorities** by funding **schools, scholarships, and hospitals**.

#### Concurrent List (Entry 28, List III)

- Parliament and States can legislate on “**Charitable Institutions**“, including Waqfs.

#### Why the Waqf (Amendment) Bill 2025 is Needed?

- **Curbing Mismanagement & Corruption:** Waqf Boards manage **8.7 lakh properties** (9.4 lakh acres, worth ~₹1.2 lakh crore), but annual revenue is just **₹126 crore** due to:
  - **Encroachment:** 7% of Waqf lands are illegally occupied.
  - **Fraudulent claims:** Private/govt lands wrongfully declared Waqf (e.g., 123 Delhi properties in 2013).
- **Resolving Legal Ambiguities:** The 1995 Act had loopholes:
  - **“Waqf by user”:** Properties became Waqf based on usage, even without ownership proof (e.g., temples/churches claimed as Waqf).
  - **No time limits** to reclaim encroached land (unlimited litigation).
- **Protecting Government & Tribal Lands:** Waqf Boards often claimed **govt/tribal lands** (e.g., ASI-protected sites, railway land).
- **Empowering Marginalized Groups:** Waqf income rarely reached intended beneficiaries (orphans, widows, poor Muslims).
- **Modernizing Dispute Resolution:** The dispute resolution process under the old Act was often **slow and inefficient**, with cases dragging on for years.
- **Aligning with Global Best Practices:** UAE, Indonesia, and Bangladesh include **non-Muslim experts** in Waqf governance for efficiency.
- **Economic Potential**

- **Sachar Committee (2006):** Estimated Waqf assets could generate **₹12,000 crore/year** if managed well (vs. current ₹126 crore).

### Significance of the Waqf (Amendment) Bill, 2025

- **Inclusive Governance and Representation:** The inclusion of **non-Muslim** and **Muslim women** members in the Waqf Boards fosters **inclusive governance** and ensures that the management of Waqf properties reflects diverse viewpoints.
- **Protection of Public Land and Prevention of Misuse:** The Bill ensures **government land** cannot be wrongly classified as Waqf, protecting public assets from unauthorized claims.
  - By abolishing “**Waqf by user**”, it limits the chances of land being wrongly claimed based on prolonged use, ensuring that only registered properties are considered legitimate.
- **Efficiency in Property Verification:** The transfer of verification duties to a **District Collector** enhances the **efficiency** of the verification process.
  - This ensures that Waqf properties are accurately recognized and reduces the risk of fraud or mismanagement.
- **Streamlined Dispute Resolution:** The Bill introduces a **judicial officer** alongside a **government officer** in the dispute resolution process, making it more accessible and efficient.
  - The ability to challenge tribunal decisions in **High Courts** ensures **greater legal fairness** and accountability.
- **Increased Transparency and Financial Oversight:** By requiring **mandatory registration** and financial audits for institutions earning above ₹1 lakh, the Bill enhances **financial accountability**.
  - This ensures Waqf funds are used for their intended purposes, improving public trust in the system.
- **Limitation on Disputes Over Waqf Properties:** The Bill ensures that disputes are resolved in a timely manner by imposing a **12-year limit** for reclaiming encroached land, aligning Waqf property disputes with the **Limitation Act, 1963**.
- **Strengthening the Legal and Administrative Framework:** The changes in the Bill aim to modernize the administration of Waqf properties, aligning it with modern governance practices.
  - These reforms ensure better **resource management**, greater **legal compliance**, and improved **efficiency** in handling Waqf properties across the country.



## Key Concerns with the Waqf (Amendment) Bill 2025

- **Violation of Religious Freedom (Article 26):** The Bill allows **non-Muslim members** in Waqf Boards/Council, potentially interfering with Muslims' right to **manage their own religious affairs** under Article 26.
  - Unlike Hindu/Sikh endowment laws that mandate same-faith administrators, this forces Muslim institutions to accept outsiders.
- **Dilution of Muslim Representation:** State governments can now **nominate (not elect)** Waqf Board members, reducing community control.



- Opens door for political interference in Waqf governance.
- **Threat to Existing Waqf Properties:** Thousands of undocumented Waqf properties (e.g., mosques, graveyards) may lose protected status.
  - **Retrospective Effect:** While govt claims otherwise, ambiguity remains about older properties.
- **Excessive Executive Control: District Collectors' Power** can unilaterally declare properties as "non-Waqf," overriding Waqf Boards.
  - Similar to the Ayodhya dispute where courts (not bureaucrats) decided land status.
- **Undermining Waqf Tribunals:** Tribunals will lack Islamic jurisprudence specialists, risking misapplication of Sharia principles.
  - Disputes over family Waqfs (waqf-alal-aulad) may be judged incorrectly.
- **Discrimination in Waqf Creation: 5-Year Practice Rule:** bars recent converts from donating property, violating **Article 14 (equality)**.

- Muslim sects like Bohras/Aghakhaniis fear marginalization despite separate provisions.
- **Data Privacy Risks due to Centralized Digital Portal:** Compulsory disclosure of Waqf assets could enable targeting of properties.
- **Political Motivations:** Opposition alleges the Bill aims to polarize voters ahead of elections.
  - No similar reforms for Hindu/Sikh religious trusts.

### Waqf Act, 1995

- Aims to improve the **administration and management** of waqf properties.
- Establishes **Central Waqf Council and State Waqf Boards**.
- **Key Provisions:**
  - **Mandatory registration** of all waqfs with the Waqf Board.
  - Maintenance of **central and state-level registers** of waqfs.
  - Powers for **Waqf Boards to appoint executive officers**, remove encroachments, prepare budgets, and inspect properties.

### Way Forward for Effective Implementation of the Waqf (Amendment) Bill 2025

- **Balanced Representation & Community Consultation:** Ensure that the inclusion of non-Muslim members in Waqf Boards does not dilute Muslim representation.
  - Consult Islamic scholars and community leaders to maintain trust.
- **Strengthening Dispute Resolution Mechanisms:** Retain experts in Muslim law in tribunals to ensure Sharia-compliant judgments while improving efficiency.
  - Fast-track dispute resolution to prevent prolonged litigation.
- **Protection of Genuine Waqf Properties:** Conduct a nationwide audit to document legitimate Waqf properties and prevent wrongful de-notification.
  - Provide legal safeguards for historical and religious sites.
- **Transparency & Accountability in Financial Management:** Implement digital tracking of Waqf assets and income to curb corruption.
  - Ensure audits are conducted by independent agencies.

- **Preventing Political Interference:** Establish clear guidelines for state nominations to Waqf Boards to avoid politicization.
  - Maintain autonomy in decision-making.
- **Awareness & Capacity Building:** Educate stakeholders (Mutawallis, beneficiaries) about the new provisions.
  - Train officials on Waqf laws to prevent misuse.
- **Harmonization with Other Religious Trust Laws:** Ensure parity in governance reforms across all religious endowments (Hindu, Sikh, Christian trusts) to avoid perceptions of bias.

Source: <https://www.newsonair.gov.in/parliament-passes-waqf-amendment-bill-2025-as-rajya-sabha-grants-approval/>