

- India has an unique Islamic institution, namely, wakfs.
- For long, well meaning citizens have bequeathed immovable properties (land, residential house, commercial shops, etc.) to 'trusts' – Sunni Wakf Board or Shia Wakf Board in towns and cities almost all over the country.
- Between them, these Wakf Boards control properties worth thousands of crores of rupees.
- These provide financial support for the maintenance of mosques and madrasas.
- A few also have organized vocational training centres for imparting technical skills & generating self employment among young people.
- Subsequently, in 1964, Government of India had set up Central Wakf Council to facilitate the development of waqf properties in cities and towns into revenue-generating assets, and to extend loan to minor development projects conceived by non-governmental organisations.
- These Wakf Boards have an immense potential for doing welfare and development work for the Muslim community.
- Under the Waqf Act of 1954, a Waqf refers to a property dedicated in the name of God for religious and charitable purposes.
- Legally, it is the permanent dedication by a Muslim of any movable or immovable property for purposes recognised by Muslim law as pious, religious, or charitable.
- A Waqf can be established through a deed or instrument, or a property can be considered a Waqf if it has been used for religious or charitable purposes over a long period.
- The proceeds from a Waqf typically fund educational institutions, graveyards, mosques, and shelter homes.
- Once a property is designated as a Waqf, it becomes non-transferable and is detained perpetually as a charitable act toward God, essentially transferring ownership to God.
- Waqfs can be either public, serving charitable ends, or private, benefiting the property owner's direct descendants.
- To create a Waqf, one must be of sound mind and hold valid ownership of the property.
- The creator of a Waqf, known as the Waqif, does not have to be a Muslim, as long as they profess belief in Islamic principles.

HOW IT IS GOVERNED?

- Waqfs in India are regulated by the Waqf Act, 1995.
- A survey commissioner lists all properties declared as Waqf by conducting local investigations,

summoning witnesses, and requisitioning public documents.

- The Waqf is managed by a mutawalli, who acts as a supervisor.
- Unlike trusts established under the Indian Trusts Act, 1882, which can serve broader purposes and be dissolved by the board, Waqfs are specifically for religious and charitable uses and are intended to be perpetual.

WHAT IS WAQF BOARD?

- A Waqf board is a legal entity capable of acquiring, holding, and transferring property. It can't be sued in any civil court.
- Each state has a Waqf Board led by a chairperson, including nominees from the state govt, Muslim legislators, parliamentarians, members of the state Bar Council, Islamic scholars & mutawalis (managers) of Waqfs with an annual income of Rs 1 lakh & above.
- The Waqf Board administers Waqf properties, recovers lost properties, and sanctions the transfer of immovable Waqf properties through sale, gift, mortgage, exchange, or lease, with at least two-thirds of the board members voting in favour of the transaction.
- The board appoints custodians to ensure the Waqf & its revenue are used for their designated purposes.
- The Central Waqf Council (CWC), established in 1964, oversees and advises state-level Waqf Boards across India.

HISTORY

- After the enactment of the Central Waqf Act 1954, the Hyderabad Government formulated Waqf Board in 1955.
- This Board had its jurisdiction throughout the state including Marathwada which was part of Hyderabad State.
- After reorganization of Hyderabad State i.e. since 1956, the Waqf matters relating to Marathwada was supervised by a Regional Waqf Committees which continued to function under Hyderabad Waqf Board.
- This practice was continued up to February 1960. When the Maharashtra Government formulated Waqf Board for the implementation of Waqf Act 1954 to Marathwada, the Board was entitled as "Marathwada Waqf Board".
- The Board continued to function till 6th March 1979.
- Due to complaints state govt superseded the Waqf Board and the Divisional Commissioner Aurangabad, was appointed as an Administrator.

This state of affairs continued up to 9th November 1984.

- The Waqf Board established District Waqf Committees at each District, headed by District Chairman and Members by nomination under Section 10 and 11 of the Waqf Act.
- There was also Secretary to the Board – deputed from the cadre of either Deputy Collector or Tahsildar from the Revenue Department.

WHAT IS WAQF ACT?

- The Waqf Act, 1995, is comprehensive legislation enacted by the Indian government to improve the administration & management of waqf properties.
- It establishes the Central Waqf Council and State Waqf Boards, distributing powers between Chief Executive Officers and Waqf Boards.
- The Act mandates the appointment of executive officers for underperforming Waqfs with annual incomes exceeding Rs 5 lakh and regulates judicial proceedings related to Waqfs.
- It oversees the powers, functions, and duties of mutawalli and makes the alienation of Waqf property difficult.
- It mandates surveys to identify Waqf properties and strengthens financial management.
- Key provisions include the mandatory registration of all Waqfs with the Waqf Board, the maintenance of a central register of Waqfs, the authority of Waqf Boards to appoint executive officers, the removal of encroachments from Waqf properties, the preparation of annual budgets for waqf maintenance, and the maintenance of records and inspection of Waqf properties.

WHAT ARE WAQF PROPERTIES?

- In India, waqf can be created through:
 - (i) declaration of property through oral or written deed,
 - (ii) long-term use of a land for religious or charitable purposes, or
 - (iii) endowment upon the end of line of succession.
- Creator of a waqf is a *wakif*. It is managed by an administrator (*mutawalli*).
- As of September 2024, India has 8.7 lakh registered immovable waqf properties.
- As per the Standing Committee on Social Justice and empowerment (2014), most states had not completed the survey of waqf properties. As per the Ministry of Minority Affairs, India has the largest waqf holding in the world
- The Sachar Committee (2006) estimated the market value of waqf properties at Rs 1.2 lakh crore.
- Out of all the registered immovable waqf properties, 7% are encroached, 2% are under litigation and the status of 50% is unknown - Over half of these properties are: (i) graveyards (17%), (ii) agricultural land (16%), (iii) mosques (14%), and (iv) shops (13%).

- States with the highest share include: (i) Uttar Pradesh (27%), (ii) West Bengal (9%), and (iii) Punjab (9%)
- Over the years, laws governing waqf in India have widened in scope.
- The 1913 Act only validated waqf deeds.
- This was expanded in 1923 to require mandatory registration of waqf property.
- In 1954, the Central Waqf Council & State Waqf Boards were instituted for better identification and management of waqf.
- The 1995 Act introduced: (i) Tribunals to adjudicate waqf related disputes, and (ii) elected members & nominated scholars in Islamic theology into the Board.
- Several committees have examined the state of waqf in India – They highlighted issues such as : – (i) unrealised revenue potential, (ii) encroachment, (iii) poor maintenance, (iv) pendency of cases in waqf Tribunals, and (v) lack of transparency and efficiency in conducting surveys.
- In 2013, the Act was amended to: (i) include a definition of encroacher, (ii) expand size of the Tribunal, and (iii) establish greater oversight of Waqf Boards on management of waqf.
- The Waqf (Amendment) Bill, 2024 was introduced in Lok Sabha on August 8, 2024. It amends the Waqf Act, 1995 to revise: (i) composition of the Council and Boards, (ii) criteria for forming waqf, and (iii) powers of the Board in identifying waqf property.
- The Bill has been referred to a Joint Parliamentary Committee (Chair: Mr. Jagdambika Pal).
- Waqf properties are donated by followers of Islam and are managed by members of the community.
- Each state has a Waqf Board, which is a legal entity that can acquire, hold, and transfer property.
- Waqf properties cannot be sold or leased permanently.
- It controls and manages 9.4 lakh acres of land (38 lakh acres) across 8.7 lakh properties, with an estimated value of ₹1.2 lakh crore.
- This makes the Waqf Board the third largest landowner in India, after the Indian Railways and the armed forces.
- In the main, they are agricultural land, buildings, dargah/mazars and graveyards, Idgahs, Khanqahs, madrasas, mosques, plots, ponds, schools, shops, and various other institutions.
- There are 32 Waqf Boards in India.
- According to the government, there are 40, 951 cases lying pending with Waqf tribunals, which are quasi-judicial bodies that resolve disputes related to waqf or waqf property: of these, 9,942 cases filed by the Muslim community against the institutions managing Waqf.
- Over the years, the Waqf Board has faced several challenges, including issues related to property

management, legal disputes, female representation, and the need for reforms

- A judgment delivered by a Waqf Board tribunal can be challenged in a High Court.
- The High Court can confirm, reverse, or modify the Tribunal's determination.
- A survey commissioner lists all properties declared as Waqf by conducting local investigations, summoning witnesses, and requisitioning public documents.
- The Waqf is managed by a mutawalli, who acts as a supervisor.
- Can the Waqf Board lay claim to any property it likes under Section 40 of the Waqf Act? The Waqf Board can claim those properties of the followers of Islam, which have been donated for religious work. There is no mention of directly claiming any properties, nor does it say anything about private properties.

Can the Waqf Board declare any property as Waqf property?

- The answer is No. Waqf means the permanent dedication by any person, of any movable or immovable property for any purpose recognised by the Muslim law as pious, religious or charitable..."
- It may include such properties that have been donated for religious or social work but are not being used for the stated purpose.

WHAT IS WAQF REPEAL ACT?

- The Waqf Repeal Bill, 2022, notes that the original Wakf Act of 1954 was repealed and replaced by the Waqf Act of 1995, which granted greater powers to Waqf Boards.
- The Act was further amended in 2013, which the Bill states gave the Waqf Boards "limitless and absolute autonomy".
- Opposition criticised the government's move, arguing it seeks to strip the Waqf Board of its autonomy. "This itself is against the freedom of religion,".
- Opposition warned of "administrative chaos, loss of autonomy, and increased government control, which will affect the independence of the Waqf."

CENTRAL WAQF COUNCIL

- Central Waqf Council is a statutory body under the administrative control of the Ministry of Minority Affairs was set up in 1964 as per the provision given in the Waqf Act, 1954 as Advisory Body to the Central Government on matters concerning the working of the Waqf Boards and the due administration of Auqaf.
- However, the role of the Council was expanded significantly under the provisions of the Waqf (Amendment) Act, 2013.
- The Council has been empowered to advise the Central Government, State Governments & State Waqf Boards.

- It will now issue directives to the boards/ State Government to furnish information to the Council on their financial performance, survey, revenue records, encroachment of Waqf properties, Annual and Audit report etc under section 9 (4) of the act.
- The Council consists of Chairperson, who is the Union Minister In charge of Waqf and such other members, not exceeding 20 in number, as may be appointed by the Government of India.
- The 12th Council was constituted on 4th February, 2019 as per provision given in Sub Section (1) and (2) of Section 9 of the Waqf Act, 1995

FUNCTIONS

- To advise Central Government, State Governments, State Waqf Boards on matters concerning the working of the Boards and due administration of Auqaf.
- To monitor the implementation of the provisions of Waqf (Amendment) Act, 2013 in States and UTs.
- To render legal advice on protection and retrieval of the Waqf Properties and for removal of encroachment etc.
- To implement the Scheme for Development of Urban Waqf Properties & Identification of potential Waqf land for development by National Waqf Development Corporation Ltd.
- To implement Educational and Women Welfare Schemes for skill development and to empower the poor, specially Women.
- To implement the Scheme of Computerization of the State Waqf Boards records, a Central sector scheme of Ministry of Minority Affairs.
- To seek necessary information from the State Government/Boards on the performance of the State Waqf Boards as per the provision given in the Waqf (Amendment) Act, 2013.
- To take up the Waqf matters with various departments of Central and State Governments such as ASI, Railways, Revenue and Forest etc.
- To undertake awareness programmes to promote the interest of the Council and to sensitize the Waqf institutions about their new roles and responsibilities.

THE WAQF AMENDMENT ACT 2024

- The Bill changes the composition of the Central Waqf Council and Waqf Boards to include non-Muslim members.
- The Survey Commissioner has been replaced by the Collector, granting him powers to conduct surveys of waqf properties.
- Government property identified as waqf will cease to be waqf.
- Collector will determine ownership of such properties.
- Finality of the Tribunal's decisions has been revoked. The Bill provides for direct appeal to the High Court.

- Waqf is managed as per Muslim law. The Bill allows and mandates non-Muslim members in State Waqf Boards and Central Waqf Council.
- It creates room for these bodies to majorly comprise of non-Muslim members.
- Similar institutions governing Hindu and Sikh endowments primarily comprise of members from their respective religions.
- Removing the expert in Muslim law from Waqf Tribunals may affect redressal of waqf-related disputes.
- The Bill limits creation of waqf to only people professing Islam for at least five years.
- The rationale behind such criteria is unclear.
- This creates a distinction between persons practicing Islam for less than five years, and those doing so for more than five years.
- Waqf is a permanent dedication of property by a person for a purpose that is recognised as pious, religious or charitable by Muslim law. – Such purposes include: (i) maintaining mosques and graveyards, (ii) establishing educational institutions and healthcare facilities, and (iii) providing financial aid to the poor and disabled
- Charitable and religious institutions fall under the Concurrent List of the Constitution.
- States such as Uttar Pradesh and Bengal had passed separate laws governing waqf. However, these were repealed by the 1995 Act.
- In India, waqf can be created through: (i) declaration of property through oral or written deed, (ii) long-term use of a land for religious or charitable purposes, or (iii) endowment upon the end of line of succession.

FORMATION OF WAQF AMENDED.

- The Act allows waqf to be formed by: (i) declaration, (ii) recognition based on long-term use (waqf by user), or (iii) endowment when the line of succession ends (waqf-alal-aulad).
- The Bill states that only a person practicing Islam for at least five years may declare a waqf.
- It clarifies that the person must own the property being declared. It removes waqf by user.
- It also specifies that waqf-alal-aulad must not disinherit heirs, including female heirs
- Waqf-alal-aulad is a specific form of Islamic endowment where the revenue generated from a property is aimed at supporting the descendants of the donor.
- A clause can be included in waqf-alal-aulad to designate a portion of the income for charitable purposes.

SURVEY OF WAQF AMENDED

- Under the Act, a Survey Commissioner is appointed to conduct preliminary survey of waqf properties. The Bill replaces the Survey Commissioner with the District Collector.

- Government property as waqf: The Bill states that any government property identified as waqf will cease to be so.
- The Collector of the area will determine ownership in case of uncertainty, and submit a report to the state government.
- If deemed a government property, he will update the revenue records.

COMPOSITION OF CENTRAL WAQF COUNCIL

- Under the Act, the Union Minister in-charge of waqf is the ex-officio chairperson of the Council.
- Members of the Council include Members of Parliament, persons of national eminence, retired Supreme Court or High Court judges, and eminent scholars in Muslim law.
- The Act requires that all Council members, barring the Minister, must be Muslims, and at least two must be women.
- The amendment act 2025 removes the requirement for the MPs, former judges, and eminent persons appointed to the Council to be Muslim.
- It further mandates that two members must be non-Muslims.

COMPOSITION OF WAQF BOARDS

- The Act provides for election of up to two members each from electoral colleges of a state's Muslim: (i) MPs, (ii) MLAs and MLCs, and (iii) Bar Council members, to the Board.
- The amendment act 2025 – changes this to empower the state government to nominate one person from each of the above groups to the Board.
- They need not be Muslims.
- It adds that the Board must have: (i) two non-Muslim members, and (ii) at least one member each from Shias, Sunnis, and Backward classes of Muslims. At least two members must be women. The Bill mandates that two Muslim members be women.

COMPOSITION OF TRIBUNAL AMENDED

- Tribunals constituted under the Act comprise of: (i) a Judge of the rank equivalent to a Class-1, District, Sessions, or Civil Judge (Chairman), (ii) a state officer equal to an Additional District Magistrate, and (iii) an expert in Muslim law.
- The Bill removes the expert in Muslim law from the Tribunal.
- It changes the composition to: (i) a current or former District Court judge as its chairman, and (ii) a current or former officer of the rank joint secretary to the state government.

APPEAL AGAINST THE ORDER OF TRIBUNAL

- Under the Act, decisions of the Tribunal are final and appeals against its decisions in Courts are prohibited.
- The High Court can consider matters on its own accord, on an application by the Board, or an aggrieved party.

- The amendment act 2025 omits provisions deeming finality to Tribunal's decisions. A Tribunal's orders may be appealed in the High Court within 90 days.
- Allowing non-Muslim members to be a majority in institutions governing waqf may be in violation of Article 26 of the Constitution.
- Article 26 provides the fundamental right for religious communities to administer and manage their own affairs.
- The Waqf bill 1955 had provision of combination of elected & nominated members in the Waqf board – amendment 2025 provides only for nominated members .
- Must be muslim members in the board are : – One Mutawalli, One scholar of Islamic theology, Two members of Panchayat/Municipality
- Under the Act, state governments are required to appoint a Chief Executive Officer (CEO) to the State Waqf Board.
- The CEO is a Muslim officer equivalent to a Deputy Secretary of the state government. In case a Muslim officer of that rank is unavailable, a Muslim officer of an equivalent rank may be appointed. The CEO must function in conformity with the waqf deed, purpose of waqf and the Muslim law.
- The amendment act 2025, removes the requirement of the CEO to be a Muslim.
- Under other religious and charitable endowment laws, administrators equivalent to the CEO are required to belong to the respective religion
- The Sachar Committee (2006) had noted that there is a need of government officers with knowledge of Islamic law to deal with the waqf matters efficiently.

A CHIEF EXECUTIVE OFFICER

Acts	Karnataka Hindu Religious Institutions and Charitable Endowments Act, 1997	Andhra Pradesh Charitable and Hindu Religious and Endowments Act, 1987	The Sikh Gurdwaras Act, 1925
Board	All members of the Rajya Dharmika Parishat must be Hindu.	13 out of 21 members of the Andhra Pradesh Dharmika Parishad must be Hindu.	All members of the Board are required to be Sikh.
CEO/ Commissioner/ Executives	Commissioners and the Executive Officer, who are public servants, must be Hindus.	The Executive Officer must be a Hindu.	All members of the Executive Committee must be Sikh.

- It may be argued that a member with expertise in Muslim law is needed in the Tribunal to help adjudicate waqf-related disputes according to principles of Muslim law.
- In other laws, such as the Companies Act, 2013 and Electricity Act, 2003, the appellate Tribunals are required to have technical experts in addition to judicial members
- In 2013, the 1995 Act, was amended to widen the scope of waqf to include property dedicated by any person, thus, including non-Muslims
- The 2024 Bill reverses this position, and adds a requirement that the waqf creator must be a person practicing Islam for at least five years
- This creates a distinction between persons practicing Islam for less than five years and those who have done so for more than five years. The rationale behind this distinction is not clear.
- In the absence of a clear purpose for such distinction, this may violate Article 14 of the Constitution (right to equality).
- National Waqf Development Corporation Limited (NAWADCO) was established as a Company registered under the Companies Act 1956 by the Government of India, Ministry of Minority Affairs, with the specific mandate to develop Waqf properties in Urban and Rural India to enhance the revenue capacity of State Waqf Boards/ Waqf Institutions through mobilization of internal and external resources for a pious and charitable cause