

+918988885050 +918988886060 www.vajiraoinstitute.com info@vajiraoinstitute.com



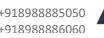
# TODAY'S ANALYSIS (05 April 2025)

# **TOPICS TO BE COVERED**

• WAQF (AMENDMENT) ACT, 2025









• In the first week of April 2025, Parliament passed the Waqf (Amendment) Bill, 2025,

with the Rajya Sabha approving it.

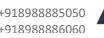
- The Waqf Act, 1995 is renamed as the Unified Waqf Management, Empowerment, Efficiency and Development Act, 1995 (UMEED) to reflect broader reform objectives.
- The Upper House cleared the Bill with 128 members voting in favour of it while 95 members voted against the legislation.
- The Rajya Sabha 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.

#### ADDRESS:







# 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

### TRADITION

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):
  - o A landmark ruling where the Privy Council declared that Waqf-alal-Aulad (Waqf

for family benefit) was invalid.

### ADDRESS:







 $\circ~$  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

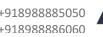
proper accounting, transparency, and supervision.

- 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.

### ADDRESS:







# 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
  - $\circ$  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.

### ADDRESS:







### • 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**

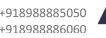
The Waqf Act, 1995 governs the management of Waqf properties, with the following key

bodies:

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

### ADDRESS:







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):
  - o 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?

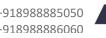
The Central Waqf Council (CWC) is a statutory advisory body under the Ministry of Minority

Affairs. Its functions include:

• Advising State Waqf Boards on proper administration.

### ADDRESS:







- 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).
  - o 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.
  - o Four persons from various fields such as administration, financial management,

etc.

### ADDRESS:

918988885050 918988886060 www.vajiraoinstitute.com info@vajiraoinstitute.com



# **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

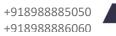
- A Waqf Board is a statutory body under the Waqf Act created for the administration, management, and regulation of Waqf properties in India.
- There are currently 32 Waqf Boards for 30 States and Union Territories.

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).

### ADDRESS:







# **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:

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

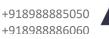
# PROPERTIES CONTROLLED BY WAQF BOARDS

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

• Total Waqf Properties: 8.73 lakh properties.

### ADDRESS:







- 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.

### ADDRESS:







# **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.

### ADDRESS:

+918988885050 +918988886060

5

www.vajiraoinstitute.com info@vajiraoinstitute.com

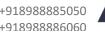
# 8

# **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.

#### ADDRESS:







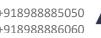
Administrative Inefficiencies	Inefficient resolution of issues and poor property management. Legal disputes and mismanagement of resources.	
Improper Treatment of Trust Properties		
Lack of Adequate Representation	Biased decisions, lack of inclusivity, and ineffective management.	

# 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," "antiminority," and "divisive."
- Despite this opposition, the bill was referred to a Joint Committee of Parliament for further examination.

### ADDRESS:







# **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:

### RADITION

• 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.

### ADDRESS:





- 8
- 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.

### ADDRESS:



6

www.vajiraoinstitute.com info@vajiraoinstitute.com



# **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.	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	Management: Recommend using technology to improve efficiency,	

#### ADDRESS:



+918988885050 +918988886060



www.vajiraoinstitute.com info@vajiraoinstitute.com



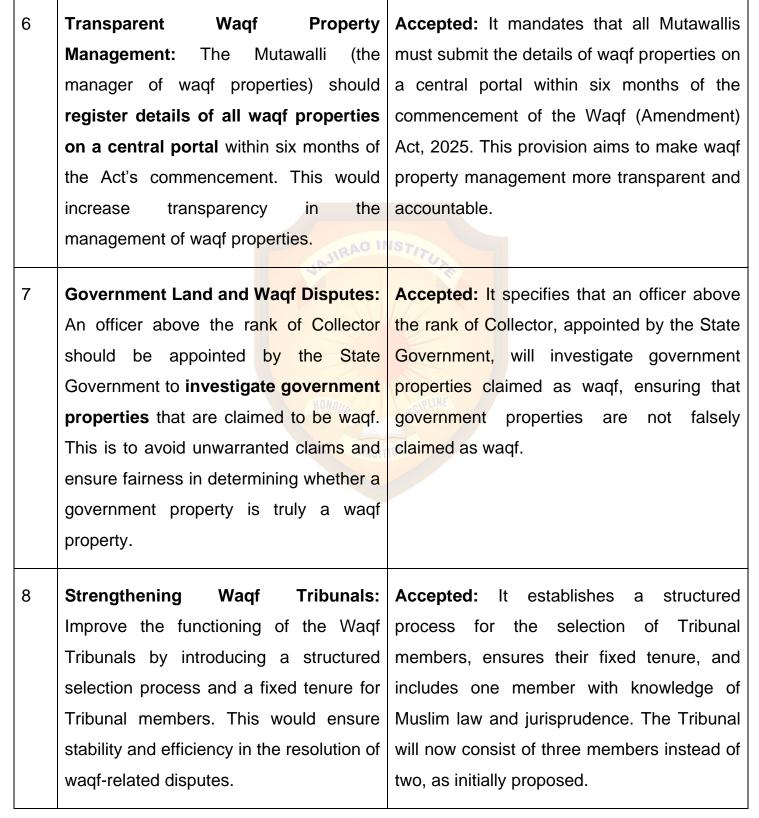
3	Dedication of Waqf Properties by Practicing Muslims: Only Muslims who have been practicing Islam for at least five years should be allowed to dedicate property to waqf. This reverts the law to the position before the Waqf (Amendment) Act, 2013, which had allowed any person to dedicate property to waqf, not just practicing Muslims.	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.
4	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.	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.
5		Furthermore, it ensures that the scope of waqf can extend to provide for the maintenance of widows, divorced women,

#### ADDRESS:

#### VAJIRAO & REDDY INSTITUTE India's Top Potential Training Institute for IAS

+918988885050 +918988886060

www.vajiraoinstitute.com info@vajiraoinstitute.com

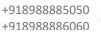


#### ADDRESS:

### VAJIRAO & REDDY INSTITUTE India's Top Potential Training Institute for IAS

Г

Τ



5

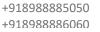
www.vajiraoinstitute.com info@vajiraoinstitute.com

3

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

### ADDRESS:

# **VAJIRAO & REDDY INSTITUTE** India's Top Potential Training Institute for IAS



6

www.vajiraoinstitute.com info@vajiraoinstitute.com

3

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