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Looming Threat to Minority Rights: Waqf Board Amendment Act 2025

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Abstract

Many people argue that the Muslims with whom this Act is principally dealing with is not a minority especially when Islam is India's second-largest religion, with 14.2% of the country's population. But truth of the matter is that as per National Commission on Minorities Act 1992 there are six minority communities that is **Muslims, Christians, Sikhs, Buddhists, Parsis, and Jains.** So the debate ends that yes, the Muslims are a minority in India. The Waqf Amendment Act, 2025 is perceived by the members of this religion as a lethal arrow shot to puncture the constitutional safeguard of protection of minority autonomy. This article will try to scrutinise the Waqf Act in relation to constitutional provisions safeguarding the rights of religious and linguistic minorities in India.

The Waqf (Amendment) Act 2025 purports to update the Waqf Act, 1995 to clear the air with regard to the management of Waqf properties. This Act has rechristened the Act to **United Waqf Management, Empowerment, Efficiency and Development Act, 1995 (UWMEED Act 1995)**. The Act tries to overcome the drawbacks as were pointed out by the Sachar Committee in 2006. The **Sachar Committee** was a seven-member high-level committee established in March 2005 by former Indian Prime Minister Manmohan Singh. The committee was headed by former Chief Justice of Delhi High Court Rajinder Sachar to study the social, economic and educational condition of Muslims in India. In its report entitled "Social Economic and Educational status of the Muslim Community in India: A Report the Committiee said that there is mismanagement and underutilisation of waqf properties.

MEANING OF WAQF:

In literal terms waqf refers to a "Confinement" or a " Prohoibtion. It implies that once an asset is donated as a Waqf it cannot be a subject of sale or gift. Thus it is justified to say that once a waqf always a waqf. Waqf is the detention of a thing in the implied ownership of Almighty God in such a manner that its profits may be applied for the benefit of human beings and the dedication when once made, is absolute, so that the thing dedicated can neither be sold nor given inherited.[1]

It thus is an unalienable charitable endowment. In India the properties like mosques, imambadas, qabristans, idgahs, dargahs all fall under this category. Once made, the dedication is absolute. The property dedicatedcan neither be sold nor given nor inherited. When the property (movable or immovable) is dedicated as waqf the ownership of the dedicator upon that property extinguishes. The property dedicated as waqf becomes God's property. Hence, once a waqf is always a waqf.[2]

[1] *Commentaries on Mohammaden law, Ameer Ali, 5th edition 2004,Indian Press Pvt. Ltd., Pg 219*

[2] *P.S. Munawar Hussain,Muslim Endowments, Waqf Law and Judicial Response in India,Routledge Taylor and Francis Group Publications,2021,Pg-6.*

Two kinds of Waqfs may be set up: Public Waqf: which is made for public, religions or charitable purposes and the other one is Private Waqf: - This is for the settler's family and descendants and is technically called wakf-alal- aulad and here the property vests in the successors once the lineage ends it goes for charitable purposes.

Brief History of the Waqf (Amendment) Act 1995:

In 2024, 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 main purpose of the Waqf (Amendment) Bill, 2025, was to make good the Waqf Act, 1995 and to redress the issues which were raised in the management rather mismanagement of the waqf properties.

Long back Waqf Act,1913 existed which purported to restore the law of the Shariat in India. The Mussalman Wakf Validating Act, 1913 existed which permitted Muslims to create Waqfs for family benefit, consequentially for charitable purposes. Then the Mussalman Wakf Act was passed in 1923 and it was attempted that more accountability and transparency should be new rules were framed for proper accounting and transparency in the management of Waqf. Thereafter The Mussalman Wakf Validating Act, 1930 was passed with an objective to invigorate the legal validity of family Waqfs, and legally authenticate the Act of 1913 . For the first time by the The Wakf Act, 1954, State Waqf Boards (SWBs) were created for the first time to keep a vigil on the Waqf properties. In 1964 the Central Waqf Council of India was set up and its primary function was in to oversee the State Waqf Boards and provided a pathway toward the centralisation of Waqfs. This central body oversees the work performed by the state Waqf boards which are set up as under sec9(1) of the Act. Henceforth various amendments were carried out in this Act major ones being in 1959, 1964, 1969, and 1984. The passage of The Waqf Act, 1995 completely repealed the 1954 Act. It was passed with an objective to supervise the working of the Waqf Properties in India. This Act clearly mention the powers and functions of the Waqf Council, the State Waqf Boards, and the Chief Executive Officer, and also the duties of mutawalli. A Muttawali is not a trustee, but a manager or superintendent of property. The waqf property does not vest in him; it belongs to the Almighty and is "God's Acre"[3] .

With the amendment of The Waqf Act 1995 in the year 2013 many substantial changes were brought. The controversial Waqf (Amendment) Act was passed in 2025, and it has repealed the Mussalman Wakf (Repeal) Bill, 2024. This piece of legislation has renamed the Waqf Act,1995 as UMEED(Unified Waqf Management Empowerment and Efficiency Act),2025.It is heralded by the Government as a comprehensive overhaul aimed at enhancing the "the efficiency of administration[4] and management of waqf properties.

This Act has not found much favour with the people following Islam for varied reasons.

NEED OF ITS PASSAGE:

This amendment of 1995 Act is deemed to be a potential threats to the Muslims.The Muslims opine that this legislation is a semblance which attempts to enfeeble the autonomy of Waqf properties and confiscate those lands which are dedicated for religious and charitable purposes. Whereas the central government contends that these amendments are essential for bringing about transparency, glassiness and better

[3] *Outlines of Muhammadan Law,4th edition,Oxford University* Press, pg-311
[4] The Hindu,10 April,2025.

governance.But the critics opine that the law tries to violate upon religious freedom, minority rights, it could even undercut Muslim control over religious properties.

Majorly speaking it was the Sachar Committie's report of 2006 which formed the basis of the Waqf Amendment Act 2025. The committee's spearhead was Rajindar Sachar, the committee concluded that there are more than 4.9 lakh registered Wakf properties in existence all over the country, conversely the return from these properties is only about Rs. 163 crores.

It clearly indicates the mismanagement of Wakf properties and the complacency of the Waqfs in fulfilling its main objects. The proceeds of Wakf properties are designated to meet the needs of the poor and also towards maintaining the bequeathed property.

For any country its land resources carry great bearing. The 1st Constitutional Amendment Act in 1951 was passed to bring about the abolition of Zamindari System in order to ensure that property is not vested in the hands of a few privileged few. The Wakf is the 3rd largest property holder in the country, it thus is legitimately expected that there is proper management of the waqf properties and it generates a good revenue to cater to the needs of the community and the object for which Wakfs have been established is reached at viz. establishing educational Institutions, promoting health care, construction of marriage halls for community use, providing financial support to poor widows, indigent and physically handicapped persons, payment of remuneration to Imams and Muazzins as ordered by Supreme Court.

The Sachar Committee in its report which was made public on 30th November, 2006 made recommendations with regard to stricter rules for MUTTAWALIES. It said that women representation must be there in the Waqf Tribunal. The Report said digital record keeping must be introduced for land which is donated to the waqf. It is further said that the powers of the Waqf Tribunal need to be limited.

The introduction of the Bills to amend the Waqf Act,1995 was there in 2024 this move of the Government was severely condemned consequently the Bills were referred to the Joint Parliamentary Committee who in turn took the suggestions of 25 stakeholders. Ultimately the Waqf Amendment Act was passed in 2025 after keeping in view the recommendations of the Sachar Committee as well as the opinion of the stakeholders.

WHY CONTENTIOUS: There are myriad reasons for this amendment being scoffed at by the muslims. The reasons are real and worth pondering.

The Waqf Tribunal which is established under the Sec 83 of the Waqf Act,1995 talks about setting up of the Waqf Tribunal Boards viz. the State Waqf Tribunals and Central Waqf Tribunals. This amendment Act has made it mandatory that a Non Muslim member is there in the Tribunal. Furthermore this Amendment Act has made it necessary that atleast two female members exist in the Tribunal. Earlier the Tribunal consisted of a muslim law expert and his decision used to be final, but as per this Amendment a retired or a present District Judge is going to have a final say if there is any kind of dispute in the decision of the Tribunal.

Earlier the provision was that even a non muslim could dedicate his property to the waqf, but this provision under Section 3 of the Act has been amended. Now Sec 3(r) says "any person showing or demonstrating that he is practising Islam for at least five years, of any movable or immovable property, having ownership of such property and that there is no contrivance involved in the dedication of such property."[5]

Any such property which is registered as a waqf needs to be registered as a waqf on the portal and database, within a period of six months from commencement of this Act.[6]

[5] *Sec 3(r) UMEED Act,2025.*
[6] Sec 3(b) UMEED Act,2025.

The next amendment which is contentious is regarding "Waqf by user'. This term is used to denote such properties do not posesss formal Waqf deeds or registration but have been invariably used for religious or charitable purposes—such as mosques, dargahs, graveyards, madrassas, or wells. These properties are presumed to be Waqf and this presumption is based on usage, not documents. The concept was legally recognised through court rulings and was incorporated into the Waqf (Amendment) Act 2013, passed during the Congress-led UPA. The provision allowed properties to be recognised as Waqf without documentary proof to substantiate the claim, based on usage by the community and its acceptance as such. The idea behind the provision was the protection of heritage buildings that were built before the land registration system came into being.[7]

It has come into light that the Waqf by user has been misapplied and many government and private properties have been declared as Waqf. The infamous case of Mohammed vs Haneefa[8] talked about ownership of a place over which a mosque was built and there the concept of WAQF BY USER was applied, the court declared that the mosque and burial ground in question were were dedicated as public wakfs, resultantly no private claims by the defendants arise. Same thing is happening in Gyanwapi Mosque case.

But now Section 36 has been added to the Act and it now is essential that all waqf properties must be registered solely by deed. The debatable provision allowing waqf by user has been put to rest.

As per the data available on WAMSI portal 30 States/UTs and 32 Boards reported that there are 8.72 lakh properties, covering an area of more than 38 lakh acres which are purported to belong to waqf. Out of the 8.72 lakh properties, 4.02 lakhs are Waqf by user.[9]

Earlier the issue that a waqf property is waqf property or not was to be decided by a Survey Commissioner who had to submit a report to the state Government which passed it on to the State Waqf Board and thereafter it was published in the gazette that the property concerned is waqf property or no and after this one year was given to the public to challenge this declaration, if any claim was made the same was referred to the Waqf Tribunal whose decision then was final. But this provision was amended and it was said that if it is debatable that the property concerned is waqf or not is to be decided by the District Collector of that area, and if an appeal is to be filed its to be made to the High Court concerned.[10]

Initially with regard to the Limitation Act,1963 the rule that a person could challenge on occupation of any property within a period of 12 years in case its an individual property and if the property in dispute is said to be a government property then a challenge or a claim over it can be made within 30 years. But a waqf could put a claim over any property without time restriction as per 1995 Act.[11] If any person is to challenge the waqf's illegal occupation, the time granted to him was 1 year and if no claim was put during that time period then it was waqf's property forever. The new amended law says that even Waqf properties will have to abide by the law of Limitation.[12]

With regard to the Private Waqf or waqf-alal-aulad it was said that if the male lineage ends a waqif's property after his death will be waqf's property, but the new law says that for the purpose of waqf-alal-aulad even female descendants will be considered before declaring it to be a waqf property.

[7] *5 April,2025,The Hindustan Times, Waqf Amendment Act: What is 'Waqf by user'*

[8] *1976 AIR 1569*

[9] www. static.pib.gov.in as on 6 December 2025.

[10] Section 36 UMEED Act,2025

[11] Sec 140 The Waqf Act,1995

[12] Sec 107 UMEED Act.

In an attempt to regulate the Waqf properties a new portal has been opened in India under WAMSI (Waqf Management System of India). As per the Unified Waqf Management, Empowerment, Efficiency, and Development Act, 1995, UMEED, a Central Portal has been established in which details of waqf under Section 3B will be there. Under the Act it has been necessitated that an uploading of list of auqaf property is there[13]. Under Sec. 36 of the UMEED Act, It is said that the registration of new waqf is necessary. It is further mentioned in the Act that maintenance of register of auqaf under Section 37 needs to be done. Section 46 mandates that the muttawali maintains and submits the accounts of waqf to the Tribunal. It is a requirement that the decisions passed by the Board are published.

All these amendments have been done with an eye to enhance transparency, accountability, and efficiency in Waqf property management. Though it all has been done with may be passed with good intentions but the Muslims whom this Act mainly effects is seriously condemned by them. The 2025 law, notified in April as an amendment to the Waqf Act of 1995 (1995 Act), has been projected by the government as a comprehensive reform aimed at streamlining the administration of these properties. However, critics have described it as an attempt to extend state control over religious institutions.[14]There are plethora of reasons for the same but main reason seems to be the fact that it kills there autonomy and makes them a crippled minority.

WHY A THREAT TO MINORITIES:

This UMEED Act,2025 supposedly hurts the muslim minority rights. The secular Indian democratic set up of our country in its Constitution safeguards religious freedom and minority rights . As an aftermath of the Act various meetings were held with an agenda of getting the implementation of the Act stayed. The same has been averred by the petitioners that the new law a "creeping acquisition"[15] of waqf properties owned by the Muslim community, the largest religious minority group in India.

HOW AGAINST THE CONSTITUTION:

Certain guarantees are established in Articles 25, 26, 29, and 30 of the Constitution, which promises that persons and groups can freely exercise, share, and express their faith without any restriction from the state's end, and retain their specific cultural and educational traditions. Article 25 ensures everyone's freedom of conscience and their right to publicly express, exercise, and circulate their beliefs. Further more as per Article 25 of the Constitution entails in it the right to exhibit his sentiments in overt acts as are enjoined by his religion.[16] It recognises that the state should respect people's autonomy and that their belief systems are profoundly personal.

The right to profess a religion includes in it the freedom to freely proclaim one's faith and religious ideas, carry out religious rites, rituals, ceremonies, and customs, and promote one's beliefs. However, the right to practice and disseminate religion may be sufficiently restrained. [17]

The judiciary in India has tried to segregate the terms religious belief and religious practice. The Supreme Court said in Commissioner, Hindu Religious Endowments, **Madras v. Sri Lakshmindra Thirtha**

[13] Section 5 UMEED Act, 1995
[14] The Hindu,17 September,2025
[15] The Hindu,20 May,2025
[16] *V.N.Shukla's Constitution of India, Mahendra P.Singh,Eastern Book Company,2001,Pg.-207*
[17] *P.M. Bakshi, The Constitution of India 104 (14th ed. 2017).*

Swamiar of Shirur Mutt[18] that Article 25 also protects religious practices that are fundamental to a faith, although the state has the jurisdiction to control both necessary and non-essential activities.

Article 26 substructures Article 25 it says that every religious community has the right to establish religious institutions for religious purposes . It also howsoever has been reiterated by the Courts that the legislature has the power to make laws regulating management of property provided that the denominational right of management is not extinguished altogether.[19]. It is however held in a spate of cases that if a question merely relates to administration of properties belonging to a religious group or institution, it is not a matter of religion to which the provisions of clause (b) this article would apply.[20]In RatilalVs State of Bombay[21]it was said by the court that any such law which takes away the right of administration altogether from the religious denomination and hands it over to any other secular authoritywould amount to violation of theright which is vowed in Article 26 (d) of the Constitution. Finally in Sri Kanyaka Satram Commiteevs Commmisioner Hindu Religious Endowments [22]it was said that the law can impose only reasonable restrictions of regulatory character to ensure that there is no maladministration of justice.

In Narendra Prasad vs State of Gujarat [23] it was specified that the right under Article 26(d) is not an absolute right. It was further reiteretaed that the CORE of the religion is not to be interfered with.

Therefore its a sacred duty of the State to ensure that a fair balance is maintained between fair and transparent administration of religious property and religious liberty.

THE OBJECTIONS, HOW FAR TRUE :THE PRESENT SCENARIO

The truth however lies somewhere in between, the legislature on its part justifies the UWMEED Act,2025 the Islam protagonists on their part say that this Act is against the Constitution.Crying over this very fact about 65 petitions were filed in the Supreme Court. They being filed by various organisations ,leaders who all were challenging the constitutionally validity of the Act. The main petitioners is Member of Parliament Asaduddin Owaisi from All India Majlis-e-Ittehadul Muslimeen (AIMIM) and Aam Aadmi Party MLA Amanatullah Khan. This was ensued by a host of states relenting the passage of this Act.

It has been stated by the petitions that waqfs – their establishment, management and administration – form an integral aspect of the practice of Islam and are therefore entitled to constitutional protection under the Constitution. It was further stated that the law violates Articles 14 (right to equality); 15 (discrimination on grounds of religion, race, caste, sex or place of birth); 21(right to life and liberty); 25 (freedom of religion); 26 (freedom to manage religious affairs); 29 (rights of minorities); 30 (right of religious and linguistic minorities) and 300A (right to property)[24].

The honourable Supreme Court under CJ Gavai refused on September 15, 2025 to obliterate the UWMEED Act,2025 in totality howsoever it put a temporary stay on the enforcement of its certain provisions citing judicial review and surveillance.

The provisional order has for the time being put on hold the implementation of certain provisions of the Act the prominent ones being by which the District Collectors were solely given the power to unilaterally

[18] *AIR 1954 SC 282.*
[19] *Sri Govindlalji vs State of Rajasthan,AIR 1963 SC 6*
[20] State of Rajasthan vs Sajjanlal Panjawat,(1974),1 SCC 500
[21] AIR 1954 SC 388
[22] (1999)7 SCC 666
[23] AIR 1974 SC 2098
[24] 16 April,2025,The Indian Express,

decide whether a property claimed as waqf belonged to the government, and the clause stipulating that only a lawful property owner who has been practising Islam for at least five years could create waqf through a formal deed. It also capped the number of non-Muslims who may be appointed to the Central Waqf Council and State Waqf Boards.[25]

The Truth:

It thus is yet to be seen that whether the Waqf Amendment Act,2025 is a progressive step towards the better management of the Waqf or it amounts to "creeping acquisition of minority rights". It is expected that A country which promises secularism though reforms must be carried out but utmost care must be taken in doing so. It is also expected that the communities which are to be affected by such legislations must be consulted priorly.

[25] The Hindu,17 December 2025