

**SAFEGUARDING WAQF ASSETS IN INDIA:
ANALYSING THE WAQF ACT OF 1995 AND THE
IMPLICATIONS OF THE
WAQF AMENDMENT BILL 2024**

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Abstract

The governance of *waqf* assets in India has encountered several challenges, despite the fact that *waqf* properties have a great deal of potential to improve the social standing of India's underprivileged. Using official sources such as the Sachar Committee Report (SCR) and the *Waqf* Assets Management System of India (WAMSI), the current study focuses on the significant number of *waqf* properties in India in addition to their economic valuation. The study also looks at the *Waqf* Act of 1995, evaluating how well it addresses the challenges that *waqf* institutions face. Additionally, the study provides a comprehensive analysis of the recently proposed *Waqf* Amendment Bill 2024, emphasising that its provisions are harmful to India's *waqf* properties. According to the study, the Bill is likely to increase encroachments, allow the state to meddle in Muslim religious matters, violate constitutional rights under Articles 25–28, weaken *waqf* autonomy and make it easier for the government to control properties owned by evacuees. In order to improve the governance and management of *waqf* properties and make sure that they are sustained as per the charitable intentions, socio-economic and development objectives, the study culminates with strategic recommendations.

Keywords: Waqf; SCR; WAMSI; Legislative threat; Waqf Amendment Bill 2024

1. Introduction

Waqf is an Islāmic charitable endowment wherein a donor (*wāqif*) donates property for ongoing benefits while keeping the original asset intact¹. The benefits of these assets are disbursed to designated beneficiaries² or used for welfare purposes sanctioned by Islāmic law (*sharī'ah*)³. The endowed item (*mawqūf bihī*), in order to be valid for *waqf*, should have three key features. First, the perpetuity which ensures the continuous existence of the endowed property. Second, the irrevocability which prevents the revocation of the endowed property by the donor or any other person. Third, the inalienability which prohibits sale or transfer of the endowed property⁴. So far as the structure of the *waqf* is concerned, it consists of four essential components: the founder (*wāqif*), who establishes the *waqf* by dedicating his or her own property, the beneficiaries (*mawqūf alayh*), who receive the benefits of the *waqf* property, the administrator (*mutawallī*), who manages the *waqf* property according to the instructions of the founder) and finally the subject matter (*mawqūf bihī*), the property or asset that constitutes the *waqf*⁵. Moreover, the *wāqif*, the *mawqūf bihī*, the *mawqūf 'alayh* and the *ṣaygha* (the explicit declaration or wording that conveys the establishment of the *waqf*) are the four major components of *waqf*.⁶

For an asset to be established as *waqf*, it must be under the ownership of the founder of *waqf*. It is not permissible for a person to establish a *waqf* with an asset that does not belong to him or her. The condition makes sure that the *wāqif* has absolute legal authority over the asset, thereby certifying the legitimacy and validity of the *waqf*. The requirement is consistent with Islamic jurisprudential norms, which highlight the significance of legitimate ownership in the creation of charitable endowments⁷. *Waqf*, from the times of the Prophet (*Ṣal Allah-u-'alaihe wa sallam*) to the present day, has provided a good number of social services including education, public utilities and healthcare⁸.

India possesses the highest number of *waqf* assets globally, even more than nations with a majority of Muslim population like Pakistan, Saudi Arabia and other Middle Eastern countries, hence making *waqf* the third largest landholding entity after the Indian Armed Forces and Indian Railways in the country⁹. Such a huge amount of *waqf* assets in India is due to the historical tradition and philanthropic nature of Muslims for donations for the welfare of community¹⁰. In many nations, including India, *waqf* serves as the foundation for Muslim religious education by funding the construction and operation of thousands of *madāris* through

community endowments.¹¹ The widespread presence emphasizes how urgently *waqf* holdings must be managed and governed effectively to guarantee their optimal utilization and contribution to socio-economic development¹².

India's vast *waqf* assets hold great socio-economic potential, yet their administration continues to suffer from mismanagement, encroachments and weak institutional oversight. Although the *Waqf* Act of 1995 sought to improve governance and ensure legal protection, its impact has been limited. Moreover, the *Waqf* Amendment Bill 2024 raises concerns not only because it gives the government more control over evacuee properties but also because it might make it easier for the state to interfere in religious matters and increase encroachments. This study's main concern is the growing vulnerability of *waqf* properties due to inadequate legal safeguards and potential state overreach caused by the *Waqf* Amendment Bill 2024, which jeopardises the security and independence of *waqf* properties in India. "How does the *Waqf* Amendment Bill 2024 affect the governance, autonomy and protection of *waqf* properties of India?" is thus the research question that acts as the study's foundation. The study assesses the Bill's potential impact on *waqf* governance, looks at its administrative and legal implications and offers recommendations for improving institutional integrity so that *waqf* governance is in line with socioeconomic and charitable goals. As a result, the study examines the management structure of the *Waqf* Act of 1995 and assesses how well it addresses the problems that *waqf* institutions have encountered over time. The *Waqf* Amendment Bill 2024 and its effects on *waqf* properties across India are also critically evaluated in this study.

The research paper has been structured into several sections: it begins with an introduction, followed by the literature review and research methodology in section 2 and 3 respectively. In section 4, the number of *waqf* properties in the country has been given. The paper then, in section 5, explores the potential achievements of these properties. Subsequently, the mismanagement of *waqf* assets is addressed in section 6, followed by an investigation of the *Waqf* Act 1995 in section 7 and the *Waqf* Amendment Bill 2024 in section 8. Section 9 targets the implications of the Bill; section 10 offers political implications of *waqf* in India. The discussion is provided in section 11, conclusion in section 12 and finally section 13 gives some important recommendations.

2. Literature review

Numerous studies that examine the institution of *waqf* from different angles are included in the contemporary literature on *waqf*. Some focus on the management of *waqf* assets in India, elucidating the challenges involved in its administration. Some other studies highlight the economic potential and strength of *waqf* properties within the Indian settings, demonstrating their significant contribution to the socio-economic upliftment of the marginalised. Some of the significant studies in this regard are the works of Rashid, Kader, Abbasi, Sabrina, Janbaz, Rasool, Abdullah, Hussain, Wani, Dallh and Wagay.

Rashid focuses on the socio-economic potential of *waqf* properties of India, the duties of *mutawallīs* and several bodies associated with the *waqf* administration in the country. However, the author relies on outdated data and requires updation¹³. Kader and Janbaz target the legal aspects of *waqf* in India especially the *Waqf* Act of 1995. However, none of the two address the socio-economic role of *waqf* in India¹⁴. Abbasi explores the evolution of *waqf* and its early jurisprudential principles besides examining the relationship between rules of *waqf* and the rules of gift, charity and inheritance, with a particular focus on the viewpoints of *ḥanafī* jurists¹⁵. Rashid examines the bodies responsible for managing the development of *waqf* assets in India. The author also presents the data on *waqf* assets across different states of India. But, the study is also outdated and the number of recorded *waqf* properties has doubled in the intervening years¹⁶. Sabrina concentrates on the role of *waqf* assets in Muslim societies and how Muslim scholars view it by analysing online *fatāwā* and discussions. The author mainly uses English-language sources and gives a historical overview of *waqf* and its socio-economic activities in the Muslim societies¹⁷. Rasool focuses on the findings of the Sachar Committee Report pertaining to *waqf*. The study also examines the *waqf* legislations, *waqf* boards and *waqf* records, but the discussion on *waqf* records is superficial and lacks updated data¹⁸. The institution of *waqf* in India has been discussed in detail by Hussain, including its historical background, various legislations concerning *waqf*, particularly the *Waqf* Act of 1995 besides judicial proceedings. However, the study does not delve into the potential of *waqf* assets of India in detail¹⁹. Dallah focused on, how the institution of *waqf* operated historically and the role played by women as *wāqif* and *mutawallī*. However, The study does not focus on the potential of *waqf* in any country²⁰. Wani primarily focuses on Muslims as the financially excluded minority community of India, emphasising the potential of Islamic financial institutions

(*zakāt* and *waqf*) for the upliftment of marginalised groups in India. Nonetheless, the study does not address the legislative aspects of *waqf*, especially the *Waqf* Act of 1995²¹. Rasool discusses *waqf* as an institution, its origin, characteristics and legislative aspects both during the colonial and post-colonial periods. The study, however, does not explore the potential of *waqf* assets of India²². Wagay focuses on the economic value of *waqf* assets of India, with particular focus on the findings of the Sachar Committee Report. However, as the Sachar Committee Report is about two decades old, the study does not provide an updated statement on the current status of *waqf* assets in India²³.

Besides the identified research gaps, the above mentioned studies have not addressed the *Waqf* Amendment Bill, 2024, given its recent introduction. In order to fill these gaps, the current study specifically focusses on the implications of the *Waqf* Amendment Bill, 2024 and offers latest data on the potential of Indian *waqf* properties. This study's main goal is to critically analyse the implications of the *Waqf* Amendment Bill, 2024 and show how its provisions will worsen India's *waqf* asset governance. The study intends to demonstrate how the Bill will exacerbate pre-existing problems like corruption, poor management and a lack of transparency, ultimately undermining the institution of *waqf* in India's sustainability and intended goals and jeopardising potential successes.

3. Research methodology

The study employs a qualitative, descriptive and doctrinal legal methodology. The selection of secondary materials is based on criteria: direct relevance to *waqf* governance and legal reform, the reliability of the source, which included government reports, parliamentary committee documents, statutory texts and peer-reviewed studies and current relevance to ongoing discussions on the *Waqf* Act 1995 and the 2024 Amendment. Using official datasets from the *Waqf* Assets Management System of India (WAMSI) and the Sachar Committee Report (SCR), the size, distribution and current condition of *waqf* assets in India were investigated.

Data was collected through methodical electronic searches on Google Scholar, Research Gate and official portals using Boolean keyword combinations like “*waqf*,” “*waqf* assets,” “*Waqf* Act 1995” and “*Waqf* Amendment Bill 2024.” The document analysis followed a systematic, multi-step procedure: (i) collecting all relevant legal texts and official documents; (ii) separating provisions related to surveys, property determination, board composition and encroachment (iii)

conducting a comparative analysis to ascertain how the 2024 Amendment impacts or modifies these existing mechanisms.

The process of qualitative content analysis was divided into two stages. Initially, open coding was used to identify recurring themes such as institutional roles, administrative powers, legal protections and threats to *waqf* assets. Second, these themes were connected and patterns were found in a variety of legal and policy documents using axial coding. Descriptive analysis of quantitative data from WAMSI supported and validated the qualitative interpretations. Validity and reliability were ensured by cross-verification and triangulation of data from multiple trustworthy sources.

4. The quantity of *waqf* properties in India: An examination of the SCR²⁴ and WAMSI²⁵ portal

India's *waqf* assets were thoroughly examined in the 2006 Sachar Committee Report, which emphasised their wide distribution, economic potential and requirement for effective governance. The report states that there are over 490,000 registered *waqf* assets, with the highest concentrations in West Bengal and Uttar Pradesh. The report further says that *waqf* owns approximately 6 lakh acres with a book value of Rs 6,000 crores, but the market value is much higher, especially in urban areas. The current revenue generation from these properties is about Rs 163 crores annually that is only a low return of 2.7%.

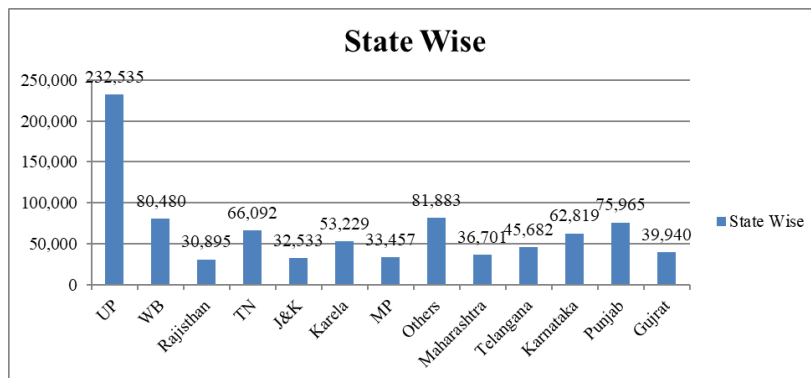


Chart 1: State-wise immovable *waqf* properties in India

Source: WAMSI,

<https://wamsi.nic.in/wamsi/dashBoardAction.do?method=totalRegisteredProp> (Accessed on April 17, 2024)

The report suggests that efficient management could increase the revenue to Rs 12,000 crores annually. The report further highlights

the underutilization of prime-location *waqf* assets and recommends modern management practices and strategic development to enhance their economic impact²⁶. Optimal utilization of these assets, especially in urban centres, can significantly benefit the Muslim community and the nation as a whole²⁷. Based on the data of the WAMSI portal²⁸, as of April, 2024, there are officially 872,211 registered immovable *waqf* properties. This platform also provides detailed categorization of these assets as reported by the State *Waqf* Boards. With 232,535 immovable *waqf* assets, Uttar Pradesh is in the lead, followed by West Bengal (80,480), Punjab (75,965), Tamil Nadu (66,092), and Karnataka (62,819).

According to the data, registered immovable *waqf* properties in India are an important resource with substantial potential for the country’s socioeconomic well-being. Indian states like Uttar Pradesh, West Bengal, Punjab, Tamil Nadu and Karnataka have the biggest shares because of a long history of *waqf* properties. These resources can support community development, healthcare, education and poverty alleviation when used appropriately. The numbers thus demonstrate the size of *waqf* resources and their unrealised potential to advance equitable and long-term societal welfare.

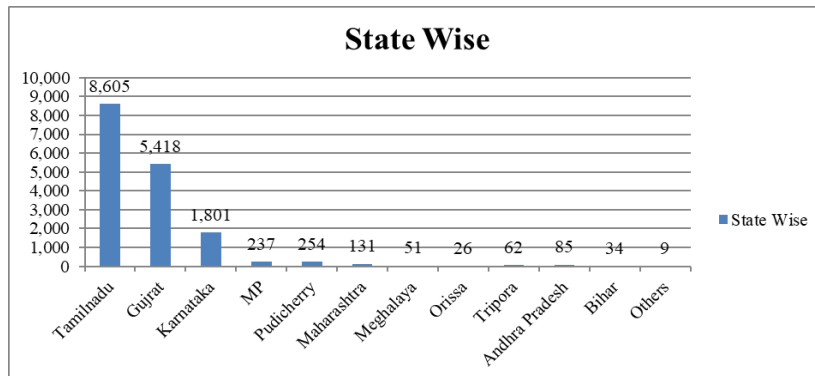


Chart 2: State-wise movable *waqf* properties in India

Source: WAMSI,

<https://wamsi.nic.in/wamsi/dashBoardAction.do?method=totalRegisteredProp> (Accessed on April 11, 2024)

The economic potential of *waqf* assets for societal advancement is further demonstrated by India’s movable *waqf* assets. Tamilnadu (8,605) has the most movable *waqf* properties in India out of 16,713 total, followed by Gujarat (5,418) and Karnataka (1,801), indicating the region’s active *waqf* customs and resource mobilisation. The movable assets can be strategically used to support community

initiatives, fund welfare projects and produce income. Therefore, their effective management and investment can significantly improve the Muslim community in India's social and financial advancement²⁹.

4.1 Immovable *waqf* assets

In India, a sizable portion of real estate is *waqf*, which is donated by the ruling class, public servants and private individuals for the benefit of the underprivileged. These properties exhibit a variety of socio-economic contributions and come in a variety of forms and functions. Understanding these differences is necessary to effectively manage and utilise such *waqf* properties. From businesses and land holdings to mosques and schools, every category in Indian society serves a specific purpose. Examining India's *waqf* system closely revealed its socioeconomic potential, religious significance and cultural legacy.

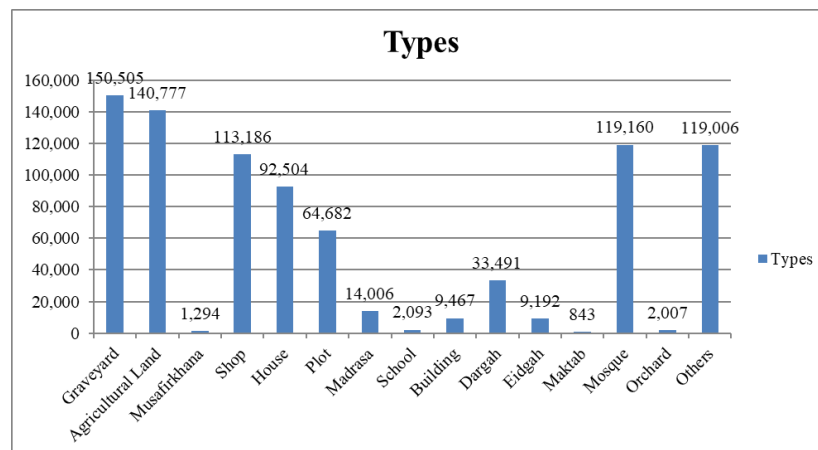


Chart 3: Types of immovable waqf properties in India
Source: WAMSI,

<https://wamsi.nic.in/wamsi/dashBoardAction.do?method=totalRegisteredProp> (Accessed on April 17, 2024)

According to the data, the primary types of *waqf* assets are commercial, residential, educational and religious, each of which has a distinct function. India's vast socioeconomic potential is reflected in the variety of immovable *waqf* assets. The two largest categories—graveyards (150,505) and agricultural lands (140,777)—emphasize the cultural and historical foundations of *waqf*'s capacity to deliver vital social services. In the meantime, if properly managed, shops (113,186) and homes (92,504) are significant potential sources of revenue. Religious and educational resources like *madāris* (14,006),

schools (2,093) and *dargāhs* (33,491) highlight the importance of *waqf* in fostering education and spiritual well-being. The composition as a whole emphasises that, in addition to being religious endowments, the *waqf* properties are vital community resources that, when used properly, can promote social welfare, employment and education. A large percentage of all *waqf* properties fall under the category “Others” under immovable *waqf* properties. Medical facilities, ponds, orphanages, *Takiyas* (resting places for dervishes, *faqīrs* and other religious figures), *Imāmbargah*, *Khānqah*, *Ashūkhāna* (a building dedicated for purposes recognised as pious, religious, or charitable, mostly by the Shia Muslims) and *Chillā* (places for spiritual retreat and devotion) are all included in this category.

5. Potential benefits of optimising *waqf* assets for India

The efficient and effective management and optimal utilisation of *waqf* holdings can generate tremendous economic possibilities and community development initiatives in India. Opportunities for infrastructural development, urban rejuvenation and economic activity are presented by urban *waqf* assets in suitable locations. Increased income from these properties can support healthcare, education and social welfare programs, promoting social advancement and benefiting society at large. *Waqf* assets can be used to safeguard India’s religious and cultural legacy, encourage cultural pride and attract tourists. By generating employment opportunities, effective *waqf* management may lower unemployment and increase economic growth. More income can improve the financial sustainability of *waqf* boards and foster more efficient and independent operations. Overall, the effective administration and strategic development of *waqf* properties can result in significant socio-economic and cultural benefits to the Nation³⁰.

6. *Waqf* mismanagement in India

The institution of *waqf* in India is about to be severely impacted by the proposed amendments by the *Waqf* Amendment Bill, 2024. In the *waqf* administration of India, issues of corruption, poor management and maladministration have previously been well documented³¹. It was initially the Gopal Panel that illuminated the myriad issues afflicting *waqf* properties, including illegal occupation, misuse and appropriation³². After that several other commissions, including the Sachar Committee Report (2006), the Ranganathan Misra Commission (2007), the Mehmoodur Rehman Committee (2008) and the Post-Sachar Kundu Analysis (2013), have highlighted the mismanagement of *Waqf* assets. The committees have pointed out

organisational shortcomings, the non-availability of records, conflicts between state and *waqf* board orders, poor management and the encroachment of *waqf* properties as significant obstacles to utilising *waqf* for the upliftment of Muslims in India³³. Despite government efforts to regulate *waqf* through various acts, amendments and recommendations, the institution has not been fully streamlined. The implementation of the *Waqf* Properties (Eviction of Unauthorised Occupants) Bill, 2014 and the establishment of the National *Waqf* Development Corporation Ltd. (NAWADCO) have not entirely resolved the issues of encroachment, record deficiencies or management inefficiencies³⁴. So the degradation of *waqf* properties is expected to intensify with the implementation of the *Waqf* Amendment Bill, 2024.

Currently, the *waqf* management system of India faces various challenges that restrain its effective administration and sustainability such as insufficient infrastructure, incompetent manpower and financial constraints, besides a lack of will and interest from state governments and *waqf* boards in implementing the *Waqf* Act, 1995³⁵. Limited knowledge of *waqf* laws among board members led to mismanagement besides leaving *waqf* properties vulnerable to misuse and abuse³⁶, while the lack of transparency, political interference and absence of community participation in board appointments further undermine governance³⁷. Likewise, poor documentation of *waqf* properties, a weak legal framework³⁸ and widespread encroachments, both by government entities as well as by private individuals, magnify the problem³⁹. Failure to act against illegal occupations⁴⁰, hesitation to update revenue records and political patronage result in mismanagement and corruption⁴¹. Other causes for mismanagement include, lack of proper implementation of policies, influence of powerful individuals and low rental rates and financial misuse⁴².

These structural deficiencies have led to the underutilization of *waqf* properties, discouraging new endowments and depriving Muslims of the socio-economic benefits *waqf* institutions are supposed to provide. So the case should have been that a bill for addressing these challenges should have been brought to the parliament but unfortunately the case is otherwise. The *Waqf* Amendment Bill 2024 does not seek to address the above mentioned deep rooted hurdles plaguing India's *waqf* system. The existing data highlight structural inefficiencies in *waqf* management and the proposed 2024 Amendment risks aggravating these inefficiencies rather than resolving them.

7. Waqf Act of 1995

The act improves *waqf* management, updates and unifies earlier laws and addresses associated issues⁴³. Its provisions demonstrate the government's diligent efforts to simplify *waqf* administration nationwide. *Waqf* properties were registered and documented to increase transparency, *Waqf* Boards were established to improve oversight and the Central *Waqf* Council (CWC) was founded to guarantee uniformity and compliance. The act also outlines the responsibilities of *mutawallīs*, establishes guidelines for the use of *waqf* income, and offers protection for the recovery and preservation of *waqf* properties. When considered collectively, these provisions demonstrate a thorough and methodical approach to improving *awqāf* governance in India, ensuring the effective use of these charitable resources for the good of society.

The Union Government mainly provides advice in *waqf* administration through the CWC. Although the Council provides guidance and recommendations, state governments or state-level *waqf* boards typically supervise the management of *waqf* properties. The federal government establishes broad guidelines and regulations, provides development funds through the Central *Waqf* Council and has the power to establish a centralised board to oversee *waqf* properties in states, consolidating the functions often performed by state boards⁴⁴. Comprehending the *Waqf* Act of 1995 is fundamental to understanding the current state of *waqf* management in India. Below are some of the features of the *Waqf* Act of 1995:

1. **Establishment of *Waqf* Boards:** The law requires the creation of State *Waqf* Boards and the *Waqf* Board for the Union Territory of Delhi, comprising seven to thirteen members. The members are elected from among the Muslim members of parliament, Muslim members of state legislatures, Muslim members of state bar councils and *mutawallīs* of *waqfs* with an annual income of Rs. 1 lakh or more⁴⁵.
2. **Empowering *mutawallīs*:** *Mutawallīs* were given additional powers for the improvement of the administration of *waqf* assets⁴⁶.
3. **Creation of *waqf* tribunals:** The act mandates the establishment of *waqf* tribunals to consider disputes related to *waqfs*⁴⁷.
4. **Authority of state governments:** The *Waqf* Act of 1995 gives state governments a great deal of power to create and run State *Waqf* Boards, which are in charge of managing and safeguarding *waqf* institutions and properties. These boards are tasked with generating revenue, resolving disputes, conducting property

surveys and making sure money is allocated to charitable causes. State governments, such as the chief executive officer, a government representative and the *waqf* survey commissioner, appoint essential officials. State governments further have the authority and power to evict occupants, approve budgets, pass orders and audit reports, establish *waqf* tribunals, issue directives and formulate rules. The annual report of *Waqf* Board must be presented to the state legislature, revealing the significant role of state governments in *waqf* administration⁴⁸.

5. **Registration of waqfs:** All the *waqf* properties must be registered with the *Waqf* Board whether established before or after the enactment of the *Waqf* Act of 1995. Applications for registration can be submitted by the *mutawallī*, endowers, their descendants, beneficiaries, or any Muslim from the same school of thought as the *wāqif*. The application must include a copy of the *waqf* deed also⁴⁹.
6. **Regulation of property transactions:** The *Waqf* Act of 1995 not only regulates the purchase of property on behalf of a *waqf* but restricts the alienation of a *waqf* asset also. For any property purchase, the board's approval is required following a public announcement of the proposal and a hearing to consider objections and suggestions. The board must be convinced that acquiring the immovable property is necessary or beneficial for the *waqf* and that the price is reasonable and adequate⁵⁰.
7. **Handling encroachments:** The CEO, upon discovering or receiving a complaint about encroachment on *waqf* property, must notify both the encroacher and the trustee and then conduct an inquiry. If the encroachment is confirmed, the CEO orders the encroacher to vacate and return the property to the trustee. The aggrieved person has the right to file a suit before the Tribunal to establish their right, title and interest in the encroached portion. The responsibility of removing the encroachment is entrusted to the executive wing rather than the judicial organ. The CEO must seek an order from the Sub-Divisional Magistrate for the removal of the encroachment and the transfer of ownership to the *mutawallī*. If the encroacher fails to comply, police action can be pursued. However, before eviction, the Sub-Divisional Magistrate must notify and hear the encroacher⁵¹.
8. **Penalties for *mutawallīs*:** If a *mutawallīs* fails to perform duties such as applying for the registration of a *waqf*, furnishing statements of particulars or accounts or returns as required under this act, supplying information or details as required by the board, allowing inspection of *waqf* properties, accounts, records or deeds and documents relating to it, delivering possession of any *waqf*

property if ordered by the Board or Tribunal, carrying out the directions of the board, discharging any public dues, or doing any other act which he is lawfully required to do by or under this act, he can be penalised. Suppose the *mutawallī* does not register the *waqf* within the designated period or intentionally provides incorrect information. In that case, he may be subject to imprisonment for up to six months and a fine of up to fifteen thousand rupees. The board can remove the *mutawallī* if he continuously neglects his duties, commits misconduct, misapplies funds, breaches trust, disobeys lawful orders, or engages in fraud or misappropriation of *waqf* property. The board may suspend a *mutawallī* if it believes it is necessary for the *waqf*'s interest, pending the outcome of an inquiry. The *mutawallī* of any *waqf* with a net annual income of at least five thousand rupees must annually pay seven per cent of that income to the board, as prescribed, to cover the services provided by the board⁵².

9. **Inclusion of non-Muslim donated properties:** The Act applies to properties given or donated by non-Muslims for the support of certain *waqfs*, such as mosques, Muslim graveyards, or rest houses. These properties are considered part of the *waqf* and must be managed accordingly⁵³.
10. **Return of occupied properties:** If government agencies occupy a *waqf* property, it must be returned to the board or the *mutawallī* within six months of the Tribunal's order⁵⁴.
11. **Handling evacuee properties:** The Act applies to evacuee properties that were *waqf* properties before becoming evacuee properties. Any transfer of these properties to a Board, as directed by the Custodian under the 1950 Act, is considered valid and effective, regardless of other provisions in this act⁵⁵.
12. **Supremacy of the Act:** The provisions of this act take precedence over any conflicting laws or instruments currently in force⁵⁶.

The **Waqf Act of 1995** regulates and safeguards *waqf* properties in India by establishing State *Waqf* Boards to manage registration, revenue and dispute resolution. It empowers *mutawallīs* to improve administration, creates *waqf* tribunals for legal matters and gives state governments oversight in governance and audits. The Act penalises careless or dishonest *mutawallīs*, has a strict impact on real estate transactions and offers procedures to eliminate encroachments. Significantly, the Act ensures greater legal protection for *waqf* properties by directing the return of government-occupied *waqf* assets and maintaining supremacy over conflicting laws. It also specifies the proper management of evacuee *waqf* assets and properties donated by non-Muslims.

8. *Waqf* Amendment Bill, 2024

The *Waqf* Amendment Bill 2024 appears to present a serious legislative challenge to the socioeconomic institution of *waqf* in India under the pretence of development, efficiency, empowerment and improved management, based on a critical analysis of its sections. The new Bill does not include the parts of the *Waqf* Act 1995 that were intended to safeguard and preserve *waqf* assets. Instead of advancing *waqf*'s interests, the *Waqf* Amendment Bill 2024 seems to be intended to seize its assets and possibly dismantle it. The *Waqf* Amendment Bill 2024 seems to encourage the legitimisation of current illegalities rather than opposing them, rather than bolstering *waqf* management. It neither suggests ways to stop intrusions, corruption or political meddling, nor does it strengthen *waqf* boards with more authority and funding. By ignoring the basic structural flaws, the Bill disregards the protection of *waqf* assets and raises concerns that it could be used as a tool to formalise prior illegal occupations and transfers of *waqf* assets. Additionally, the Bill weakens *waqf* institution's authority, leaving them more susceptible to outside influences and governmental meddling. The main goals of *waqf*, which are to support the socioeconomic and charitable endeavours of the Muslim community, are compromised by this change⁵⁷. An overview of the Bill is provided below:

The *Waqf* Amendment Bill 2024 changes how *waqf* properties are managed, which poses serious challenges to the survival and integrity of *waqf* in India. The Bill reassigns the power to survey the *waqf* properties from the survey commissioner to the Collector, thereby snatching the powers of the board⁵⁸. Furthermore, the Bill stipulates that only individuals who have been Muslim for at least five years can create a *waqf*, thereby imposing a restrictive criterion⁵⁹. The clause allowing *waqf* by the user, which was present in the principal act, has been entirely abolished⁶⁰. Any government property identified or declared as *waqf* property, either before or after the enactment of this Bill, will no longer be recognised as *waqf* property. In cases of dispute regarding whether a property is government-owned, the issue will be referred to the local Collector for investigation. The property will not be treated as *waqf* property until the Collector submits a report. Suppose the Collector determines that the property is government-owned. In that case, necessary corrections will be made in revenue records and the State Government will instruct the *Waqf* Board to update their records accordingly⁶¹.

The Bill also omits the section that empowered the Chief Executive Officer (CEO) to take action against *mutawallīs* or any officer/employee found guilty of misappropriating, misapplying, or fraudulently retaining *waqf* money or property or incurring unauthorised or improper expenses from *waqf* funds. Previously, the CEO was required to give the accused person a reasonable opportunity to explain why an order for recovery should not be made. After considering the explanation, the CEO would determine the amount of property misappropriated or the improper expenses incurred and then order the person to repay the determined amount and restore the property to the *waqf* within a specified time⁶².

The Bill further modifies the legal framework by categorising offences pertaining to *waqf* properties as non-cognisable and bailable, a shift from the previous stance⁶³. It also permits *mutawallīs* to refuse orders from boards or tribunals to deliver possession of *waqf* property and to disregard the directions of the board⁶⁴. Additionally, the power of the board to frame a scheme for the proper administration of the *waqf* is no longer binding on the *mutawallīs*⁶⁵.

Previously, if an order were made under section 31 or 32 of the Land Acquisition Act, 1894, or similar laws without giving the *Waqf* Board a chance to be heard, the order would be declared void if the board applied to the authority that made the order within one month of becoming aware of it. The proposed amendment now states that such an order shall be put on hold⁶⁶.

Moreover, the Bill excludes the provision for the creation of *waqf* by non-Muslims⁶⁷ and omits the section of the Principal Act that applied to evacuee property that was part of a *waqf* before becoming evacuee property⁶⁸. This section had treated any prior entrustment of such property to a Board under the Custodian's instructions as vesting the property in the board and authorising it to manage the *waqf* property as needed. Lastly, the Bill repeals the section of the Principal Act that ensured its precedence over any other conflicting laws or legal instruments currently in effect⁶⁹.

9. The *Waqf* Amendment Bill of 2024: Indications of departure from protective intent and potential undermining of the *waqf* institution in India

<i>Waqf</i> Act 1995	<i>Waqf</i> Amendment Bill of 2024	Implication
Section	Section	

Rigorous imprisonment for the offender.	52A	Imprisonment for the offender.	26(i)	It will likely lead to increased encroachment on <i>waqf</i> properties.
Permits <i>waqf</i> by user.	3 (r) i	No <i>waqf</i> by user.	3(ix) b	Blatant interference in the religious affairs of Muslims constitutes a violation of the fundamental rights enshrined in Articles 25 to 28 of the Indian Constitution.
<i>Waqf</i> means the permanent dedication by any person of any movable or immovable property for any purpose recognised by Muslim law as pious, religious or charitable.	3 (r)	A person can make <i>waqf</i> only when he/she has been Muslim for the last five years.	3(ix)	Modifying the definition of <i>waqf</i> constitutes a violation of the fundamental right to freedom of religion as protected under Articles 25 to 28 of the Indian Constitution.
The <i>waqf</i> Board possesses the authority to designate any property as <i>waqf</i> property following a thorough investigation.	40	Any government property identified or declared as <i>waqf</i> property, before or after this act, will not be considered <i>waqf</i> property.	20	Legalises the encroachment of already encroached <i>waqf</i> properties.
The provision allows the CEO to address	33 (3)	The Bill removes the provision.	17 (b)	This will exacerbate the mismanagement

misappropriation or unauthorised use of <i>waqf</i> funds by <i>mutawallis</i> or their staff, including the steps for recovery and restoration.				of <i>waqf</i> assets in India.
Offences related to <i>waqf</i> properties are cognisable and non-bailable.	52A(2)	Offences pertaining to <i>waqf</i> properties are non-cognisable and bailable.	(26 b)	A step towards encouraging <i>waqf</i> maladministration.
The power of the board to formulate a scheme for the proper administration of the <i>waqf</i> is binding on the <i>mutawalli</i> .	69	Not binding anymore.	(32 a)	Facilitates corruption within the <i>Waqf</i> administration.
The removed <i>mutawalli</i> is supposed to deliver the charge of the records, accounts and properties to the successor within a specified time.	68 (1)	It is not binding on the removed <i>Mutawalli</i> to deliver the charge of the records, accounts and properties to the successor within a specified time.	(28 e)	The <i>mutawalli</i> may assume dictatorial authority, consequently exacerbating the deterioration of <i>waqf</i> assets.

An order issued under section 31 or 32 of the Land Acquisition Act, 1894, will be declared void if issued without providing the board an opportunity to be heard.	91(4)	The proposed amendment says that the order shall be put on hold.	(37 c ii)	Will undermine the authority of the board, resulting in diminished effectiveness in the management of <i>waqf</i> administration.
Permits <i>waqf</i> by a non-Muslim	104	No <i>waqf</i> by a non-Muslim	40	Will impede the growth of the third sector
Applies to any evacuee property.	108	This does not apply to any evacuee property.	41	An effort to usurp evacuee property by governmental agencies.
Overriding effect.	108A	No overriding effect.	41	Undermines the <i>Waqf</i> institution.

The autonomy, integrity and operation of *waqf* institutions in India are seriously threatened by the proposed amendments, according to an analytical analysis of the *Waqf* Amendment Bill, 2024. In addition to encouraging mismanagement and corruption, the Bill weakens the authority of *waqf* boards by redefining important aspects of *waqf*, facilitating government control and permitting the legalisation of existing encroachments. These clauses could weaken institutional oversight, empower *mutawallis* beyond accountability and hasten the degradation of *waqf* properties. Furthermore, the fundamental rights protected by Articles 25–28 of the Indian Constitution are directly violated by the state’s flagrant meddling in religious endowments⁷⁰. Therefore, the Bill threatens to weaken *waqf*’s core foundation rather than safeguarding and strengthening *waqf* administration, transforming a crucial social and economic institution of the Muslim community into a weak administrative entity susceptible to political and bureaucratic manipulation⁷¹.

10. *Waqf* and its political ramifications in India

Waqf administration in India has substantial political implications because of its integration with community concerns, legal frameworks and government. Concerns regarding political influence are raised by the state's involvement in *waqf* management, especially through the establishment of *waqf* boards⁷². Due to the vested interests of influential politicians, laws intended to protect and preserve *waqf* properties are still not strictly enforced⁷³. The greater issue of governance in India's *waqf* management is further highlighted by the lack of political will to rectify revenue records and recover encroached *waqf* assets⁷⁴.

Political discussions have been sparked by the recently proposed *Waqf* Amendment Bill 2024, which some claim compromises *waqf* property protections while allowing for more governmental control over its administration. This has given rise to claims that the *Waqf* Amendment Bill 2024 is politically motivated and may encourage encroachment rather than improve *waqf* asset governance⁷⁵. Furthermore, political parties frequently use *waqf*-related issues to mobilise opposition or portray themselves as defenders of Muslim interests in electoral politics. *Waqf*-related policies have been used by successive governments to win over Muslim voters, often promising reforms or greater protections while neglecting to address fundamental structural issues like encroachments and poor management⁷⁶.

Waqf is therefore a highly political issue in India in addition to being an administrative or legal one, where conflicting interests influence policy and its implementation,. In addition to structural and legal changes, depoliticisation and community involvement in decision-making are also necessary to address the issues facing *waqf* management⁷⁷.

11. Discussion

The results show that the existing legal and administrative framework is insufficient to protect *waqf* assets, which validates concerns raised in earlier studies on *waqf* governance in India. The 1995 Act's enforcement problems, especially the uneven application of important provisions, reflect trends in the literature regarding weak governance, political meddling and institutional fragility. The systemic issues noted by the Sachar Committee (2006), Ranganathan Misra Commission (2007), Mehmoodur Rehman Committee (2008)

and Post-Sachar Kundu Analysis (2013) are consistent with academic discussions that emphasise the necessity of better record-keeping, digitisation, professional management and open oversight of *waqf* institutions. The study adds to this conversation by demonstrating how these institutional shortcomings directly affect asset protection on the ground.

An important modern element is added by the analysis of the 2024 Amendment Bill. Few studies have evaluated the implications of the 2024 Bill, despite the examination of previous reform plans. The results indicate that by increasing administrative oversight and decreasing safeguards against invasion, the Bill may weaken *waqf* autonomy and further complicate asset governance. This addition contextualises the results in relation to current legal and policy discussions in India concerning institutional accountability and minority property rights.

Overall, the discussion shows how the study's distinctive contribution—a focused examination of the legal-administrative issues that impact *waqf* asset protection under the 1995 Act and the proposed amendments—integrates with previous research.

Conclusion

The study's findings not only evaluate *waqf* management under the *Waqf* Act of 1995, but they also directly address the main research question: How does the *Waqf* Amendment Bill 2024 impact the protection, autonomy and governance of *waqf* assets in India? India has the most *waqf* properties, which have a great deal of potential to enhance Muslim society, according to the results of the qualitative content review and document analysis. However, the Indian *waqf* system faces a number of challenges that restrict its effective administration and sustainability, including inadequate infrastructure, incompetent staff and financial constraints, in addition to state government's and *waqf* board's lack of desire and interest in implementing the *Waqf* Act, 1995. In addition to making *waqf* assets vulnerable to abuse and misuse, board member's ignorance of *waqf* laws resulted in political meddling and poor management; further undermining governance are a lack of transparency and community involvement in board appointments. In a similar vein, the problem is made worse by extensive encroachments, a lax legal system and insufficient documentation of *waqf* assets. Political patronage, a reluctance to update revenue records and a failure to take action against illegal occupations are the main causes of mismanagement and corruption. These results demonstrate how institutional flaws impede

the goals of the 1995 Act and reveal the fundamental causes of *waqf* asset's continued vulnerability. *Waqf* assets are increasingly susceptible to state involvement under the *Waqf* Amendment Bill 2024, which eliminates numerous important protections of the *Waqf* Act 1995, diminishes the authority of *waqf* boards and grants state authorities significant influence. *Waqf* by user is dissolved, misappropriation clauses are removed, *waqf* does not protect government-claimed land and charges are made bailable and non-cognizable. Because it removes the Act's overriding legal effect, empowers *mutawallis* to defy board instructions and removes protections for non-Muslim donations and evacuee properties, the integrity and maintenance of *waqf* assets are also at risk. Modern, transparent management frameworks and the strengthening of institutional independence are essential to achieving the maximum developmental potential of *waqf* assets in India.

12. Recommendations

1. **Survey Commissioner:** The potential for political manipulation and data distortion is increased by the proposed Bill's transfer of survey authority to district collectors. Upholding the Survey Commissioner's authority will guarantee asset management's accuracy, transparency and public accountability.
2. **Fiqh al-awqāf Experts:** The Bill's provisions permitting state authorities to settle ownership disputes ought to be eliminated in order to prevent encroachments. Rather, an impartial court made up of *fiqh al-awqāf* specialists ought to be created. This would avoid state overreach and guarantee the fair resolution of *waqf*-related disputes.
3. **Criminalizing Encroachment:** Encroachments and illegal transactions should be classified as cognisable and non-bailable offences in order to strengthen legal protections. This modification will address the problem of lax enforcement and prevent abuses of *waqf* property rights
4. **Political Appointments:** To avoid political meddling, *waqf* boards must maintain their independence. Therefore, rather than political allegiance, the selection of board members should be based on their proficiency in *fiqh al-awqāf*. This will lessen corruption and improve professional integrity.
5. **Inclusive Waqf Creation:** Since it targets inclusion and goes against *waqf* values, the rule restricting *waqf* creation to Muslims who have been Muslims for at least five years should be repealed. If the clause were eliminated, community involvement would increase.

6. **Fair Rent and Property Recovery:** Rent should be paid at going market rates by both public and private tenants in order to promote economic justice and resource recovery. *Waqf* boards ought to have the authority to use an expedited legal procedure to retrieve encroached *waqf* assets.
7. **Innovative Transnational Waqf Models:** Certain transnational mechanisms can also be used, like the Malaysian model, where *waqf* reform is notable for incorporating contemporary Islamic financial instruments and going beyond the conventional passive management of endowed properties. The sustainability and impact of *waqf* properties are improved by modern techniques like *waqf* shares, cash *waqf*, *Takaful Waqf* Plans and *waqf sukūk*. These innovations promote corporate social responsibility (CSR) while also fortifying *waqf* institutions⁷⁸.
8. **Recommended Institutional Reforms:** The establishment of a specialised administrative cadre for *waqf* management⁷⁹, the creation of a dedicated national *waqf* commission⁸⁰, the eviction of unauthorised occupants⁸¹ and the enforcement of criminal prosecution against encroachers are some of the reforms that have been proposed by various Committees and can be implemented successfully. These reforms will improve accountability, transparency and professional efficiency in *waqf* management of India⁸².

In order to improve *waqf* administration, restore institutional autonomy and guarantee that *waqf* properties fulfill their intended function of promoting social welfare and economic growth; all of the actions taken together translate the study's findings into practical policy directions.

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