

Supreme Court decision regarding The Waqf Amendment Act, 2025:

The **Waqf Amendment Act, 2025** was implemented on **8th April, 2025**. This Act was challenged by the All India Majlis-e-ittihadul Muslimeen (AIMIM) President **Asaduddin Owaisi**, Congress MP **Mohammad Jawed**, AAP party, etc. by saying it violated the Constitutional Provisions. The Supreme Court accepted the petition challenging this Act and on 15th September, 2025 gave its verdict:

Supreme Court decision regarding the Waqf Amendment Act, 2025:

- The judgment was delivered by a Supreme Court bench headed by **Chief Justice BR Gavai and Justice AG Masih on September 15, 2025**.
- The Supreme Court **refused to stay the entire Waqf (Amendment) Act, 2025**, upholding its prima facie constitutionality.
- The Court specifically **refused to stay the provision abolishing the concept of "Waqf by user" where long public use of property without formal deed recognition created Waqf status**.
- The Supreme Court emphasized that the longstanding requirement of Waqf registration since 1923 was not new and noted that if Mutawallis did not register waqfs for many years they cannot claim protection now.
- The Court said the **amendment does not apply retrospectively** (with effect from a date in the past), protecting existing registered Waqfs.
- The Supreme Court **stayed the provision requiring a person to be a practicing Muslim for 5 years before creating a Waqf until state rules are framed to determine this**.
- The Court stayed the clause of the Act which allows a **government collector to decide disputes over encroachment on government land**, stating this violates the separation of powers.
- The Court **limited the number of non Muslim members on Waqf Boards (not exceeding 4 on Central and 3 on State Boards)** but did not stay provisions allowing **non Muslims to be nominated members**.
- The Court granted an ample **timeframe of 6 months for registration** compliance to Waqfs not yet registered.

- Overall, the **Supreme Court** balanced **religious institution autonomy** with the need to **prevent misuse of Waqf properties** through enhanced registration and oversight mechanisms.

THE WAQF AMENDMENT ACT, 2025 **(UMEED ACT, 2025)**

(The Unified Waqf Management, Empowerment, Efficiency, and Development Act, 2025)

Meaning of WAQF

- The word “waqf” has its origin in the Arabic word “**waqf**,” meaning to detain or to hold or to tie up. Waqf, in Islamic law, refers to a charitable endowment where an individual dedicates property for religious or philanthropic purposes. **Once designated as waqf, the property becomes property of “Allah” and cannot be transferred through inheritance, sold or given away.**
- Waqf properties are essentially properties donated by followers of Islam for religious, charitable or social purposes. These properties are managed by members of the community, and each state has a Waqf Board that oversees their administration.
- According to the official website of **Waqf Assets Management System of India**, **Waqf Boards currently control 8.7 lakh properties spanning 9.4 lakh acres across India with an estimated value of 1.2 lakh crores. India has the largest waqf holding in the World. Further, Waqf Board is the largest landowner in India after the Armed Forces (18 lakh acres) and the Indian Railways (12 lakh acres).**

Origin of Waqf Law in India

The origins of waqf law in India can be dated back to the British colonial era, where Islamic rulers and nobles frequently endowed properties for religious and charitable purposes. In pre-colonial India, Hindus and Muslims followed their personal laws in family affairs while the judicial system was based on customs governing communities and different walks of life. The British political system replaced this system with a uniform judiciary.

PRE-INDEPENDENCE ERA

The British government introduced the **Muslim Waqfs Act, 1913, which validated Waqf deeds and provided for the registration of Waqf properties.** The Muslim Waqfs Act of 1923 built upon the foundation laid by the 1913 Act, aiming to improve waqf management. The 1913 Act recognized the validity of waqfs for family and charitable purposes, while the 1923 Act focused on regulating and overseeing Waqf administration.

POST- INDEPENDENCE ERA

- **Waqf Act, 1954 :** After India gained independence, the Waqf Act, 1954, was enacted to **provide for the better administration of Waqf properties and to define the powers and duties of Waqf authorities.**
- **Waqf Act, 1995 :** The Waqf Act, 1995, was a comprehensive legislation that repealed the earlier Waqf Acts. **The Waqf Act, 1995, provided for the following key provisions:**
 - **Definition of Waqf :** The Act defined Waqf as a permanent dedication of property for any purpose recognized by Muslim law as pious, religious, or charitable.
 - **Administration of Waqf:** The Act established the Central Waqf Council and State Waqf Boards, which were responsible for the management and administration of Waqf properties.
 - **Dispute Resolution:** The Act provided for the establishment of Waqf Tribunals to adjudicate disputes related to Waqf properties.

WAQF Structure

There are mainly **three key parties** in the waqf structure:

- The waqif is the founder who establishes the waqf, either through a written declaration or by verbally expressing their intent to dedicate the property.
- The beneficiaries, referred to as mawquf alayh, are those who benefit from the waqf.
- The mutawalli, or trustee, who is responsible for managing the waqf.

The Waqf (Amendment) Bill, 2024

The Waqf (Amendment) Bill, 2024 marks a significant step towards modernizing the management and administration of waqf properties, aligning the country's waqf governance.

Highlights of the Bill

- **The Waqf (Amendment) Bill, 2024, was introduced in the Lok Sabha on August 8, 2024.** The Bill aimed to amend the Waqf Act, 1995, and introduce new provisions for the administration and management of Waqf properties/space. Waqf is a permanent dedication of property by a person for a purpose that is recognised as pious, religious or charitable by Muslim law.
- Such purposes include: (i) maintaining mosques and graveyards, (ii) establishing educational institutions and healthcare facilities, and (iii) providing financial aid to the poor and disabled.



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- Charitable and religious institutions fall under the Concurrent List of the Constitution under VII Schedule. Hence, both Parliament and State Legislatures have powers to frame laws on it.
- The opposition parties were having various objections to provisions of the bill. The bill was therefore referred to a Joint Parliamentary Committee headed by MP Sh. Jagdimbaka Pal for detailed analysis. This Committee suggested many changes in the proposed legislation.
- The revised Waqf Amendment Bill, 2025 was introduced in Lok Sabha by Union Minority Affairs Minister Sh Kiran Rijju on 2nd April, 2025. Lok Sabha passed this bill on 3rd April, 2025 with 288 members supporting it and 232 against it. On 4th April, Rajya Sabha too passed the bill with 128 members voting in favour and 95 opposing it.
- The Bill changes the composition of the Central Waqf Council and Waqf Boards to include non-Muslim members.
- The Survey Commissioner has been replaced by the Collector, granting him powers to conduct surveys of waqf properties.
- Government property identified as waqf will cease to be waqf. The collector will determine ownership of such properties.
- Finally the provision of the Tribunal's decision as final decision has been revoked. The Bill provides for direct appeal to the High Court.

Key Issues and Analysis

- 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.
- **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.
- **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 Earlier Act empowers the Waqf Board to inquire and determine if a property is waqf. The Bill removes this provision.
- **Survey of waqf:** The Earlier Act provides for appointment of a Survey Commissioner and additional commissioners to survey waqf. The Bill instead empowers Collectors to do the survey.
- **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 Earlier Act requires that all Council members be Muslims, and at least two must be women. The Bill instead provides that two

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members must be non-Muslims. MPs, former judges, and eminent persons appointed to the Waqf Council as per the Bill need not be Muslims. Following members must be Muslims: (i) representatives of Muslim organisations, (ii) scholars in Islamic law, and (iii) out of chairperson and members of Waqf Board, two members must be women.

- **Waqf Boards:** The Earlier 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 backgrounds 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.
- **Composition of Tribunals:** The Earlier 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.
- **Appeal on orders of Tribunals:** Under the Earlier Act, decisions of the Tribunal used to be final and appeals against its decisions in Courts were prohibited. Now, 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, the state government may get the accounts of waqfs audited at any point.
- **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 Agakhani and Bohra sects.

Impact on Muslim Groups and Scholars

- **Concerns about Muslim Representation:** The inclusion of non-Muslim members in the Central Waqf Council and State Waqf Boards has raised concerns about the representation of Muslim interests in the governance of Waqf institutions and reducing Muslim representation in the Waqf governance. The Waqf Acts of 1913, 1923, 1954 and 1995 required waqf to be created according to Muslim law. The Muslim Personal Law (Shariat) Application Act, 1937 specifies that in all questions regarding waqf, the rule on decisions where the parties are Muslims shall be the Muslim Personal Law (Shariat). They are thus special laws for Muslims, in contrast with secular laws such as the Indian Trusts Act, 1882 and the Societies Registration Act, 1860, which also allow for creation of institutions for charitable purposes.

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- **Impact on Waqf Properties:** The Bill's provisions regarding government property identified as Waqf and the survey of Waqf properties have raised concerns about the potential loss of Waqf properties and the erosion of Muslim endowments.
- **Non-Muslim members in the Central Waqf Council and Waqf Board:** The Waqf Act, 1995 requires the Central Waqf Council and State Waqf Boards to consist of Muslims only. The present Act alters their composition to mandate the presence of non-Muslim members too.
- In conclusion, The Waqf (Amendment) Bill 2024 represents a progressive shift in India's approach to waqf governance, reflecting a growing emphasis on transparency, accountability, and inclusivity.

The Waqf (Amendment) Bill, 2025: Benefits of the Bill

- Two bills, the **Waqf (Amendment) Bill, 2025**, and the **Mussalman Wakf (Repeal) Bill, 2024**, were introduced in the Lok Sabha with an aim to streamline the Waqf Board's work and ensure the efficient management of Waqf properties.
 - **The Waqf (Amendment) Bill, 2025 aims to update the Waqf Act, 1995 to fix issues in the management of Waqf properties. The proposed changes focus on:**
 - Overcoming the shortcomings of the previous act and enhancing the efficiency of Waqf boards
 - Updating the definitions of waqf
 - Improving the registration process
 - Increasing the role of technology in managing Waqf records.
 - **The Mussalman Wakf (Repeal) Bill, 2025 seeks to remove the outdated Mussalman Wakf Act, 1923, which is no longer effective for modern India. The repeal will:**
 - Ensure uniform rules for managing Waqf properties under the Waqf Act, 1995.
 - Improve transparency and accountability in Waqf management.
 - Eliminate confusion and legal contradictions caused by the old law.
 - **The Waqf (Amendment) Bill, 2025** aims to streamline the management of Waqf properties, with provisions to safeguard heritage sites and promote social welfare.
1. **Non-Muslim properties declared as Waqf-** The Waqf (Amendment) Bill 2025 aims to streamline Waqf property management while safeguarding heritage sites and individual property rights. Various states have seen disputes over Waqf property claims, leading to legal battles and community concerns.

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2. **Rights of Muslim Women and Legal Heirs-** The Bill also seeks to improve the economic and social status of Muslim women, particularly widows and divorced women, by promoting self-help groups (SHGs) and financial independence programs.
3. **Upliftment of the Poor-** Waqf plays a crucial role in serving religious, charitable, and social welfare needs, especially for the underprivileged.
4. **Addressing Administrative Challenges.**
5. **Enhancing transparency in property management-** Mutawallis must register property details on the central portal within six months to enhance accountability.
6. **Empowerment of Backward classes & other sects of Muslim communities:**
 - a. The Bill mandates inclusion of one member each from Bohra and Aghakhani communities in State/UT Waqf Boards, if they have functional Auqaf.
 - b. Also, the Board will have representation from Muslims belonging to backward classes apart from Shia and Sunni members.
 - c. Includes two or more elected members from municipalities or Panchayats, strengthening local governance in waqf affairs.
 - d. The Board/CWC will have two non-Muslim members excluding the ex-officio members.
7. **Government Land & Waqf Disputes:** An officer above the rank of Collector will investigate government properties claimed as Waqf, preventing unwarranted claims.
8. **Non-Muslim Representation:** Two non-Muslim members will be included in both Central and State Waqf Boards to ensure inclusivity.
9. **Application of the Limitation Act:** The Limitation Act, 1963, will now apply to Waqf property claims, reducing prolonged litigation.
10. **Annual Audit Reforms:** Waqf institutions earning over ₹1 lakh annually must undergo audits by State Government-appointed auditors.
11. **Ending Arbitrary Property Claims:** The Bill removes Section 40, preventing Waqf Boards from arbitrarily declaring properties as Waqf, avoiding misuse like declaring entire villages as Waqf. These cases underscored the arbitrary and unregulated power exercised by Waqf Boards.

Some of the major criticism

After significant criticism from the opposition, it was sent to the Joint Parliamentary Committee (JPC) for wider scrutiny of the proposed reforms. The JPC has more or less accepted the Bill with certain changes. The Opposition criticised the law as violating Article 25 of the Constitution and alleged that the Government was trying to divide the people on religion. Some of the members also questioned the working of the JPC. Dr. Mohammad Jawed stated that he was a part of the JPC Committee, which met 25 times but never had a clause-by-clause discussion of the Act.

1. **Proof of practising Islam for 5 years:** The proposed Bill had stated that only a person who has been practising Islam for at least five years can declare a waqf.

JPC's recommendation: The JPC report has proposed that instead of a person practising Islam for at least 5 years, an amendment can be made to include "any person showing or demonstrating that he/she is practising Islam for at least 5 years".

2. Waqf by user: The proposed Bill omits the provision relating to the waqf by user.

JPC's recommendation: The Committee notes that this omission has created some apprehension among the various stakeholders and the Muslim community at large regarding the existing status of the 'waqf by user'. The Committee has proposed adding a provision which clearly specifies that the omission of 'waqf by user' from the definition of waqf will apply prospectively. This would, however, be subject to the condition that the property wholly or in part must not be involved in a dispute or be government property.

3. Wrongful claim of waqf on government property: The draft Bill proposed a new Section 3C, which says that any government property 'identified' or 'declared' as waqf, before or after the amendment, shall not be deemed to be waqf property. In case of dispute whether a property is a waqf or government property, the Collector will decide.

JPC's recommendation: The committee has accepted the recommendation. However, it has been noted that the Committee has received "strong objection" on the proposal of delegating the power of determining whether a property is a waqf property or government to the Collector. The JPC has suggested that the decision of appointing an official to conduct an inquiry in cases of wrongful claims on government property by waqf board should be left to the State Government. Therefore, it has stated that instead of the word 'Collector', it may be substituted with 'designated officer'.

Government's response: Kiren Rijiju stated that the Government has accepted this suggestion of the JPC and the proposed Bill modified this provision to allow a higher-ranking officer to be in charge of the process.

4. Inclusion of non-Muslim members: The Bill proposes the inclusion of non-Muslim members in Central Waqf Council, Board of Auqaf, and State Waqf Board.

JPC recommendation: JPC says inclusion of two non-Muslim members will make it more broad based and promote inclusivity and diversity in waqf property management. The Committee has noted that the presence of non-Muslim ex-officio members may result in fulfilling the requirement of proposed amendments and therefore, it has recommended that the two non-Muslim members shall be appointed excluding ex-officio members.

5. Constitution of Waqf Tribunal: As per the 1995 Act, whether a property specified as waqf in the list of Auqaf is waqf or not or whether it is Shia or Sunni waqf shall be decided by a Tribunal. The decision of the Tribunal shall be final.

JPC's recommendation: It says introduction of the provision of appeal to the High Court directly and change in the composition of the Tribunal would expedite disposal of pending cases



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considering that as many as 19,207 cases are pending in Waqf Tribunals. The Committee has however suggested that the composition of the Tribunal requires revision to incorporate a member having knowledge of Muslim laws and also to make the Tribunal a three-members body rather than two-members body. It has also proposed to omit the timeline for settlement of disputes as it notes that the existing provision already says that the proceedings should be held as expeditiously as possible.

Government's response: Kiren Rijiju stated that the Government has accepted this recommendation and instead of two members, the Tribunal will comprise of three-members for efficient functioning.

Key Features of the Waqf (Amendment) Act , 2025

Feature	Waqf Act, 1995	Waqf (Amendment) Act, 2025
Name of the Act	Waqf Act, 1995	Unified Waqf Management, Empowerment, Efficiency, and Development Act, 2025.
Formation of Waqf	Waqf could be formed by declaration, user, or endowment (waqf-alal-aulad)	• Removes waqf by user and allows formation only through declaration or endowment. • Donors must be practicing Muslims for at least five years and must own the property. • Waqf-alal-aulad cannot deny inheritance rights to female heirs.
Government Property as Waqf	No clear provision.	Any government property identified as Waqf will cease to be Waqf. Ownership disputes will be resolved by the

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		Collector, who will submit a report to the state government
Power to Determine Waqf Property	The Waqf Board previously had the power to inquire and determine waqf property.	Provision removed.
Survey of Waqf	Assigned survey commissioners and additional commissioners to conduct Waqf surveys.	Empowers Collectors to conduct surveys and mandates pending surveys to be conducted as per state revenue laws.
Central Waqf Council Composition	• Constituted the Central Waqf Council to advise the central and state governments and Waqf Boards. • All members of the Central Waqf Council had to be Muslims, including at least two women members.	• Two members must be non-Muslims. • MPs, former judges, and eminent persons appointed to the Council as per the Act need not be Muslims. • The following members must be Muslims: Representatives of Muslim organisations, Scholars in Islamic law, Chairpersons of Waqf Boards • Of the Muslim members, two members must be women

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Waqf Boards Composition	- 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. - At least two members must be women	The Bill empowers the state government to nominate one person from each background to the Board. They need not be Muslims. It adds that the Board must have: - Two non-Muslim members - At least one member each from Shias, Sunnis, and Backward classes of Muslims - One member each from Bohra and Agakhani communities (if there is Waqf in the state) - Two Muslim members must be women.
Tribunal Composition	- Required state-level Tribunals for Waqf disputes, led by a judge (Class-1, District, Sessions, or Civil Judge), and included: - A state officer (Additional District Magistrate rank) - A Muslim law expert	- The amendment removes the Muslim law expert and instead includes: - A current or former District Court judge as chairman - A current or former joint secretary to the state government
Appeal on Tribunal Orders	- Decisions of the Tribunal are final and appeals against its decisions in Courts are prohibited. - Only High Courts could intervene under special circumstances	- The Bill omits provisions deeming finality to Tribunal's decisions. - Allows appeals to the High Court within 90 days

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Powers of Central Government	State governments could audit Waqf accounts at any time.	- The Bill empowers the central government to make rules regarding registration, publication of accounts of waqf and publication of proceedings of Waqf Boards. - The Bill empowers the central government to get these audited by the CAG (Comptroller and Auditor General) or a designated officer.
Separate Waqf Boards for Sects	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.	Separate Waqf boards allowed for Bohra and Agakhani sects, along with Shia and Sunni sects.

- **The President Mrs. Droupadi Murmu gave her assent to the Bill on 5th April** which was passed by both Houses of Parliament after heated debates.
- **Now the bill has become The Waqf Amendment Act, 2025** and the Union Govt issued gazette notification of the new law. The new law was implemented on 8th April, 2025.
- **The Waqf (Amendment) Act, 2025 establishes a secular, transparent, and accountable system for Waqf administration.** While Waqf properties serve religious and charitable purposes, their management involves legal, financial and administrative responsibilities that require structured governance. The role of Waqf Boards and the Central Waqf Council (CWC) is not religious but regulatory, ensuring legal compliance and safeguarding public interest.