



Research Unit
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Beyond Religion: Understanding Waqf as a Property Management Issue

Untangling the legal and administrative realities of Waqf in India.

The **Waqf system** in India is often seen as a religious matter, but in reality, it is mainly about **property management, administration, and governance**. The **Waqf Act, 1995**, and its amendments focus on **regulating Waqf properties** to ensure they are properly used and managed. The law defines Waqf as the **permanent donation** of movable or immovable property by a Muslim for purposes considered **religious, charitable, or beneficial** to society. However, the key concern is not religious practice but the **proper administration** of these properties.

- The government has the authority to regulate **non-religious activities** of **Waqf institutions**, including education, social welfare, and economic development, under **Section 96** of the Waqf Act.
- The **Central Waqf Council (CWC)** and **State Waqf Boards (SWBs)** oversee and regulate these properties to ensure transparency and legal compliance.
- Indian courts have ruled that Waqf Boards are **statutory bodies** responsible for **property management**, not religious organizations.

Several court decisions have reinforced that Waqf property management is a non-religious function:

- **Syed Fazal Pookoya Thangal vs Union Of India (Kerala High Court, 1993)** – Clarified that the Waqf Board is a government-regulated body, not a religious representative.
- **Hafiz Mohammad Zafar Ahmad vs UP Central Sunni Board of Waqf (Allahabad High Court, 1965)** – Ruled that a mutawalli (Waqf caretaker) does not own Waqf property but only manages it.
- **Tilkayat Shri Govindlalji Maharaj vs State of Rajasthan (Supreme Court, 1964)** – Declared that managing temple properties is a secular duty, a principle that also applies to Waqf properties.

Waqf properties in India face major issues, including mismanagement, illegal occupation, and lack of transparency:

- The **WAMSI portal** reports that over **58,898** Waqf properties are **illegally occupied**.
- Cases of **questionable claims** by Waqf Boards include:
 - **Govindpur, Bihar (August 2024)** – The Bihar Sunni Waqf Board claimed ownership

of an entire village, leading to legal disputes.

- **Kerala (September 2024)** – Around 600 Christian families protested after the Waqf Board claimed their ancestral lands.
- **Surat, Gujarat** – The Waqf Board declared the Surat Municipal Corporation Headquarters as Waqf property, despite it being a government building.

Instances of **non-Muslim properties** being **arbitrarily declared** as Waqf have raised concerns:

- In **Tamil Nadu**, the Waqf Board claimed the entire **Thiruchenthurai** village, affecting the property rights of non-Muslims.
- A total of **132 historical monuments** were declared Waqf properties without proper documentation.

The **Waqf (Amendment) Bill, 2025**, has been introduced to **improve transparency** and **fairness** in Waqf administration. The key reforms include:

- **Ending arbitrary property claims** – **Section 40**, which allowed Waqf Boards to unilaterally declare any property as Waqf, has been removed.
- **Digitization of records** – Waqf properties will now be documented digitally to prevent illegal claims and improve tracking.
- **Strengthening dispute resolution** – **Waqf Tribunals** will be given more authority to resolve property disputes efficiently.
- **Ensuring accountability** – Non-Muslim members will now be **included** in Waqf Boards to promote fairer decision-making.

The Waqf system in India is primarily about **property management, not religion**. The **government** and **courts** have repeatedly emphasized that **Waqf administration is a secular function**. The Waqf (Amendment) Bill, 2025, is a crucial step in resolving issues of mismanagement, illegal claims, and lack of transparency. By introducing legal oversight, digitization, and accountability, the bill ensures that Waqf properties serve their intended purpose for the public good while protecting the rights of all citizens.

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