

**Waqf Bill 2024**

**violates**

**Art 25, 26, 29 of the  
Constitution.**

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**It needs to be returned  
to the Ministry for  
thorough Review**

Waqf Act of 1995 (as amended in 2013)		AMENDMENT PROPOSED IN WAQF BILL 2024	Comments
Sec of existing Act	Existing Provision		
Sec 9	<b>Central Waqf Council</b>		There are laws in UP, Kerala, Karnataka, Tamilnadu saying that those managing the affairs of Hindu religious properties must necessarily be professing Hindu religion. Similarly, the waqf properties should be managed by Muslims. The proposal made in Waqf Bill 2024 needs to be dropped.
	<b>14 MEMBERS</b>	<b>23 MEMBERS</b>	
	One member (Minister) can be non-Muslim (7%)	13 members can be non-Muslim (56%). At least two must be non-Muslim.	
	<b>Existing Provision</b>	<b>Amended Provision, as proposed in Aug 2024.</b>	
	(2) The Council shall consist of— the Union Minister in-charge of '[waqf]-ex officio Chairperson; 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; 3(i) four persons of national eminence, one each from the fields of administration or management, financial management, engineering or architecture and medicine;] (iii) three Members of Parliament of whom two shall be from the House of the People and one from the Council of States; (iv) Chairpersons of three Boards by rotation;	(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: <b>Provided further that two members appointed under this sub-section shall be non-Muslim.</b>	

**Composition of the State Waqf Boards**

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Sec 14	<b>7-11 Members. All to be Muslim</b>	<b>Non-Muslim: 2 must, plus 1-5 additionally can be non-Muslim</b>	Election should not be replaced by Nomination by State Govt. Also, there are laws in UP, Kerala, Karnataka, Tamilnadu etc providing that those managing the affairs of Hindu religious properties must necessarily be professing Hindu religion. Similarly, the waqf properties should be managed by Muslims. The proposal needs to be dropped.
	<b>EXISTING PROVISION</b>	<b>AMENDED PROVISION, AS PROPOSED IN AUG 2024.</b>	
	(1) The Board for a State and [the National Capital Territory of Delhi] shall consist of a Chairperson; one and not more than two members, as the State Government may think fit, to be <b>elected</b> from each of the electoral colleges consisting of: (i) Muslim Members of Parliament from the State or, as the case may be, [the National Capital Territory of Delhi]; (ii) Muslim Members of the State Legislature; [(iii) Muslim members of the Bar Council of the concerned State or Union territory; Provided that in case there is no Muslim member of the Bar Council of a State or a Union territory, the State Government or the Union territory administration, as the case may be, may nominate any senior Muslim advocate from that State or the Union territory, and] (iv) mutawallis of the [waqf] having an annual income of rupees one lakh and above. [Explanation I.—For the removal of doubts, it is hereby declared that the members from categories mentioned in sub-clauses (i) to (iv), shall be elected from the electoral college constituted for each category. Explanation II.—For the removal of doubts it is hereby declared that in case a Muslim member ceases to be a Member of Parliament from the State or National Capital Territory of Delhi as referred to in sub-clause (i) of clause (b) or ceases to be a Member of the State Legislative Assembly as required under sub-clause (i) of clause (b), such member shall be deemed to have vacated the office of the member of the Board for the State or National Capital Territory of Delhi, as the case may be, from the date from which such member ceased to be a Member of Parliament from the State National Capital Territory of Delhi, or a Member of the State Legislative Assembly, as the case may be.] [(c) one person from amongst Muslims, who has professional experience in town planning or business management, social work, finance or revenue, agriculture and development activities, to be nominated by the State Government; one person each from amongst Muslims, to be nominated by the State Government from recognised scholars in Shia and Sunni Islamic Theology; one person from amongst Muslims, to be nominated by the State Government from amongst the officers of the State Government not below the rank of Joint Secretary to the State Government.]; [(1A) No Minister of the Central Government or, as the case may be, a State Government, shall be elected or nominated as a member of the Board. Provided that in case of a Union territory, the Board shall consist of not less than five and not more than seven members to be appointed by the Central Government from categories specified under sub-clauses (i) to (iv) of clause (b) or clauses (c) to (e) in sub-section (1): Provided further that at least two members appointed on the Board shall be women: Provided also that in every case where the system of mutawalli exists, there shall be one mutawalli as the member of the Board.]	(1) The Board for a State and the National Capital Territory of Delhi shall consist of, not more than eleven members, to be <b>nominated</b> 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: <b>Provided further that two of total members of the Board appointed under this sub-section shall be non-Muslim:</b> Provided also that the Board shall have at least one member each from Shia, Sunni and other backward classes among Muslim Communities: Provided also that one member each from Bohra and Aghakhani communities shall be nominated in the Board in case they have functional auqaf in the State or Union territory:	
Sec 1	Replace the word 'Waqf' by	Unified Waqf Management, Empowerment, Efficiency and Development?	Dilutes the significance of Waqf. Proposal should be dropped.
		(fb) "Government property" 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. This bill proposes to authorize the district collector and state government to unilaterally declare such waqf properties as 'Govt Property. The proposal should be dropped.
Sec 1	After clause (k)	(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 detail of waqf and the Board, as may be prescribed by the Central Government;	Waqf properties are Muslim properties. They should have control. Hence the waqf asset management system should be controlled by Muslims, not by Government.

Sec 1	In clause (r)	(a) in the opening portion, for the words “any person, of any movable or immovable property”, the words “any person practising Islam for at least five years, of any movable or immovable property, having ownership of such property,” shall be substituted;	“Practicing Islam for at least five years” is an affront to the Muslim community. 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 proposal should be dropped.
Sec 3	Sub-clause (i) Definition of Mutawalli proposed to be omitted now	<b>New definition proposed to be inserted through new Sec 50A.</b>	New negative definition of a Mutawalli is proposed. But recognition of existing Mutawalli has been done away with. This will lead to massive discordance further pushing the Waqf administration in avoidable disarray. Both proposals need to be dropped.
	Existing Def given in Sec 3(i): Proposed to be Omitted	New Def proposed vide new Sec 50A	
	(i) "mutawalli" means any person appointed, either verbally or under any deed or instrument by which a 'waqf' has been created, or by a competent authority, to be the mutawalli of a 'waqf' and includes any person who is a mutawalli of a 'waqf' by virtue of any custom or who is a nalb-mutawalli, khandim, mujawar, sajjadanashin, amin or other person appointed by a mutawalli to perform the duties of a mutawalli and save as otherwise provided in this Act, any person, committee or corporation for the time being, managing or administering any 'waqf' or 'waqf' property: Provided that no member of a committee or corporation shall be deemed to be a mutawalli unless such member is an office-bearer of such committee or corporation:	A person shall not be qualified for being appointed, or for continuing as, a mutawalli, if he— (a) is less than twenty-one years of age; (b) is found to be a person of unsound mind; (c) is an undischarged insolvent; (d) has been convicted of any offence and sentenced to imprisonment for not less than two years; (e) has been held guilty of encroachment on any waqf property; (f) has been on a previous occasion— (i) removed as a mutawalli; or (ii) removed by an order of a competent court or Tribunal from any position of trust either for mismanagement or for corruption.	
Sec 3	in sub-clause (iv), after the word “welfare” insert	maintenance of widow, divorced woman and orphan in such manner, as may be prescribed by the Central Government,	Why should central decide what Muslims should do with their property and it's income. This violates article 26 and 29 of the Constitution and the proposal needs to be dropped.
After Sec 3	After sec 3, insert 3C	3C(3). In case the <b>Collector determines</b> 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. The proposal needs to be dropped.
		(4) The <b>State Government</b> shall, on receipt of the report of the Collector, <b>direct the Board</b> to make appropriate correction in the records.	Government interference in religious matters is violation of articles 25, 26 and 29 of the Constitution. The proposal needs to be dropped.
Sec 4		<b>Survey Commissioners powers transferred to Collector</b>	Collector is already over worked. That's why separate survey commissioner was provided for. The proposal needs to be dropped.
Sec 6(1)		<b>Finality of Tribunal's order revoked.</b>	This waters down the significance of Waqf properties and the proposal needs to be dropped.
Sec 7		<b>Time limit removed for approaching Tribunal</b>	This waters down the significance of Waqf properties and the proposal needs to be dropped.
Sec 20A	<b>Removal of Chairperson by vote of no confidence.- Without</b>	<b>Proposed to be Omitted</b>	Democratic values must be retained. This

Sec 23(1)	There shall be a full-time Chief Executive Officer of the Board <b>who shall be a Muslim</b> 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	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.	CEO no longer needs to be Muslim. His mandated rank is raised to JS to state Govt. There are laws in UP, Kerala, Karnataka, Tamilnadu saying that those managing the affairs of Hindu religious properties must necessarily be professing Hindu religion. Similarly, the waqf properties should be managed by Muslims. The proposal needs to be dropped.
Sec 32(1)	Provided that in exercising its powers under this Act in respect of any '[waqf], the Board shall act in conformity with the directions of the [waqf], 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.	Proposed to be Omitted	This is an attack on the basic concept of Waqf. The proposal needs to be dropped.
Sec 32(1)	Explanation.-For the removal of doubts, it is hereby declared that in this sub-section, "[waqf]" includes a '[waqf] in relation to which any scheme has been made by any court of law, whether before or after the commencement of this Act.	Proposed to be Omitted	This us disservice to the cause of Waqf. The proposal needs to be dropped.
Sec 32(3)	The decision of the Tribunal thereon shall be final.	Proposed to be Omitted	Effectiveness of the Waqf Tribunal must be maintained. The proposal needs to be dropped.
Sec 33(4)	Tribunal shall have no power to make any order staying pending the disposal of the appeal, the operation of the order made by the Chief Executive Officer under sub-section (3)	Proposed to be Omitted	
Sec 36(4)	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]" is proposed to be Omitted.	Many waqfs are older than a century. Hence this provision in 1995 Act needs to be retained. The proposal in 2024 Bill should be dropped.

Sec 36(7)	To be substituted by	On receipt of an application for registration, the Board shall forward the application to the Collector having jurisdiction to inquire the genuineness and validity of the application and correctness of any particulars therein and submit a report to the Board: Provided that if the application is made by any person other than the person administering the waqf, the Board shall, before registering the waqf, give notice of the application to the person administering the waqf and shall hear him if he desires to be heard. (7A) Where the Collector in his report mentions that the property, wholly or in part, is in dispute or is a Government property, the waqf in relation to such part of property shall not be registered, unless the dispute is decided by a competent court.";	Here the State Waqf Board is proposed to be made subservient to the Collector. This violates articles 25, 26, 29 of the Constitution and the proposal needs to be dropped.
In Sec 36	Insert	(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, 2024.	The proposal constricts the interests of Waqf properties and needs to be dropped.
Sec 40	Decision if a property is '[waqf] property.	Proposed to be Omitted	The proposal harms the interests of Waqf properties and need to be dropped.
Sec 47(1)	After "Auditor appointed by the Board".. add	Out of the panel prepared by the Board. Provided that the State Government shall, while preparing such panel of auditors, specify the remuneration to be paid to such auditors;	The State Waqf Board is proposed to be made subservient to the Government. This violates articles 25, 26, 29 of the Constitution and the proposal needs to be dropped.
In Sec 47(1)	Proposed to insert	Provided that the Central Government may, by order, direct the audit of any waqf at any time by an auditor appointed by the Comptroller and Auditor-General of India, or by any officer designated by the Central Government for that purpose.	The State Waqf Board is proposed to be subservient to the Government. This violates articles 25, 26, 29 of the Constitution and the proposal needs to be dropped.
In Sec 47(1)	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	Proposed to be Omitted	This proposal is quite unreasonable and needs to be dropped.

Sec 52(4)	Any person aggrieved by the order of the Collector under sub-section (2) may, within a period of thirty days from the date of the service of the order, prefer an appeal to the Tribunal within whose jurisdiction the property is situate and <u>the decision of the Tribunal on such appeal shall be final.</u>	<b>The decision of the Tribunal on such appeal shall be final: Proposed to be Omitted.</b>	The effectiveness of the Waqf Tribunal must be maintained. This proposal needs to be dropped.
Sec 52(4)	Provided that the waqf property so alienated shall without prejudice to the provisions of any law for the time being in force, <b>be vested in the Board</b> without any compensation therefor.	“be vested in the Board” to be replaced by <b>“be reverted back to the waqf”</b> .	The purpose of the proposed amendment is not clear. In fact, if adopted, this will cause whole lot of confusion. The proposal needs to be dropped.
Sec 52A(2)	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.	<b>Proposed to be Omitted</b>	This waters down the strength of the Waqf law. This proposal needs to be dropped.
Sec 52A(4)	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.	<b>Proposed to be Omitted</b>	This waters down the strength of the Waqf law. This proposal needs to be dropped.
Sec 61(1) (e)	Penalty for failure to deliver possession of any '[waqf] property, if ordered by the Board or Tribunal;	<b>Proposed to be omitted</b>	Will lead to insubordination and mismanagement. This proposal needs to be dropped.
Sec 61(1) (f)	Penalty for Mutawalli's non-compliance with the directions of the Board	<b>Proposed to be omitted</b>	Will lead to insubordination and mismanagement. This proposal needs to be dropped.
Long line		<b>Imprisonment is proposed to be replaced by fine upto Rs 50,000.</b>	This will encourage encroachment and non-compliance. This proposal needs to be dropped.

<b>Sec 91</b>	<b>Land Acquisition Act</b>	<b>Proposed to be replaced by Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013</b>	<b>The provision in Waqf Act 1995 is more comprehensive and robust. The new proposal needs to be dropped.</b>
<b>Sec 104</b>	<b>Application of Act to properties given or donated by persons not professing Islam for support of certain '[waqf).</b>	<b>Proposed to be omitted</b>	<b>Not letting non-Muslims contribute to Waqfs is unjustified. This proposal needs to be dropped.</b>
<b>Sec 107</b>	<b>Exemption to Waqf Properties from Limitation Act</b>	<b>Proposed to be omitted</b>	<b>This waters down the strength of the Waqf law. This proposal needs to be dropped.</b>
<b>Sec 108</b>	<b>Evacuee Property</b>	<b>Proposed to be omitted</b>	<b>This waters down the strength of the Waqf law. This proposal needs to be dropped.</b>
<b>Sec 108A</b>	<b>Overriding Effect</b>	<b>Proposed to be omitted</b>	<b>This waters down the strength of the Waqf law. This proposal needs to be dropped.</b>