



Constitutional check

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on the process of law-making

Article 13(2)

ARTICLE 13(2)
of the Constitution of India

Laws inconsistent with or in derogation of the
fundamental rights

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**The State shall not make any law which
takes away or abridges the rights
conferred by this Part and**

**Any law made in contravention of this
clause shall be void**

Article 26

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**FREEDOM TO MANAGE
RELIGIOUS AFFAIRS**

Article 26. Freedom to manage religious affairs

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**Every religious denomination
shall have the right:**

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**TO MANAGE ITS OWN AFFAIRS
IN MATTERS OF RELIGION;**

TO OWN AND ACQUIRE PROPERTY; AND

TO ADMINISTER SUCH PROPERTY.

Requirement of CWC Members to be Muslim

Category of Membership			No.	Act of 2013	Act of 2025	
				All Muslim		
(b)		Three Members of Parliament of whom two shall be from the House of the people and one from the Council of States;	3	Muslim		✗
(c)	(i)	Three persons to represent Muslim organisations having all India character and national importance;	3	Muslim	✓	
(c)	(ii)	Chairpersons of three Boards by rotation;	3	Muslim	✓	
(c)	(iii)	One person to represent the mutawallis of the waqf having a gross annual income of five lakh rupees and above;	1	Muslim	✓	
(c)	(iv)	Three persons who are eminent scholars in Muslim law;	3	Muslim	✓	
(d)		Two persons who have been Judges of the Supreme Court or a High Court;	2	Muslim		✗
(e)		One Advocate of national eminence;	1	Muslim		✗
(f)		Four persons of national eminence, one each from the fields of administration or management, financial management, engineering or architecture and medicine;	4	Muslim		✗
(g)		Additional Secretary or Joint Secretary to the Government of India dealing with waqf matters in the Union Ministry or department-member, ex officio.	Additional Category Created			✗
Total			20		10	11

?*

* Additional violation of Article 26

Waqf Act 2025

9. In section 9 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) The Council shall consist of—

(a) the Union Minister in charge of waqf—Chairperson, *ex officio*;

(b) three Members of Parliament of whom two shall be from the House of the people and one from the Council of States;

(c) the following members to be appointed by the Central Government from amongst Muslims, namely:—

(i) three persons to represent Muslim organisations having all India character and national importance;

(ii) Chairpersons of three Boards by rotation;

(iii) one person to represent the mutawallis of the waqf having a gross annual income of five lakh rupees and above;

(iv) three persons who are eminent scholars in Muslim law;

(d) two persons who have been Judges of the Supreme Court or a High Court;

(e) one Advocate of national eminence;

(f) four persons of national eminence, one each from the fields of administration or management, financial management, engineering or architecture and medicine;

(g) Additional Secretary or Joint Secretary to the Government of India dealing with waqf matters in the Union Ministry or department—member, *ex officio*;

Provided that two of the members appointed under clause (c) shall be women:

Provided further that two members appointed under this sub-section shall be non-Muslim.”

“Provided further that at least two members appointed under this sub-section shall be non-Muslim.”

Why does the Act of 2025 want that Muslim Waqfs should be governed by non-Muslims ?

This is discrimination against Muslims.

It violates Art 15, 25, 26, 29 of Constitution.

Waqf Act 1995, Sec 9(1A) Second proviso:

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Where there is no Muslim member in the Parliament, State Legislature, or State Bar Council, former Muslim members of Parliament, former members of the State Legislature, or former members of the State Bar Council shall constitute the electoral college.

Why does the government want to take away this constitutional right from Muslims?

Waqf Act 2025

Provided further that two members appointed under this sub-section shall be non-Muslim.”.

10. In section 13 of the principal Act, for sub-section (2A), the following sub-section shall be substituted, namely:—

“(2A) The State Government may, if it deems necessary, by notification in the Official Gazette, establish a separate Board of Auqaf for Bohras and Aghakhani.”.

11. In section 14 of the principal Act,—

(a) for sub-sections (1), (1A), (2), (3) and (4), the following sub-sections shall be substituted, namely:—

“(1) The Board for a State and the National Capital Territory of Delhi shall consist of, not more than eleven members, to be nominated by the State Government,—

(a) a Chairperson;

(b) (i) one Member of Parliament from the State or, as the case may be, the National Capital Territory of Delhi;

(ii) one Member of the State Legislature;

(c) the following members belonging to Muslim community, namely:—

(i) one mutawalli of the waqf having an annual income of one lakh rupees and above;

(ii) one eminent scholar of Islamic theology;

(iii) two or more elected members from the Municipalities or Panchayats:

Provided that in case there is no Muslim member available from any of the categories in sub-clauses (i) to (iii), additional members from category in sub-clause (iii) may be nominated;

(d) two persons who have professional experience in business management, social work, finance or revenue, agriculture and development activities;

(e) one officer of the State Government, not below the rank of Joint Secretary to that State Government;

(f) one Member of the Bar Council of the concerned State or Union territory:

Provided that two members of the Board appointed under clause (c) shall be women:

Provided further that two of total members of the Board appointed under this sub-section shall be non-Muslim:

State Waqf Boards

Why does the Govt want to limit the legal requirement of being Muslim to only four members of the Board (as compared to the existing requirement that all members will be Muslim) ?

Waqf Act 2013

23. Appointment of Chief Executive Officer and his term of office and other conditions of service.—¹[(1)There shall be a full-time Chief Executive Officer of the Board who shall be a Muslim and shall be appointed by the State Government, by notification in the Official Gazette, from a panel of two names suggested by the Board and who shall not be below the rank of Deputy Secretary to the State Government, and in case of non-availability of a Muslim officer of that rank, a Muslim officer of equivalent rank may be appointed on deputation.]

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Sec 23(1) There shall be a full-time Chief Executive Officer of the Board who shall be a Muslim and shall be appointed by the State Government, by notification in the Official Gazette, from a panel of two names suggested by the Board and who shall not be below the rank of Deputy Secretary to the State

Waqf Act 2025

In section 23 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:-

"(1) There shall be a full-time Chief Executive Officer of the Board to be appointed by the State Government and who shall be not below the rank of Joint Secretary to the State Government."

syedzafar.ali@syedzafar.inahmood.in

Why does the Govt want to deprive the Muslim community of its fundamental right (Art 26) that the CEO of the State Waqf Board should be Muslim ?

Waqf Act 2013: Sec 23(1)

**Why does the government want to deprive
the Muslim community of its
fundamental right (Article 26)
that the Secretary of Central Waqf Council
and CEOs of the State Waqf Boards
should be a Muslim?**

Waqf Act 1995, Sec 23(1)

Also, why the Govt wishes to undo the democratic process and the constitutional right where two names are suggested by the Board and the Govt appoints one of them ?

**Thus, in the
Central Waqf Council,
State Waqf Boards and
in the appointment of CEO**

**The Waqf Amendment Act 2025 has withdrawn the
constitutional right of the Muslims
that they should themselves manage
the affairs of the Waqfs which is a part
of their faith as well as their culture.**

**These amendments are unconstitutional and
need to be rescinded.**

No. of Waqf
Properties in India

4,90,021



Land Area Acreage
covered by
Waqf Properties in India

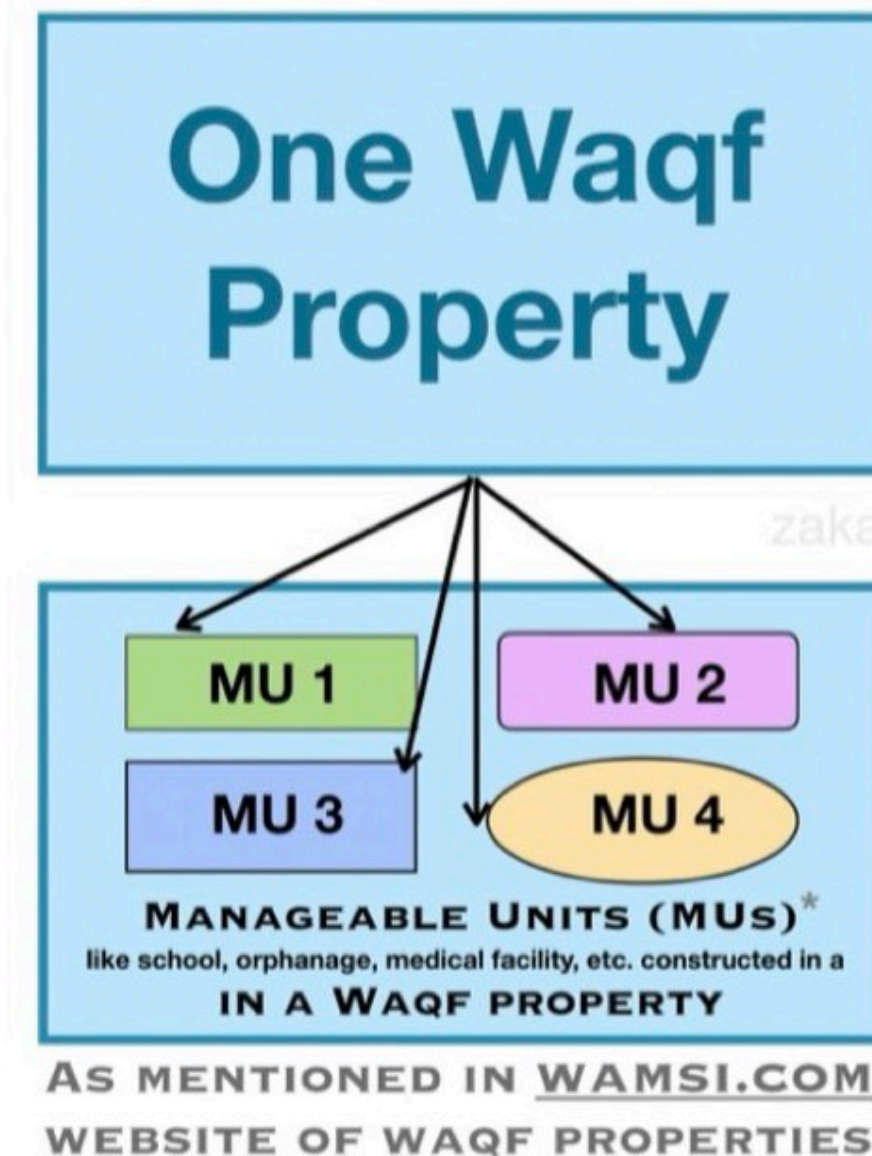
5,72,052

Number of waqf properties

It is important to note that there is only one authentic figure — 4,90,021 — available for public access and that is in the Report of the Justice Rajinder Sachar Committee (p 220).

This figure is based on written communications received from the State Waqf Boards.

The later exercise of GPS/GIS mapping of waqf properties counts ‘manageable units’, which are many in every waqf property.



No. of Waqf properties in India reported in Justice Rajinder Sachar Committee as 4,90,021 remains the same even today. There is not a single additional Waqf property.

**SOME PERSONS ARE
WRONGLY COUNTING
AND TREATING
'MANAGEABLE UNITS'
AS WAQF PROPERTIES
AND SAY THAT THEIR
NO. HAS GONE UP.**

WAQF PROPERTIES NO. AND LAND AREA

Justice Sachar Committee Report **Page 220**
Table 11.1

Properties Gazetted as Wakfs in Indian States

States	Area (acre)	No. of properties
West Bengal	59090	148200
Uttar Pradesh	15000	122839
Kerala	22410	36500
Andhra Pradesh	145512	35703
Karnataka	18033	28731
Maharashtra	92207	23566
Gujarat	8792	22485
Rajasthan	153180	19543
Madhya Pradesh	-	15000
Haryana	20895	11929
Punjab	1778	11243
Tamil Nadu	34388	7057
Bihar	-	2459
Uttaranchal	-	2032
Delhi	152	1977
Pondicherry	425	589
Assam	190	168
Total	572052	490021

Source: As per information received by the Prime Minister's High Level Committee from State Wakf Boards in 2005-06.

Waqf Properties Number & Land Area: **Justice Sachar Committee Data** **vs WAMSI Portal Data**



Aspect	Justice Sachar Committee Report (2006)	WAMSI Portal (Post-2009)
Data Source	State Waqf Boards' official records based on gazette notifications, waqf deeds and revenue department land records.	Data digitized by State Waqf Boards and plotted using GIS/GPS-based mapping systems.
Unit of Counting	Waqf Properties (individual legal entities based on ownership documents).	Manageable Units (functional divisions of a single property, often counted multiple times if managed separately).
Legal Basis	Based on ownership documents and recognized under law for land rights, revenue records, and legal proceedings.	GPS coordinates and mapping for management convenience; not recognized under land ownership laws.
Methodology	Property-by-property verification from waqf deeds, gazette notifications, and revenue record extracts.	Uploading old data plus satellite tagging without necessarily verifying boundaries legally.
Accuracy for Legal Title	High — based on primary documentary evidence (title and revenue records).	Limited — does not replace gazette notifications, deeds or government land records.
Inflation of Numbers	No artificial inflation — each waqf counted once as per documentary evidence.	Inflation possible — multiple "manageable units" per property artificially increasing count.
Boundary Determination	By waqf deed descriptions and land/revenue department maps.	By GPS/GIS coordinates — indicative, but not legally binding for disputes or title.
Purpose	Document the existing waqf land assets for social, legal, and policy analysis.	Modernize waqf property management; aid in digital access and monitoring, not ownership determination.
Reliability	Stronger for understanding the actual landholding and legal situation of Waqf properties.	Weaker for asserting number, size, and ownership of properties in courts or legal documents.

Conclusion:

Justice Sachar Committee Report data remains **more credible and legally authentic** for understanding the number and area of Waqf properties, while **WAMSI Portal data** serves primarily as an administrative management tool, not as a basis for landholding verification.

Sec 3

Insert new clause (fa)

Government Organisation

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includes the Central Government, State Governments, Municipalities, Panchayats, attached and subordinate offices and autonomous bodies of the Central Government or State Government, or any organisation or Institution owned and controlled by the Central Government or State Government.

This is an instrument to empower the Govt through Collector to declare Govt occupied Waqf properties as Govt Properties.

Amendment should be rescinded.

Sec 3

Insert new clause (fb)

Government Property

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**means movable or immovable property
or any part thereof, belonging to a
Government Organisation;**

**There are a large number of Waqf properties
which are occupied by Government.**

Details are give in Justice Sachar Committee Report.

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**The Act of 2025 authorizes the district collector
and state government to declare such waqf
properties as 'Govt Property'.**

The amendment should be rescinded.

After Sec 3 inserted 3C

3C(3). In case the Collector determines the property to be a Government property, he shall make necessary corrections in revenue records and submit a report in this regard to the State Government.

Collector is already over worked. That's why separate survey commissioner was provided for.

Also, the Collector is under both the Central* as well as the State Governments. Hence vesting in him authority over waqf properties & waqf administrative machinery violates article 25, 26 and 29 of the Constitution. The amendment needs to be deleted.

[*The Collector is a member of IAS which is an all-India service controlled by the Central Government even though these officers are allocated various state/UT cadres.]

New provision in Waqf Act 2025

3C(4) The State Government shall, on receipt of the report of the Collector, direct the Board to make appropriate correction in the records.

Government interference in religious matters is violation of articles 25, 26 and 29 of the Constitution.

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Merger of executive and judicial powers (on same subject) in an officer violates Article 50

The amendment needs to be rescinded.

In Sec 3 of the earlier Act

After clause (k), inserted (ka)

(ka) “portal and database” means the waqf asset management system or any other system set up by the Central Government for the registration, accounts, audit and any other details of waqf and the Board, as may be prescribed by the Central Government.

Waqf properties are properties of Muslims. They should have control.

Hence, as per Article 26, the waqf asset management system should be controlled by Muslims, not by Government.

In Sec 3 of the 1995 Act,

In clause (r) in the opening portion, for the words “any person, of any movable or immovable property”,

The words “syedzafarmahmood.in any person practising Islam for at least five years, of any movable or immovable property, having ownership of such property,” has been substituted;

Amendment in Sec 3 of the 1995 Act

**“Practicing Islam for at least five years”
is an affront to the Muslim community.**

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**In no other statute such provision is
there for any other community.**

**Also, if a non-Muslim wishes to
contribute to the charitable cause like
Waqf, s/he should not be debarred.**

Hence this amendment should be deleted .

Sec 3(r)(i)

Waqf includes

(i) A **waqf by user** but such waqf shall not cease to be a waqf by reason only of the user having ceased irrespective of the period of such cesser.

It is has been omitted

Such omission is fatal in respect of ancient mosques, tombs, graveyards, etc.

And, it violates Article 25 of constitution

Hence, this amendment deserves to be rescinded.

Amendment in Sec 4 of the 1995 Act

Survey Commissioner's powers have been transferred to Collector

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Collector is already over worked. That's why separate survey commissioner was provided for. Also, the Collector is under both the Central* as well as the State Governments. Hence vesting in him authority over waqf properties & waqf administrative machinery violates article 25, 26 and 29 of the Constitution.

[*The Collector is a member of IAS which is an all-India service controlled by the Central Government even though these officers are allocated various state/UT cadres.]

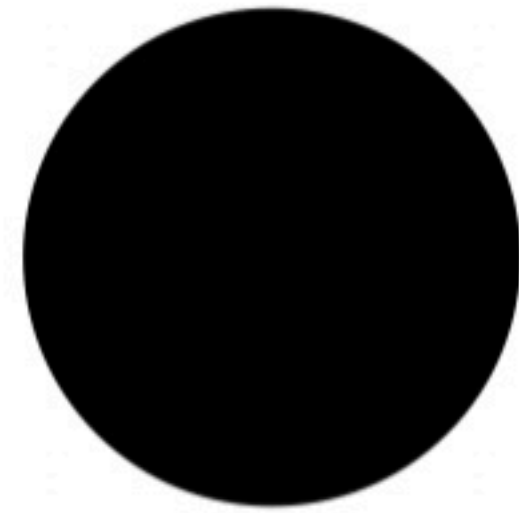
The amendment needs to be rescinded.

From Waqf Tribunal:

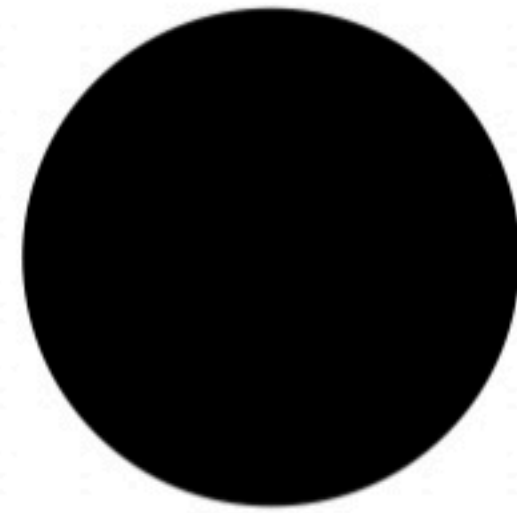
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The Act of 2025 has excluded the Expert of Muslim Law

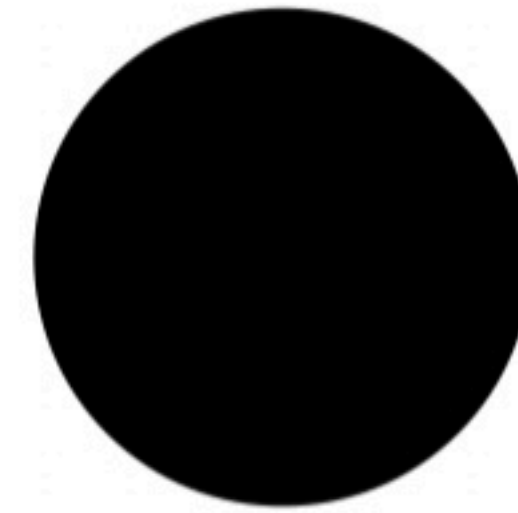
Waqf Tribunal till March 2025



**Govt
Officer**

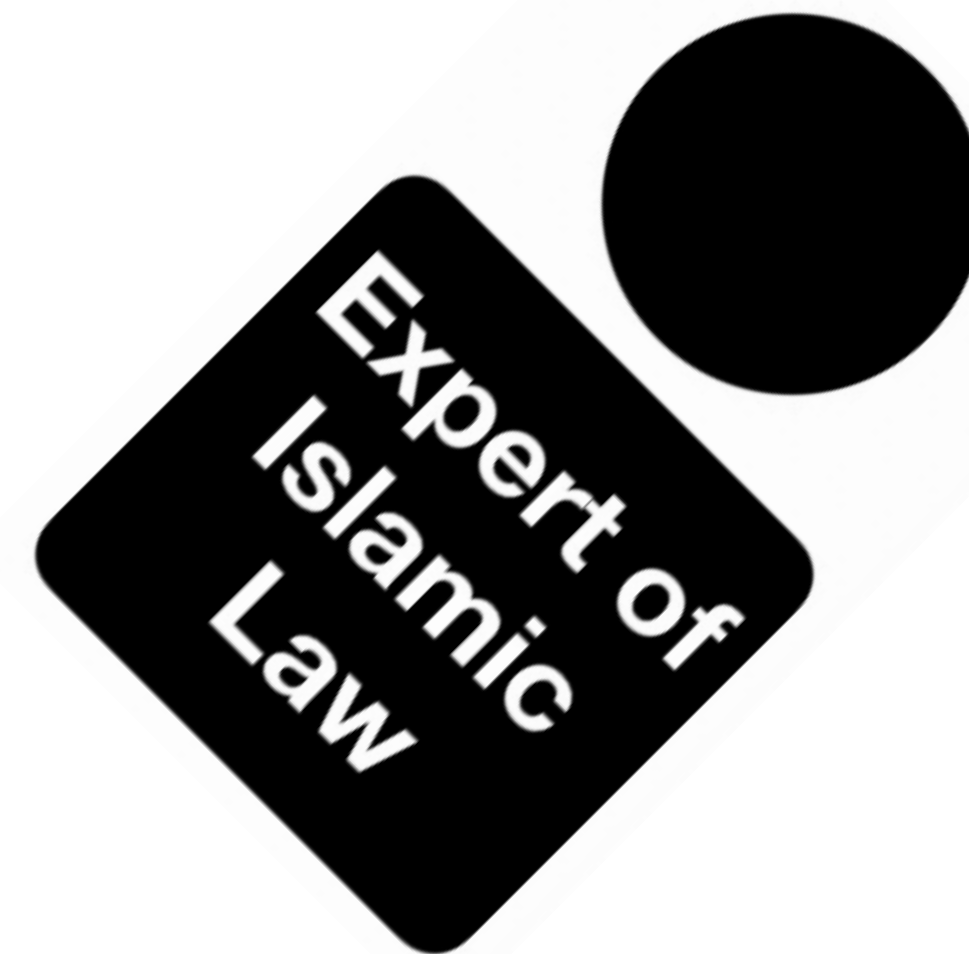


**Judicial
Officer**



**Expert of
Islamic
Law**

Done by Act of 2025



Violation of Article 26

The inclusion of such an expert is crucial for the coherence of the tribunal's decisions with the framework of Islamic faith and culture, which is foundational to the operation and administration of Waqf properties. This is mandated in Article 26.

Act of 1995	Act of 2025	Comments
Section (4):	Section (4):	
Every Tribunal shall consist of:	Every Tribunal shall consist of two members—	THE 2025 ACT OPENS THE APPOINTMENTS TO RETIRED JUDGES AND RETIRED GOVT. OFFICERS. THAT WOULD CREATE INFRASTRUCTURAL DIFFICULTIES AND THIS PROPOSAL SHOULD NOT BE ACCEPTED.
(a) One person, who shall be a member of the State Judicial Service holding a rank, not below that of a District, Sessions or Civil Judge, Class I, who shall be the Chairman;	(a) One person, who is or has been a District Judge, who shall be the Chairman; and	
(b) One person, who shall be an officer from the State Civil Services equivalent in rank to that of the Additional District Magistrate, Member;	(b) One person, who is or has been an officer equivalent in the rank of Joint Secretary to the State Government—member:	

In the Waqf Tribunal,
provision of such an expert is vital for
ensuring consonance
of the Tribunal's decisions with

**Islamic belief and
Islam's cultural structure.**

This is basic to the handling of Waqf
properties, as mandated in Article 26.

By amending Sec 6(1) of the 1995 Act

**The Act of 2025 has **revoked the
Finality of Tribunal's order.****

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**This is a retrograde step and
waters down the significance of
Waqf properties.**

The amendment needs to be rescinded.

The provision in Sec 20A for the democratic

**Removal of Chairperson
by vote of no confidence
has been omitted**

**Democratic values must be retained.
This amendment needs to be
rescinded.**

Sec 32(1)

**In exercising its powers under this Act
in respect of any waqf, the Board shall act in
conformity with the directions of the waqif,
the purposes of the waqf and any
usage or custom of the waqf
sanctioned by the school of Muslim law
to which the waqf belongs.**

Has been Omitted

Sec 32(1)

**The Waqf Act 2025 has completely ignored
the directions of the **Waqif**
(the person who created the Waqf)
the purposes of the Waqf and any usage and
custom of the Waqf sanctioned by the school of
Muslim law to which the Waqf belongs.
This is a blow at the basic concept of Waqf.
**This amendment violates Article 26 of the
Constitution and deserves to be rescinded.****

Sec 36(4)

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Every such application shall be

accompanied by a copy of the waqf deed

or if no such deed has been executed or a copy thereof cannot be obtained, shall contain full particulars, as far as they are known to the applicant, of the origin, nature and objects of the waqf.

“or if no such deed has been executed or a copy thereof cannot be obtained, shall contain full particulars, as far as they are known to the applicant, of the origin, nature and objects of the waqf”

Omitted by Act of 2025

The existing Act provides that if a Waqf deed is not available but other corroborative evidence exists, it can form the basis for recognizing the Waqf.

The amendment needs to be rescinded.

The amendment in Sec 36(4) of 1995 Waqf Act

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Many waqfs are very old, often older than a century. It is an unwise and anti-Waqf step to insist on an avoidable straight jacket of producing Waqf Deed and ignoring the realities of the yesteryears. Hence this provision in 1995 Act needs to be retained.

The amendment should be rescinded.

Existing Sec 36(7)

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Prescribes procedure for Registration of Waqfs by Waqf Board

On receipt of an application for registration, the Board may, before the registration of the waqf, make such inquiries as it thinks fit in respect of the genuineness and validity of the application and correctness of any particulars therein and when the application is made by any person other than the person administering the waqf property, the Board shall, before registering the waqf, give notice of the application to the person administering the waqf property and shall hear him if he desires to be heard.

Existing Sec 36(7)

The Act of 2025 has substituted it by

On receipt of an application for registration, the
Board shall forward the application to the Collector
to inquire the genuineness and validity of the application and
correctness of any particulars therein and submit a report to the Board:

**(7A) Where the Collector in his report mentions that
the property is in dispute or is a Government property,
the waqf property shall not be registered,
unless the dispute is decided by a competent court.”**

2025 amendment in Sec 36(7) of the 1995 Act

**State Waqf Board has been made compulsorily
subservient to the Collector.**

**And it's powers are transferred to the Collector.
This violates articles 25, 26, 29 of the
Constitution.**

The amendment needs to be rescinded.

**Act of 2025 has inserted clause (10)
in Sec 36 of the 1995 Waqf Act**

**(10) No suit, appeal or other legal proceeding for the
enforcement of any right on behalf of any waqf
which have not been registered in accordance with
the provisions of this Act,
shall be instituted or commenced or heard, tried or
decided by any court
after expiry of a period of six months from the
commencement of the Waqf (Amendment) Act, 2025.**

**Clause (10)
in Sec 36 of the existing Waqf Act**

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The 2025 Act has done away with entire factual position regarding the existence of the waqf.

It insists that all waqfs must be registered at the new portal to be created and controlled by the central government.

This is violation of articles 25, 26, 29 of the constitution. The amendment constricts and vitiates the interests of Waqf properties and needs to be rescinded.

Sec 40 of 1995 Act - Omitted

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JPC on Waqf 2007 and Justice Sachar Committee had reported that large number of Waqf properties are under encroachment.

But, the Waqf Act of 2025 has denied to the state waqf board the right to identify a waqf property which is under encroachment and to take action for its retrieval.

The amendment is pernicious and deserves to be rescinded.

Sec 47(1) of the 1995 Act

The cost of such audit shall not exceed one and a half per cent of the net annual income of such waqf and such costs shall be met from the funds of the auqaf concerned

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Omitted

Amendment in Sec 47(1) of existing Waqf Act

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**This amendment is repressive
and injurious to the interests of
the Waqfs and
needs to be rescinded.**

Omission of Sec 52A(2) of the 1995 Act

Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) any offence punishable under this section shall be cognizable and non-bailable.

Omitted

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This waters down the strength of the Waqf law. This amendment needs to be rescinded.

Omission of Sec 52A(4) of the 1995 Act

**No court inferior to that of a Metropolitan Magistrate or a
Judicial Magistrate of the first class
shall try any offence punishable under this Section.**

Omitted

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**This waters down the strength of the Waqf
law. This amendment needs to be rescinded.**

Omission of Sec 61(1)(e) of the 1995 Act

Penalty for failure to deliver possession of any waqf property, if ordered by the Board or Tribunal.

Omitted

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**Will lead to lawlessness and mismanagement.
This amendment needs to be rescinded.**

یہ لاقانونیت، سرکشی اور بدنظمی کا باعث بنے گا۔ اس ترمیم کو مسترد کر دینا چاہیے۔

Omission of Sec 61(1)(f) of the 1995 Act

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Penalty for Mutawalli's non-compliance with the directions of the Board

Omitted

**Will lead to insubordination and mismanagement.
This amendment needs to be rescinded.**

یہ نافرمانی اور بدنظمی کا باعث بنے گا۔ اس ترمیم کو مسترد کر دینا چاہیے۔

Amendment in long line of the 1995 Act

**Imprisonment has been replaced by fine upto
Rs 50,000.**

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This will encourage encroachment and non-compliance. This amendment needs to be rescinded.

Omission of Sec 104 of the 1995 Act

Sec 104

Exemption to Waqf Properties from Limitation Act

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Omitted

**This jeopardizes the existence of tens of
thousands of Waqf properties.**

This amendment needs to be rescinded.

Omission of Sec 108A of the 1995 Act

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Withdrawal of Overriding Effect favoring Waqf Act

**This waters down the strength of the Waqf law.
This amendment needs to be rescinded.**

Omission of Sec 108 of the existing Act

Sec 108

Treatment as Evacuee Property

Omitted

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This waters down the strength of the Waqf law.

This amendment needs to be rescinded.

جزاك الله خيرا



Thanks to all those sources from where
Photos and other inputs have been taken