

**Human rights concerns
regarding India's
Waqf (Amendment) Act, 2025**

Submission of information to UN Special Procedures

Submission made to the UN Special Procedures regarding legal infirmities in India's Waqf (Amendment) Act, 2025, which introduces a discriminatory legal framework that singles out Muslim religious institutions for heightened state control and reduced autonomy.

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**SOUTHASIA
JUSTICE
CAMPAIGN**

southasiajusticecampaign.org

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The Waqf (Amendment) Act, 2025: Legal, Constitutional, and Human Rights Concerns

BRIEFING NOTE

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This briefing note examines the Waqf (Amendment) Act, 2025, which introduces sweeping changes to the governance of Muslim religious and charitable endowments in India. Legal experts have criticised the Act as introducing a discriminatory legal framework that singles out Muslim religious institutions for heightened state control and reduced autonomy, creating a model of state interference that is not applied to other religious communities. Section 1 outlines the historical evolution of waqf institutions in India and situates the new law within the broader political context. Section 2 identifies and explains the most contentious provisions of the 2025 amendments. Section 3 analyses the compatibility of these changes with Indian constitutional guarantees, while Section 4 assesses their consistency with India’s international human rights obligations. Section 5 concludes with a call to action and brief set of recommendations.

1. Background

In early April 2025, India’s Parliament passed the Waqf (Amendment) Act, bringing sweeping changes to the legal and institutional framework governing Muslim religious and charitable endowments across the country.¹ The legislation was passed over strong objections from Muslim organisations, legal experts, and opposition parties, many of whom have described it as a serious threat to minority rights, religious freedom, and the autonomy of Islamic institutions. While Prime Minister Narendra Modi hailed the law as a ‘watershed moment,’ critics argue that it enables the state to exert control over waqf properties and marginalises the very communities it claims to reform. Several constitutional challenges to the law have already been filed before the Supreme Court of India, which is currently examining the matter.²

¹ After receiving Presidential Assent, the Act came into force on 8 April 2025.

² On 16 April, 2025, the Supreme Court began hearing a series of petitions challenging the constitutional validity of the Act. The Government of India assured the Court that, until the next hearing scheduled for May 5, 2025, it would refrain from appointing non-Muslim members to Waqf Boards or Councils and would not de-notify any registered waqfs, including those recognized under the now-abolished doctrine of waqf-by-use. Gursimran Kaur Bakshi, ‘Won’t Change Registered Or Notified Waqfs, Including Waqfs-by-User, During Hearing : Centre Tells Supreme Court On Waqf Amendment Act Challenge’ *Live Law* (17 April 2025) <<https://www.livelaw.in/top-stories/waqfs-including-waqfs-by-user-registered-or-notified-wont-be-affected-during-hearing-centre-tells-supreme-court-on-waqf-amendment-act-challenge-289615>> accessed 17 April 2025.

This latest legal intervention forms part of a broader pattern of state-led measures that have, since the Hindu nationalist Bharatiya Janata Party (BJP) assumed power at the central level in 2014, sought to significantly alter the legal and civic landscape for India's Muslim population. Legislative and executive actions—including the Citizenship (Amendment) Act of 2019, the proliferation of state-level laws regulating religious conversions and inter-faith marriages, and the strengthening of laws criminalising the slaughter, possession, and sale of cattle—have collectively contributed to the perception that multiple dimensions of Muslim civil life are being subjected to intensified state scrutiny and control. While each measure operates within its own legal framework, together they reflect a deeper shift in the constitutional relationship between the Indian state and its largest religious minority.

Waqf refers to the permanent dedication of property for religious or charitable purposes under Islamic law. In the Indian context, waqf institutions manage a wide array of sites and services: mosques, dargahs (shrines), madrasas (schools), graveyards, orphanages, and various other community welfare institutions. The role of waqf in India has been shaped by cycles of state interference. In the 19th century, colonial authorities systematically confiscated or taxed waqf properties in a bid to suppress Muslim political and religious life. This legacy of state encroachment continued after independence, despite the enactment of protective legislation such as the Waqf Act of 1954 and its successor, the Waqf Act of 1995, which sought to improve governance and safeguard waqf assets.

In 2006, the Sachar Committee—constituted to examine the socio-economic condition of India's Muslim population—identified over 490,000 registered waqfs across the country, covering approximately 600,000 acres of land. Many of these properties are located in prime urban areas, yet the returns to the community have remained negligible due to encroachments, poor management, and systemic neglect. The Committee proposed a range of administrative reforms, including improved documentation and increased gender inclusion—recommendations the government now cites as justification for the 2025 law. However, the scope and direction of the new amendments go well beyond the Sachar recommendations, veering into centralisation, surveillance, and the dilution of Muslim institutional self-governance.

2. Contentious provisions in the 2025 Amendment

The Waqf (Amendment) Act, 2025, introduces several far-reaching changes to the original Waqf Act, 1995. Among the most contentious changes are:

- **Abolition of 'waqf by use'³:** The Act eliminates the doctrine of waqf by use, under which sites could be recognised as waqf on the basis of longstanding public use even without formal documentation. This doctrine had served as a safeguard for historic mosques, graveyards, and shrines that lacked formal waqf deeds. The abolition of the doctrine now threatens to delegitimise undocumented but historically significant waqf sites, many of which pre-date formal land records and serve essential religious functions.
- **Government properties cannot be waqf⁴:** The Act introduces an absolute bar on any government property being classified as waqf, regardless of past notifications or public usage. If any dispute arises, a state-appointed official above the rank of Collector is empowered to determine ownership, and during this inquiry, the property is to be treated as non-waqf. This allows the state to unilaterally deny or extinguish waqf claims

³ Amendment of Section 3 in Waqf (Amendment) Act 2025.

⁴ Amendment of Section 3 in *ibid*.

without independent adjudication, raising concerns about due process and conflict of interest.

- **Transfer of powers from Waqf Boards to District Collectors⁵:** The role of the Waqf Survey Commissioner has been replaced by the District Collector, who has now been given sweeping administrative and quasi-judicial powers – conducting surveys, authenticating registration details, and deciding property-related disputes. Waqf-specific institutions are thus displaced and powers are vested instead in government officials who may have no expertise in Islamic law.
- **Restructuring and weakening of Waqf Tribunals⁶:** The composition of Waqf Tribunals has been altered to include a Joint Secretary-level officer and a person with knowledge of Muslim law, alongside a judicial member. The requirement that the presiding officer be a serving District Judge has been removed, and tribunal appointments are now made by the state government. Additionally, the amendments curtail the Tribunals' powers to stay proceedings or offer meaningful relief in disputes over waqf property. These changes further dilute legal remedies, weakening the institutional safeguards available to waqf institutions and placing adjudication in the hands of executive appointees.
- **Mandatory centralised digital compliance⁷:** All existing waqfs must upload detailed information on a centralised government portal within six months. This includes data on income, property use, court cases, and beneficiaries. Failure to comply may result in penalties or the waqf not being recognised. This uniform technical and bureaucratic burden is placed on thousands of community-run institutions, many of which may lack the capacity to comply within the strict timeframe.
- **Requirement of written waqf deeds for new waqfs⁸:** No waqf can now be created without a formal waqf deed. The earlier allowance for verbal dictations or undocumented waqfs has been removed. Customary or orally transmitted forms of waqf creation have historically enabled participation by non-literate donors in both rural and urban contexts.
- **Mandatory inclusion of non-Muslim members on waqf bodies⁹:** Both the Central Waqf Council and State Waqf Boards are now required to include two non-Muslim members among their nominated members, excluding ex-officio members. This provision introduces state-mandated external representation into bodies responsible for managing Muslims' internal religious affairs.
- **Expansion of criminal penalties¹⁰:** The Act introduces or enhances penal provisions, including imprisonment and substantial fines, for non-compliance with administrative obligations such as failing to upload waqf details, refusing possession, or violating directions from authorities. Thus, disproportionate criminal liability is applied to routine administrative lapses, further compounding the compliance burden faced by smaller waqf institutions.

⁵ 'Wrongful declaration of waqf', Amendments of Sections 4 and 36 in *ibid.*

⁶ Amendment of Section 83 in *ibid.*

⁷ 'Filing of details of waqf on portal and database' in *ibid.*

⁸ Amendment of Section 36 in *ibid.*

⁹ Amendment of Section 9 in *ibid.*

¹⁰ Amendment of Section 61 in *ibid.*

Legal experts have criticised the Act as introducing a discriminatory legal framework that singles out Muslim religious institutions for heightened state control and reduced autonomy.¹¹ While endowments belonging to other faiths continue to be governed by frameworks that safeguard internal self-governance and community representation, the amended Waqf Act imposes centralised state oversight and removes key protections. Provisions mandating the inclusion of non-Muslim members on waqf boards, abolishing the doctrine of waqf by use, and limiting the community's role in selecting its own representatives have been described as 'an erosion—if not obliteration'—of Muslims' ability to manage their religious affairs.¹² Similar institutions, such as Hindu temple trusts or Sikh gurdwara committees, preserve robust community-led governance. By contrast, the new waqf regime forces upon Muslim institutions dependence on executive discretion, undermining community agency, and creating a model of state interference that is not applied to other religious communities.

3. Potential violations under Indian constitutional law

Several provisions of the 2025 Waqf (Amendment) Act raise serious constitutional concerns. These include:

- **Potential violations of the freedom of religion** (Articles 25 and 26): Article 25 of the Indian Constitution guarantees the freedom to profess, practise, and propagate religion, while Article 26(b) protects the right of every religious denomination to manage its own affairs in matters of religion.

By vesting broad powers in District Collectors, mandating the inclusion of non-Muslim nominees on Waqf Boards, and expanding state control over religious endowments, the Act arguably undermines Muslim community autonomy and interferes with religious self-governance.

- **Potential violations of the right to equality** (Article 14): The 2025 amendments impose onerous compliance obligations—including mandatory digital uploads, requirement of formal deeds for new waqfs, and enhanced criminal penalties—that are not required of other religious endowments governed by separate frameworks. Endowments from other faiths—such as Hindu temples and religious trusts—are regulated by different legal regimes and are not subject to similar digital compliance or penal sanctions, or mandatory inclusion of adherents of other faiths. Such differential treatment may violate the constitutional guarantee of equal protection under the law (Article 14), especially when it exclusively burdens a single religious community.
- **Potential violations of the right to property** (Article 300A): The abolition of 'waqf by use' and the exclusion of government properties from waqf recognition could result in long-standing religious properties losing their legal protection without adequate adjudication or compensation. The transfer of adjudicatory authority to administrative officers instead of courts may further dilute property rights that are protected under Article 300.

¹¹ Abhishek Singhvi, '8 Reasons Why GOI's Waqf Law Is Discriminatory' *The Times of India* (16 April 2025) <<https://timesofindia.indiatimes.com/toi-plus/law/8-reasons-why-gois-waqf-law-is-discriminatory/articleshow/120350225.cms>> accessed 17 April 2025.

¹² Abhishek Singhvi, '8 Reasons Why GOI's Waqf Law Is Discriminatory' *The Times of India* (16 April 2025) <<https://timesofindia.indiatimes.com/toi-plus/law/8-reasons-why-gois-waqf-law-is-discriminatory/articleshow/120350225.cms>> accessed 17 April 2025.

- **Potential violations of procedural safeguards and erosion of judicial oversight** (Articles 14, 21): Several provisions in the 2025 amendments replace judicial or quasi-judicial oversight with administrative decision-making. For instance, state-appointed officers are now empowered to unilaterally determine whether a property is ‘government property’ without court adjudication. The reconstitution of Waqf Tribunals to include state-nominated executive members, and the weakening of powers of Waqf Tribunals, further reduce institutional independence. These changes erode the right to a fair hearing, violate the guarantee of non-arbitrariness under Article 14, and undermine procedural due process under Article 21.

4. Potential violations of international human rights law

The Waqf (Amendment) Act, 2025, further raises a number of concerns under India’s international legal obligations, particularly those under the Universal Declaration on Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Key concerns include:

- **Potential discrimination on religious grounds** (Article 26, ICCPR): As noted earlier, the Act imposes stricter compliance burdens, including criminal penalties, on waqf institutions than on comparable endowments from other religions. This may amount to discrimination based on religion, which is explicitly prohibited under Article 26 of the ICCPR.
- **Potential violation of religious freedom** (Article 18, ICCPR): As noted earlier, the broad administrative control granted to state-appointed officials over religious properties, including the power to unilaterally declare a property ‘government land’, and the mandatory inclusion of non-Muslim members in Waqf bodies, interferes with Muslims’ ability to freely manage their own religious affairs. Such interference could amount to a violation of Article 18 of the ICCPR, which protects the right to manifest religion ‘either individually or in community with others.’
- **Potential interference with minority rights and religious heritage** (Article 27, ICCPR; Article 15, ICESCR): Article 27 of the ICCPR guarantees that religious and linguistic minorities ‘shall not be denied the right... to profess and practice their own religion.’ Article 15 of the ICESCR affirms the right of all persons to take part in cultural life and obligates states to preserve and promote cultural heritage. The replacement of Waqf Boards’ community-led structures with state-dominated ones, and the abolition of waqf by use, exclude from legal recognition a vast number of undocumented but historically significant sites that are deeply embedded in Muslim communal life. These changes undermine the autonomy of Muslim institutions and threaten the preservation of religious practices and heritage that pre-date formal property documentation. Together, these measures may violate India’s positive obligations to enable minority communities to maintain their religious institutions and to safeguard cultural and religious heritage.
- **Erosion of procedural safeguards** (Article 14, ICCPR): As noted earlier, the Act reconstitutes Waqf Tribunals to include executive members, weakens Tribunals’ powers, and replaces judicial mechanisms with administrative officers for property determinations, reducing access to impartial adjudication. These changes risk violating

the Article 14 ICCPR guarantee of a ‘competent, independent and impartial tribunal established by law.’

5. Conclusion

As Prime Minister Modi remarked, the Waqf (Amendment) Act, 2025 marks a watershed moment in the regulation of Muslim religious endowments in India. While reform is not inherently objectionable—and indeed, long-standing issues merit redress—the Act, however, disproportionately burdens a single religious community by eroding internal religious governance, threatening undocumented heritage, imposing discriminatory administrative demands, and undermining due process guarantees. While framed as a governance reform, the cumulative effect is to subject Muslim civil life to intensified state control, in a manner that appears inconsistent with both constitutional guarantees and international human rights standards.

By abolishing waqf by use, centralising control under government officials, mandating onerous compliance obligations, and diluting judicial oversight, the Act could jeopardise thousands of undocumented historical sites and place unparalleled burdens on Muslim institutions. These changes are likely to disproportionately impact vulnerable communities, particularly in states like Uttar Pradesh, West Bengal, Kerala, and Karnataka, which together account for a significant share of India’s 600,000 acres of waqf property.

Similar reforms in other jurisdictions offer cautionary lessons. In Turkey, the 1924 dissolution of the Ministry of Waqfs paved the way for decades of state-led appropriation. In Egypt, President Nasser’s centralisation of waqf administration under parliamentary control diluted institutional autonomy. In post-revolutionary Russia, centuries-old Islamic endowments were summarily seized by the state. India’s trajectory, critics warn, is beginning to echo these precedents.

In the aftermath of the Indian Supreme Court’s 2019 judgment awarding the site of the historic, illegally razed Babri Masjid in Ayodhya to Hindu parties, courts across the country are now grappling with sensitive land disputes involving similar claims by Hindu nationalist groups over Muslim religious sites. The Waqf (Amendment) Act threatens to further inflame tensions, politicise religious spaces, and deepen mistrust between communities. The scale of concern is reflected in the widespread opposition to the law—including reports that over 50 million emails were submitted to the Joint Parliamentary Committee that examined the draft, and the widespread protests that have now erupted across the country.

The path forward must be guided by constitutional values, historical sensitivity, and democratic consensus. Reforms must enhance transparency and accountability without undermining religious autonomy, and must be shaped through genuine consultation with the communities most affected.

We call upon lawmakers, civil society, and the judiciary to:

- Reconsider and revise the most contentious provisions through inclusive dialogue;
- Ensure safeguards for undocumented but historically significant sites;
- Uphold the principles of non-discrimination, religious freedom, and procedural fairness enshrined in both Indian and international law.



Reference: zz2tsot5

Date: Tuesday, April 22, 2025

Type: Bill, legislation, policy or practice

Original: English

Consent: Not required

Related mandates

- housing
- cultural rights
- religion or belief
- minority issues

Submitted by

Name: Muslim community in India

Type: Group

Email: SAJCampaign@proton.me

Case details

Country where the incident allegedly occurred/is occurring/might occur: India

If relevant to your submission, please indicate whether there are additional country/ies where the incident allegedly occurred/is occurring/might occur, or otherwise related to the case submitted India

Date(s) as may be relevant:

The Waqf (Amendment) Act came into force on 8 April, 2025.

Please provide a detailed description of the context; summarize the concerned bill, legislation or policy, including their stage of development, or describe the concerned practice:

In April 2025, the Parliament of India enacted the Waqf (Amendment) Act, 2025, introducing sweeping changes to the legal and institutional framework governing Muslim religious and charitable endowments (waqfs) in India. Legal experts have criticised the Act as introducing a discriminatory legal framework that singles out Muslim religious institutions for heightened state control and reduced autonomy, creating a model of state interference that is not applied to other religious communities.

Waqf refers to the permanent dedication of property for religious or charitable purposes under Islamic law. In India, waqf institutions administer a wide range of religious and community services—mosques, dargahs, graveyards, madrasas, and social welfare institutions—often established generations ago through oral or customary practices. A 2006 government-commissioned study identified over 490,000 registered waqfs covering 600,000 acres of land, many of them undocumented but historically significant.

The 2025 amendments introduce several key changes to the Waqf Act, 1995. Among the most contentious are:

(1) Abolition of ‘waqf by use’: Historically, religious sites could be recognised as waqf based on long-standing community usage, even without formal deeds. This doctrine safeguarded undocumented mosques, shrines, and graveyards, many of which predate colonial or post-colonial land records. The new law abolishes this recognition entirely.

(2) Government land excluded from waqf: Any property identified as government-owned—even if historically used for Muslim religious purposes—can no longer be claimed as waqf. During disputes, state-appointed officers are empowered to decide ownership.

(3) Transfer of powers to state administrators: Key functions such as surveys, registration, and dispute resolution are shifted from autonomous Waqf Boards to government officials, who may lack legal or religious expertise.

(4) Restructuring of Waqf Tribunals: Muslim institutional independence is diluted through the inclusion of executive nominees and the removal of requirements that tribunal presidents be sitting judges.

(5) Mandatory digital compliance: All waqfs must register detailed data within six months on a centralised digital portal or risk deregistration.

(6) Written waqf deeds now mandatory: Customary and oral waqf declarations—historically accepted—are no longer valid.

(7) Mandatory inclusion of non-Muslims on Waqf Boards: Both national and state bodies must now include non-Muslim members among their appointed representatives.

(8) Expansion of criminal penalties: The Act introduces or strengthens criminal sanctions for administrative non-compliance, including imprisonment and fines.

While endowments belonging to other faiths continue to be governed by frameworks that safeguard internal self-governance and community representation, the amended Waqf Act imposes centralised state oversight and removes key protections. Provisions mandating the inclusion of non-Muslim members on waqf boards, abolishing the doctrine of waqf by use, and limiting the community's role in selecting its own representatives have been described as 'an erosion—if not obliteration'—of Muslims' ability to manage their religious affairs. Similar institutions, such as Hindu temple trusts or Sikh gurdwara committees, preserve robust community-led governance. By contrast, the new waqf regime forces upon Muslim institutions dependence on executive discretion, undermining community agency, and creating a model of state interference that is not applied to other religious communities.

This law follows a broader trend of state actions that have disproportionately affected India's Muslim population, including the Citizenship (Amendment) Act, the criminalisation of interfaith marriage and religious conversion, and targeted policing of Muslim religious practices.

Please describe on whom or which group the bill, legislation, policy or practice has/would have an impact, what rights would allegedly be affected and how:

The Act exclusively impacts India's Muslim community, particularly those who depend on waqf properties for religious practice, education, burial rights, and community welfare. The law introduces sweeping changes that affect the governance, recognition, and legal protection of waqf institutions, a system that is central to Muslim religious and communal life in India.

The rights at risk include:

Freedom of religion and religious autonomy: The Act interferes with Muslims' ability to govern their religious institutions, violating Articles 25 and 26 of the Indian Constitution, as well as Article 18 of the ICCPR, which guarantees the right to manifest religion 'either individually or in community with others.' The mandatory inclusion of non-Muslim nominees on Waqf Boards and the replacement of religiously-informed decision-making with state-appointed bureaucrats undermine religious self-governance.

Minority rights and cultural heritage: Under Article 27 of the ICCPR, states must respect the rights of minorities to maintain their religious institutions and practices. The abolition of 'waqf by use', combined with the exclusion of government-classified land from waqf recognition, places undocumented yet historically significant Muslim sites at risk of dispossession and erasure. These provisions threaten the preservation of religious and cultural heritage embedded in local communities for centuries. The ICESCR (Article 15) further protects the right to participate in cultural life and obliges states to safeguard cultural heritage, which is compromised here.

Right to equality and non-discrimination: The law imposes uniquely onerous obligations on Muslim religious institutions that are not applicable to Hindu trusts or other religious endowments. These include mandatory digital uploads, the requirement for formal deeds, and disproportionate criminal penalties. This may amount to religious discrimination under Article 14 of the Indian Constitution and Articles 2 and 26 of the ICCPR, which prohibit differential treatment based solely on religion.

Procedural safeguards: Multiple provisions replace judicial oversight with administrative discretion. State officials are now empowered to determine land ownership in waqf disputes, while restructured Tribunals have limited powers to grant relief. These changes risk violating Article 21 of the Indian Constitution and Article 14 of the ICCPR, which guarantee the right to a fair hearing before an independent and impartial tribunal.

In sum, the Waqf (Amendment) Act disproportionately burdens a single religious community by eroding internal religious governance, threatening undocumented heritage, imposing discriminatory administrative demands, and undermining due process. While framed as a governance reform, the cumulative effect is to subject Muslim civil life to intensified state control, in a manner that is inconsistent with both constitutional guarantees and international human rights norms.

Additional information

A full briefing note on the Waqf (Amendment) Act is attached. Section 1 of the note outlines the historical evolution of waqf institutions in India and situates the new law within the broader political context. Section 2 identifies and explains the most contentious provisions of the 2025 amendments. Section 3 analyses the compatibility of these changes with Indian constitutional guarantees, while Section 4 assesses their consistency with India's international human rights obligations. Section 5 concludes with a call to action and brief set of recommendations.



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