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The Waqf (Amendment) Act 2025: Constitutional Validity, Minority Rights, and the Jurisprudence of Religious Autonomy in India

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The enactment of the Waqf (Amendment) Act, 2025, has ignited one of the most constitutionally significant legal controversies in contemporary Indian jurisprudence. The legislation, which received Presidential assent on April 5, 2025, substantially amends the Waqf Act, 1995, by inter alia altering the composition of Waqf Boards, abolishing the doctrine of waqf-by-user, and vesting adjudicatory authority in District Collectors for the determination of the status of alleged government land.¹ The constitutionality of these provisions has been challenged before the Supreme Court of India by more than seventy petitioners, including political parties, religious organisations, and Members of Parliament, because the impugned Act violates Articles 14, 15, 19, 21, 25, 26, 29, 30, and 300A of the Constitution.² This article critically examines the constitutional dimensions of the Waqf Amendment Act, analyses the conflicting interests of State regulation and religious autonomy, and evaluates the emerging jurisprudential framework within which the Supreme Court is likely to adjudicate the challenge.

Keywords: *waqf, constitutional validity, articles 25-26, religious autonomy, minority rights.*

¹ 'Constitutionality of the Waqf (Amendment) Act, 2025' (Supreme Court Observer) <<https://www.scobserver.in/cases/constitutionality-of-the-waqf-amendment-act-2025>> accessed 30 April 2026

² M P Jain, *Indian Constitutional Law* (8th edn, LexisNexis 2018)

INTRODUCTION

The concept of Waqf is the permanent dedication of property by a Muslim individual for religious, pious, or charitable purposes³, and constitutes an enduring institution of Islamic law that has been woven into the fabric of Indian civil society for centuries. Historically recognised and regulated under a series of legislative enactments culminating in the Waqf Act, 1995, Waqf properties represent the third-largest category of landed assets in India, comprising approximately 8.7 lakh registered properties encompassing nearly 9.4 lakh acres.⁴

Against this backdrop, the Parliament of India introduced and passed the Waqf (Amendment) Bill, 2025, which received the assent of President Droupadi Murmu on April 5, 2025, and was brought into force by notification in the Official Gazette.⁵ The amendments have been positioned by the Central Government as essential regulatory reforms aimed at curbing mismanagement, enhancing transparency, and rationalising the administration of Waqf properties. The Government contended before the Supreme Court that the amendments pertained solely to the secular aspects of Waqf administration and did not infringe upon the religious freedoms guaranteed under Articles 25 and 26 of the Constitution.⁶

The legislative journey of the Bill was itself marked by intense parliamentary controversy. Over seventy petitions were subsequently filed before the Supreme Court challenging the constitutional validity of the legislation.⁷ On April 16, 2025, a bench of the Supreme Court comprising Chief Justice Sanjiv Khanna and Justices Sanjay Kumar and K.V. Viswanathan commenced hearing the petitions, consolidating them under the case title *In Re: Waqf (Amendment) Act, 2025*.⁸ Following the retirement of Chief Justice Khanna, the bench was reconstituted under Chief Justice B.R. Gawai and Justice Augustine George Masih, which, on

³ Waqf (Amendment) Act 2025, s 3(r)

⁴ Waqf (Amendment) Act 2025

⁵ *In Re: Waqf Amendment Act, 2025* (2025) INSC 1116

⁶ Ashish Tripathi, 'SC decides to hear pleas against Waqf Amendment Act on April 16' *The Deccan Herald* (09 April 2025) <<https://www.deccanherald.com/india/sc-decides-to-hear-pleas-against-waqf-amendment-act-on-april-16-3486749>> accessed 30 April 2026

⁷ *In Re: Waqf Amendment Act, 2025* (2025) INSC 1116

⁸ *Ibid*

September 15, 2025, declined to stay the impugned Act in its entirety but issued certain protective directions.

KEY PROVISIONS UNDER CONSTITUTIONAL CHALLENGE

The most contentious provisions of the Waqf (Amendment) Act, 2025 challenge established legal orthodoxies in multiple dimensions. The principal amendments may be categorised as follows:

First, the amendment to Section 3(r) introduces a requirement that only a person who has practised Islam for at least five years shall be eligible to create a Waqf.⁹ This provision has been challenged as an impermissible restriction upon the exercise of religious rights guaranteed under Article 25¹⁰ of the Constitution, which guarantees every person the right freely to profess, practise, and propagate religion subject only to public order, morality, and health.

Second, the amendments to Sections 9 and 14 alter the composition of the Central Waqf Council and State Waqf Boards to include non-Muslim members, who may constitute up to three out of eleven members of a Waqf Board.¹¹ Petitioners contend that this restructuring violates Article 26(b), which guarantees every religious denomination the right to manage its own affairs in matters of religion, and Article 26(d), which protects the right to administer property in accordance with law¹².

Third, the abolition of the doctrine of waqf-by-user whereby property dedicated to religious purposes through long usage could be recognised as Waqf irrespective of the existence of a deed constitutes a fundamental alteration of the classical Islamic legal framework that has been judicially recognised in India.¹³ This amendment has significant implications for properties whose Waqf status is premised upon historical usage rather than documentary title.

Fourth, newly inserted Section 3C vests authority in the District Collector to determine whether a property claimed as Waqf is, in fact, government land, and provides that such property shall not be treated as Waqf pending the inquiry.¹⁴ This provision has been criticised as effectively

⁹ Waqf (Amendment) Act 2025, s 3(r)

¹⁰ The Constitution of India 1950, art 25

¹¹ Waqf (Amendment) Act 2025, ss 9 and 14

¹² The Constitution of India 1950, arts 26(b) and 26(d)

¹³ Waqf (Amendment) Act 2025

¹⁴ Waqf (Amendment) Act 2025, s 3C

transferring judicial and quasi-judicial determination from specialised Waqf Tribunals to executive officers, arguably in contravention of the principles of separation of powers and fair adjudication.

CONSTITUTIONAL FRAMEWORK: RELIGIOUS FREEDOM AND STATE REGULATION

The constitutional adjudication of the Waqf Amendment Act necessarily engages the complex interplay between Articles 25, 26, 29, and 30 of the Constitution of India. The Supreme Court has, through a substantial body of jurisprudence, developed the ‘essential religious practices’ doctrine as the touchstone for determining whether a State's regulatory measure impermissibly intrudes upon religious freedom.¹⁵

In *The Commissioner, Hindu Religious Endowments, Madras v Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt*, the Supreme Court distinguished between essentially religious matters and those that are ‘secular’ in character, holding that while the State may regulate the latter, the former falls within the constitutionally protected sphere of religious autonomy.¹⁶ The Court further elaborated that a religious denomination possesses the right to determine what rites and ceremonies are essential according to its tenets and to manage its own affairs in matters of religion.

In *S.P. Mittal v Union of India*, the Court held that for a body to constitute a ‘religious denomination’ within the meaning of Article 26, it must satisfy three requirements: it must be a collection of individuals who have a system of beliefs which they regard as conducive to their spiritual well-being; it must have a common organisation; and it must be designated by a distinctive name.¹⁷

The Central Government's contention that the amendments relate exclusively to the secular administration of Waqf properties invites scrutiny under the Shirur Mutt framework. The question that the Supreme Court must ultimately resolve is whether the composition of Waqf Boards which exercise superintendence over properties dedicated to religious purposes

¹⁵ *The Commissioner, Hindu Religious Endowments, Madras v Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt* (1954) SCR 1005

¹⁶ *S P Mittal Etc Etc v Union of India & Ors* (1983) 1 SCC 51

¹⁷ *In Re: Waqf Amendment Act, 2025* (2025) INSC 1116

constitutes a matter of religion, or merely a matter of administration incidental to the exercise of religious rights.

The petitioners further invoke Article 14's guarantee of equality before law, contending that the special eligibility requirement of five years' practice of Islam constitutes an arbitrary classification unsupported by any intelligible differentia having a rational nexus to the object of the Act.¹⁸ The argument draws upon the doctrine of manifest arbitrariness articulated in *Shayara Bano v Union of India*, which recognised that legislation may be struck down where it is found to be capricious, irrational, or disproportionate.

THE SUPREME COURT'S INTERIM DIRECTIONS AND PRIMA FACIE FINDINGS

In its order of September 15, 2025, the bench of Chief Justice B.R. Gavai and Justice A.G. Masih declined to stay the impugned Act in its entirety, observing that the constitutional courts exercise extreme restraint in staying statutory provisions, and that no case had been made out on a prima facie basis justifying a blanket stay. However, the Court issued certain protective directions, including that the Waqf Board constituted under Section 14 shall not have more than three non-Muslim members out of eleven; that, as far as possible, a Muslim community member should be appointed as the Chief Executive Officer of the Board; and that the observations made were confined to the question of interim relief and would not preclude the parties from advancing substantive arguments on constitutional validity.¹⁹ The Court's approach reflects the well-established principle, reiterated in *State of Rajasthan v Union of India*, that a statutory provision carries with it a presumption of constitutional validity, and that courts must exercise circumspection before granting stays on legislation enacted by the competent legislature.²⁰

ANALYTICAL CRITIQUE AND EMERGING ISSUES

The Waqf (Amendment) Act 2025 raises fundamental questions that transcend the immediate legal controversy. At a deeper level, the litigation encapsulates the enduring tension in Indian

¹⁸ Apoorva, 'Waqf Amendment Act 2025: Supreme Court's Landmark Ruling Explained' (*SCC Times*, 15 September 2025) <<https://www.sconline.com/blog/post/2025/09/15/supreme-court-landmark-verdict-waqf-amendment-act-2025/>> accessed 30 April 2026

¹⁹ *Ibid*

²⁰ *State of Rajasthan & Ors Etc Etc v Union of India Etc Etc* (1977) 3 SCC 592

constitutional design between the State's aspiration towards social reform and the constitutional commitment to protecting the rights of religious minorities.

The abolition of waqf-by-user is particularly significant because it severs a connection between Islamic religious practice and its evidentiary recognition in law, potentially dispossessing communities of properties they have occupied and utilised for religious purposes for generations without a documentary title. The right to property under Article 300A,²¹ while no longer a fundamental right, remains a constitutional right that cannot be taken away without the authority of law, and such deprivation must be accompanied by appropriate compensation.

The executive determination of Waqf status by District Collectors also raises procedural due process concerns rooted in Article 21.²² The Supreme Court has consistently held, from *Maneka Gandhi v Union of India*, onwards, that the procedure established by law must be fair, just, and reasonable, and that any adjudication affecting a person's property rights must conform to the requirements of natural justice.²³

CONCLUSION

The constitutional challenge to the Waqf (Amendment) Act, 2025, represents a watershed moment in Indian minority rights jurisprudence. The Supreme Court's final adjudication will inevitably shape the boundaries of the State's regulatory power over religiously endowed institutions, the extent of protection afforded to the Muslim community's right to manage its own religious affairs, and the future of waqf administration in India.

Pending the Court's authoritative pronouncement, the legislation remains in force, with implementation of certain provisions subject to the Court's protective directions. The litigation thus presents the Indian legal system with an opportunity to refine and clarify the sometimes-opaque contours of the essential religious practices doctrine and to articulate a principled framework for balancing State regulation with constitutional guarantees of religious freedom and equality.

²¹ The Constitution of India 1950, art 300A

²² The Constitution of India 1950, art 21

²³ *Maneka Gandhi v Union of India* (1978) 1 SCC 248