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TODAY'S ANALYSIS

(05 April 2025)

TOPICS TO BE COVERED

- **WAQF (AMENDMENT) ACT, 2025**



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WAQF (AMENDMENT) ACT, 2025 (UMEED ACT)

- In the first week of April 2025, **Parliament passed the Waqf (Amendment) Bill, 2025, with the Rajya Sabha approving it.**
- The Waqf Act, 1995 is renamed as the **Unified Waqf Management, Empowerment, Efficiency and Development Act, 1995 (UMEED)** to reflect broader reform objectives.
- The **Upper House** cleared the Bill with **128 members voting in favour** of it while 95 members voted against the legislation.
- The Rajya Sabha held a discussion on the Bill for around 12 hours. The Lok Sabha has already approved the Bill.

WHAT IS A WAQF PROPERTY?

- A **Waqf** refers to a **property dedicated by a Muslim individual** for specific purposes such as **religious, charitable, or private use** under Islamic law.
- **Once property is dedicated as Waqf, it cannot be sold, transferred, or inherited.**
- The benefits or income generated from the Waqf property are used for charitable purposes such as supporting religious institutions, schools, hospitals, or other community welfare activities.

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HOW IS WAQF GOVERNED?

- In India, the governance of Waqf properties is governed by the **Waqf Act of 1995**.
- However, India has had a legal framework for Waqf management since the **Muslim Waqf Validating Act of 1913**, which was followed by the **Mussalman Wakf Act of 1923** and later the **Central Waqf Act of 1954**.
- The **Waqf Act, 1995** replaced the previous laws and established the framework under which Waqf properties are administered in India today.

HISTORICAL EVOLUTION OF WAQF ACT

The governance of Waqf properties in India has evolved through several legislative acts, aimed at improving administration and addressing the misuse of Waqf properties. Below is the historical development:

- **Privy Council Ruling (1894):**
 - A landmark ruling where the **Privy Council** declared that Waqf-alal-Aulad (Waqf for family benefit) was invalid.

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- As it should serve the public interest and religious or charitable purposes, not just family interests.
- This ruling led to dissatisfaction among Indian Muslims.
- **The Mussalman Wakf Validating Act, 1913:**
 - This Act allowed the creation of Waqf for the benefit of family members.
 - It provided the ultimate goal was to serve charitable purposes.
- **The Mussalman Wakf Act, 1923:**
 - This Act aimed to improve the management of Waqf properties by ensuring proper accounting, transparency, and supervision.
- **The Mussalman Wakf Validating Act, 1930:**
 - It reinforced the legal status of family Waqfs created under the 1913 Act, with retrospective effect.
- **The Wakf Act, 1954:**
 - This Act introduced **State Waqf Boards (SWBs)**, which were given the task of the systemic administration and supervision of Waqf properties.
 - The Act also aimed at the protection of Waqf properties from encroachment or misuse.

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AMENDMENTS TO THE WAQF ACT

These amendments were introduced to **refine the administration of Waqf properties** and to address various issues that arose.

- **The Waqf Act, 1995:**

- This Act repealed the 1954 Act and its amendments. It introduced:
 - **Waqf Tribunals** to adjudicate disputes related to Waqf properties.
 - Strengthening of the **Central Waqf Council (CWC)** with more powers.
- Despite these efforts, inefficiencies and mismanagement of Waqf properties continued.

KEY CHANGES IN WAQF (AMENDMENT) ACT, 2013

- **Change in the Definition of Waqf**

- Prior to the amendment, the definition of Waqf was limited to **“a person professing Islam.”**
- The 2013 amendment expanded this to allow **any person** to create a Waqf, making it inclusive of individuals regardless of their religious affiliation, as long as the property is dedicated to religious, charitable, or welfare purposes.

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- **Sect-Specific Membership in Waqf Boards**

- The amendment introduced the provision that **Shia Waqf Boards** must have members who belong specifically to the **Shia sect**, and similarly, **Sunni Waqf Boards** must have members who belong specifically to the **Sunni sect**.

- **Overriding Effect of Waqf Over Other Laws**

- The amendment conferred an **overriding effect** of the Waqf Act over any other law that might contradict it.
- This meant that if any other law conflicted with the provisions of the Waqf Act, the latter would take precedence.

- **District Magistrate's Role in Implementing Waqf Board Decisions**

- The amendment placed the responsibility of **implementing the decisions of the Waqf Board** on the **District Magistrate (DM)**.

KEY ADMINISTRATIVE BODIES

The **Waqf Act, 1995** governs the management of Waqf properties, with the following key bodies:

- **Central Waqf Council (CWC):** An advisory body to the Ministry of Minority Affairs.

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- **State Waqf Boards (SWBs):** Custodians of Waqf properties, responsible for their management and protection.
- **Waqf Tribunals:** Special judicial bodies to resolve disputes related to Waqf properties.

WHEN WERE SWB & CWC CONSTITUTED?

- **State Waqf Boards (SWBs):**
 - The **Waqf Act of 1954** established SWBs to manage and protect Waqf properties at the state level.
 - The Boards ensure that Waqf properties are not misused or encroached upon.
- **Central Waqf Council (CWC):**
 - Established under the **Waqf (Amendment) Act, 1964**, to advise the central government on Waqf matters and supervise State Waqf Boards.

WHAT IS CENTRAL WAQF COUNCIL & ITS FUNCTIONS?

The **Central Waqf Council (CWC)** is a statutory advisory body under the Ministry of Minority Affairs. Its functions include:

- Advising **State Waqf Boards** on proper administration.

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- Directing State Waqf Boards in cases of irregularities or violations of the Waqf Act.
- Gathering information on finances, surveys, maintenance of deeds, revenue records, and encroachments.

COMPOSITION OF CENTRAL WAQF COUNCIL

The **CWC** has **22 members**:

- **Muslim Category (10 members):** Includes:
 - Three persons from all-India Muslim organizations.
 - Chairpersons of State Waqf Boards (on rotation).
 - One person to represent mutawallis with an income of ₹5 lakh or more.
 - Three scholars of Islamic law, with two women members.
- **Other Category (12 members):** Includes:
 - Chairperson (Union Minister in charge of Waqf).
 - Three MPs (two from the Lok Sabha and one from the Rajya Sabha).
 - Two former judges from the Supreme Court or High Courts.
 - One prominent lawyer.
 - Four persons from various fields such as administration, financial management, etc.

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KEY RESPONSIBILITIES OF MUTAWALLI

A **Mutawalli** is the caretaker of a Waqf and is responsible for:

- Ensuring the Waqf funds are used for religious or charitable purposes.
- Maintaining accurate financial records.
- Preventing encroachments or misuse of Waqf properties.
- If the Mutawalli mismanages the property, the **Waqf Board** has the authority to remove them.

WAQF BOARDS

- A **Waqf Board** is a statutory body under the **Waqf Act** created for the **administration, management, and regulation** of Waqf properties in India.
- There are currently **32 Waqf Boards** for 30 States and Union Territories.

The Waqf Board consists of **two categories of members**:

- **Muslim members (4):** Includes **mutawallis with annual incomes of ₹1 lakh or more**, eminent scholars of Islamic theology, and elected members from local bodies.
- **Other members (7):** Includes MPs, professionals, and government officers. At least one member from Shia, Sunni, Bohra, and other Muslim communities is ensured, as well as the representation of Muslim women (two members).

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FUNCTIONS & POWERS OF STATE WAQF BOARDS

The **State Waqf Boards** are responsible for:

- **Registration of Waqfs** (Section 36).
- **Removal of Mutawallis** (Section 64).
- **Leasing Waqf properties** (Section 56).
- **Taking over management** of Waqfs in cases of mismanagement (Section 65).

The **State Waqf Boards** have significant authority, such as:

- Registering Waqf properties.
- Removing Mutawallis for mismanagement.
- Leasing properties.
- Preventing encroachments and illegal occupation.

PROPERTIES CONTROLLED BY WAQF BOARDS

As per the **Waqf Assets Management System of India (WAMSI)**:

- **Total Waqf Properties:** 8.73 lakh properties.

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- **Total Area:** 37.39 lakh acres.
- **Waqf in Rural Areas:** 5.51 lakh properties, covering 20.17 lakh acres.
- **Waqf in Urban Areas:** 3.21 lakh properties, covering 19.03 lakh acres.
- **Pending Litigation:** 31,999 cases, with 16,140 related to encroachment.

DISPUTE RESOLUTION MECHANISM

Are Decisions Made by the Waqf Board Final and Absolute?

No, the decisions made by the **Waqf Board** are not final. Aggrieved parties can appeal to the **Waqf Tribunal** for review.

What is a Waqf Tribunal and its Functions?

A **Waqf Tribunal** was first introduced in the **Waqf Act, 1995 (Section 83)**. Its functions include:

- Adjudicating Waqf disputes.
- Reviewing appeals against decisions made by Waqf Boards.
- Enforcing Waqf laws and governance.

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COMPOSITION & ROLE OF WAQF TRIBUNALS

The **Waqf Tribunal** consists of three members:

- **Chairman:** A District or Civil Judge.
- **Member:** A state civil service officer (at least the rank of Additional District Magistrate).
- **Member:** A person knowledgeable in Islamic law.

Role of the Waqf Tribunal in Reviewing Waqf Board Decisions

- The Tribunal hears disputes related to Waqf properties, including issues of ownership, administration, and management.

APPEAL PROCESS

- Appeals against **Waqf Board** decisions can be filed with the **Waqf Tribunal**.
- If the parties are not satisfied with the Tribunal's decision, they can file an appeal to the **High Court**.

Can High Courts Intervene in Waqf Tribunal Decisions?

- Yes, the **High Court** has the power to intervene in Waqf Tribunal decisions, particularly if there is an error of law or procedural violation.

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KEY CHALLENGES IN WAQF MANAGEMENT

Problem	Impact
Lack of Transparency	Misuse, corruption, loss of public trust, and failure to ensure properties serve intended purposes.
Incomplete Land Records & Mutation Issues	Ownership disputes, encroachment, and legal uncertainties.
Insufficient Women's Inheritance Rights	Gender inequality, denying women fair share of resources.
Prolonged Litigation & Encroachments	Delayed resolutions, ongoing encroachments, and land misuse.
Waqf Boards' Discretionary Power	Potential misuse, legal complications, and power abuse.
Disputes Over Government Land	Legal battles, loss of land, and undermined Waqf authority.
Poor Accounting & Auditing	Financial mismanagement and resources not used for intended purposes.

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Administrative Inefficiencies	Inefficient resolution of issues and poor property management.
Improper Treatment of Trust Properties	Legal disputes and mismanagement of resources.
Lack of Adequate Representation	Biased decisions, lack of inclusivity, and ineffective management.

THE UMEED ACT

- To address these key challenges, In August 2024, the **Waqf (Amendment) Bill, 2024** was introduced in the Indian Parliament.
- This bill seeks to amend the existing **Waqf Act of 1995**, proposing major reforms in the way Waqf properties are governed and regulated.
- The bill has brought significant controversy, especially from opposition parties, who have raised concerns about its implications, labeling it as “**unconstitutional**,” “**anti-minority**,” and “**divisive**.”
- Despite this opposition, the bill was referred to a **Joint Committee of Parliament** for further examination.

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MODERNISING WAQF MANAGEMENT

The **Waqf (Amendment) Bill, 2025** introduces reforms designed to streamline and modernize the management of Waqf properties, particularly concerning legal disputes and governance issues:

- **Non-Muslim Properties Declared as Waqf:**

- There have been widespread disputes over properties being wrongly declared as Waqf, especially non-Muslim properties.
- This has caused legal issues in several states.

- **Example Disputes:**

- **Tamil Nadu:** A farmer in **Thiruchendurai village** faced problems when the Waqf Board claimed the entire village as Waqf land, preventing him from selling his land to pay for his daughter's wedding.
- **Bihar:** In **Govindpur Village** (August 2024), the **Bihar Sunni Waqf Board** claimed an entire village, which affected the rights of seven families. This case is currently **sub-judice in the Patna High Court**.

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- **Kerala:** In **Ernakulam district**, around **600 Christian families** have contested the Waqf Board's claim over their ancestral land, and they have raised the matter with the **Joint Parliamentary Committee**.
- **Karnataka:** In **Vijayapura**, farmers protested when the Waqf Board declared **15,000 acres** of land as Waqf property. Similar disputes occurred in **Ballari, Chitradurga, Yadgir, and Dharwad**.
- **Uttar Pradesh:** Allegations of corruption and mismanagement were raised against the **Uttar Pradesh State Waqf Board**.
- **Additional Cases of Unlawful Claims:**
 - In Karnataka (1975 & 2020), **40 Waqf properties** were notified, which included farmlands, public spaces, government lands, and even graveyards and temples.
 - In **Punjab**, the **Punjab Waqf Board** claimed land from the **Education Department** in **Patiala**.
 - The **Ministry of Housing and Urban Affairs (MoHUA)** reported that **108 properties** under the **Land and Development Office**, **130 properties** under the **Delhi Development Authority**, and **123 properties** in the public domain were declared as Waqf properties, resulting in legal disputes.

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KEY PROVISIONS OF THE WAQF (AMENDMENT) ACT, 2025

No.	Key Recommendations	Accepted Key Provisions
1	Separation of Trusts from Waqf: Add a new Clause (2A) to Section 2 of the Waqf Act to separate trusts from waqf. It states that if a Muslim creates a trust under any law, it will not be considered waqf. This ensures that Muslim communities can manage their own trusts, whether created before or after the commencement of the Act, without interference from Waqf Boards.	Accepted: Trusts created by Muslims under any law will not be treated as waqf. This provision helps Muslim communities retain control over their own trusts, ensuring they are not subject to the regulations of the Waqf Act.
2	Use of Technology in Waqf Property Management: Recommend using technology to improve efficiency, transparency, and accountability in managing waqf properties.	Accepted: Introduces the concept of a central portal for waqf property management. This portal will automate the full life cycle of waqf properties, including registration, account management, audit, contributions, and litigation. This ensures transparency and streamlines the process of managing waqf properties.

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3	<p>Dedication of Waqf Properties by Practicing Muslims: Only Muslims who have been practicing Islam for at least five years should be allowed to dedicate property to waqf. This reverts the law to the position before the Waqf (Amendment) Act, 2013, which had allowed any person to dedicate property to waqf, not just practicing Muslims.</p>	<p>Accepted: Only Muslims who have been practicing Islam for at least five years can dedicate property to waqf. This provision reinstates the rule that only practicing Muslims can create a waqf, as was the case before the 2013 amendment.</p>
4	<p>Protection of 'Waqf by User' Properties: Properties already registered as waqf by user should remain covered under the Waqf Act unless there is a dispute or the property belongs to the government. This is in response to the existing number of such properties, which are registered with Waqf Boards.</p>	<p>Accepted: Waqf by user properties that are already registered with Waqf Boards will remain under the provisions of the Waqf Act, unless disputed or the property is government land. There are currently about 4.02 lakh Waqf by user properties out of a total of 8.72 lakh waqf properties.</p>
5	<p>Women's Rights in Family Waqf (Waqf-alal-Aulad): Women must receive their rightful inheritance share before any property is dedicated to waqf. It also expands the scope of waqf to provide for the maintenance of widows, divorced women, and orphans if the waqif (the person dedicating the property) intends this.</p>	<p>Accepted: It mandates that the women's inheritance rights must be protected before any property is dedicated to waqf. Furthermore, it ensures that the scope of waqf can extend to provide for the maintenance of widows, divorced women, and orphans, if this is the waqif's intention.</p>

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6	Transparent Waqf Property Management: The Mutawalli (the manager of waqf properties) should register details of all waqf properties on a central portal within six months of the Act's commencement. This would increase transparency in the management of waqf properties.	Accepted: It mandates that all Mutawallis must submit the details of waqf properties on a central portal within six months of the commencement of the Waqf (Amendment) Act, 2025. This provision aims to make waqf property management more transparent and accountable.
7	Government Land and Waqf Disputes: An officer above the rank of Collector should be appointed by the State Government to investigate government properties that are claimed to be waqf. This is to avoid unwarranted claims and ensure fairness in determining whether a government property is truly a waqf property.	Accepted: It specifies that an officer above the rank of Collector, appointed by the State Government, will investigate government properties claimed as waqf, ensuring that government properties are not falsely claimed as waqf.
8	Strengthening Waqf Tribunals: Improve the functioning of the Waqf Tribunals by introducing a structured selection process and a fixed tenure for Tribunal members. This would ensure stability and efficiency in the resolution of waqf-related disputes.	Accepted: It establishes a structured process for the selection of Tribunal members, ensures their fixed tenure, and includes one member with knowledge of Muslim law and jurisprudence. The Tribunal will now consist of three members instead of two, as initially proposed.

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9	Non-Muslim Representation in Waqf Boards: Two non-Muslim members should be included in both the Central and State Waqf Boards to represent diverse stakeholders involved in waqf property management.	Accepted: It now includes provisions for two non-Muslim members in both the Central and State Waqf Boards to better represent diverse interests and stakeholders.
10	Reduction in Annual Contributions: Reduce the mandatory annual contribution from waqf institutions to the Waqf Board from 7% to 5% , allowing waqf institutions to retain more funds for religious, charitable, or pious activities.	Accepted: The mandatory contribution has been reduced from 7% to 5%, which will allow waqf institutions to allocate more funds for their charitable purposes.
11	Application of the Limitation Act: The Limitation Act, 1963 should apply to waqf property claims. This would ensure that legal claims related to waqf properties are filed within a specific time period , reducing prolonged litigation.	Accepted: The Limitation Act will now apply to waqf property claims, which will help reduce prolonged legal battles and ensure timely resolution.

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12	Annual Audit of Waqf Institutions: Waqf institutions with annual earnings of over ₹1 lakh should undergo annual audits by auditors appointed by the State Government. This is to ensure that waqf funds are managed properly.	Accepted: Waqf institutions with earnings exceeding ₹1 lakh per year must now undergo annual audits conducted by auditors appointed by the State Government.
13	Addressing Unlawful Claims (Removal of Section 40): Remove Section 40 of the Waqf Act, which previously allowed Waqf Boards to make arbitrary claims on properties, including entire villages, as waqf. This provision had led to numerous legal disputes.	Accepted: It removes Section 40, stopping the practice of arbitrarily declaring properties, such as villages or entire regions, as waqf. This provision ensures fairer and more regulated administration of waqf properties.

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