



Supreme Court's Interim Order on the Waqf (Amendment) Act, 2025

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Why in News?

The [Supreme Court \(SC\) of India](#) has stayed certain provisions of the [Waqf \(Amendment\) Act 2025](#), amid concerns that it violates [Article 26](#), undermines community autonomy through excessive administrative powers and non-Muslim representation on [Waqf Boards](#), and may impact existing Waqf properties and philanthropy.

What is Waqf Act, 1995?

- The **Waqf Act, 1995**, is a central act in India that provides for the better administration, management, and protection of Waqf properties, endowments of property made for religious or charitable purposes under Muslim law.
 - It establishes **Waqf Boards at both the state and national levels** to oversee these properties, ensuring they are used for their intended purposes and managed transparently and legally.
- The **Waqf (Amendment) Act, 2025 (UMEED (Unified Waqf Management, Empowerment, Efficiency, and Development) Act)**, amended the **Waqf Act, 1995**.
 - **Key Provisions of Waqf (Amendment) Act, 2025:**
 - **Trusts Excluded:** Muslim-created trusts are legally separate from Waqfs if governed by other charity laws.
 - **Protection of Inheritance Rights:** Women and children must receive their rightful inheritance before property becomes Waqf.
 - **Protection of Tribal Lands:** It prohibits the establishment of Waqf on lands belonging to tribal communities under the [Fifth and Sixth Schedules of the Constitution](#).
 - **Appeal Mechanism:** High Court can hear appeals against Waqf Tribunal decisions.
 - **Financial Reforms:** Mandatory contribution to Waqf boards reduced from 7% to 5%.
 - **Income Audit:** Waqf institutions earning over Rs 1 lakh annually are subject to government-mandated audits.

Waqf Board

- A Waqf Board is a legal entity that can acquire, hold, transfer property, and sue or be sued.
- It manages **Waqf properties** (assets dedicated for religious or charitable purposes), recovers lost assets, and approves transfers (sale, gift, mortgage, exchange, lease) with at least two-thirds board approval.
- The **Central Waqf Council (CWC)**, a statutory body under the Ministry of Minority Affairs, oversees and advises State Waqf Boards.

What are the Key Contentious Provisions of the Waqf Amendment Act, 2025 and the Supreme Court's Stance on it?

▪ Provisions Upheld by Supreme Court:

- **Applicability of the Limitation Act:** The [Waqf Act, 1995](#) specifically excluded the application of the Limitation Act 1963, which allowed Waqfs to act against encroachments on their properties without any time limit.
 - The Waqf Amendment Act, 2025 removes this exemption, requiring legal claims to be filed within a specified period.
 - The Court upheld this provision, noting it corrects earlier discrimination.
- **Abolition of "Waqf by Use":** Earlier, land used for Muslim religious/charitable purposes for long **could be deemed Waqf even without registration**. The 2025 Amendment Act **removed the "Waqf by Use" concept**, citing misuse.
 - SC upheld this noting misuse for encroaching government lands and finding no prima facie reason to stay it.

▪ Provisions Stayed by the Supreme Court:

- **Five-Year Rule for Practising Muslims:** The Amended Act mandated that a waqf can only be created by a person who has **practised Islam for at least 5 years**.
 - SC has stayed this provision, since there is **no mechanism to verify religious practice** until the government frames clear rules.
- **Powers of District Collectors (Section 3C):** The Amended Act stipulates that **District Collectors can declare a waqf property as government property during their inquiry (property will not be treated as a waqf property during the period of the inquiry)**.
 - SC has stayed this provision, calling it **arbitrary and a violation of [separation of powers](#)**, as property disputes must be **decided by tribunals or courts**.
 - As per Supreme Court, during the inquiry, **Waqf properties will retain their status**, cannot be dispossessed, and no third-party rights shall be created until a final decision is rendered by a **Waqf Tribunal**.
- **Non-Muslim Representation in Waqf Boards:** The Act allowed large numbers of non-Muslims, even a majority, in Waqf Boards and the Central Waqf Council.
 - **SC capped non-Muslim representation:**
 - **Central Waqf Council (22 members)** shall not have **more than 4 non-Muslims**.
 - **State Waqf Boards (11 members)** shall not have more than **3 non-Muslims**.

Key Judicial Pronouncements Regarding Religious Freedom in India

- **Bijoe Emmanuel v. State of Kerala, 1987:** SC held that students cannot be compelled to sing the **National Anthem if it violates their religious beliefs**.
 - It established that individuals have the **right to refuse** to participate in activities that go against their religious beliefs, as long as they do not disrupt public order.
- **Shayara Bano v. Union of India, 2017:** SC struck down instant **triple talaq (Talaq-e-Biddat)** **citing it as unconstitutional**, violating Article 14 (Right to Equality) and gender **justice principles**, holding it is not an essential religious practice under Article 25.
- **Dr. Mahesh Vijay Bedekar v. Maharashtra, 2016:** SC held that using loudspeakers is not an essential religious practice and cannot be claimed as a fundamental right under **Article 25 (freedom of religion) or Article 19(1)(a) (freedom of speech and expression)**.

Conclusion

The Waqf (Amendment) Act, 2025 aspires to bring reforms, yet it also raises genuine concerns over

autonomy and rights. The **Supreme Court's interim order seeks to carefully balance the reform process with constitutional safeguards**. The way forward should focus on fostering transparency and accountability, while **preserving the spirit of religious freedom and trust among communities**

Read more: [Waqf \(Amendment\) Act, 2025](#)

Drishti Mains Question:

Q. How does the Waqf (Amendment) Act, 2025 aim to modernise Waqf administration, and what challenges does it face?

UPSC Civil Services Examination, Previous Year Questions (PYQs)

Mains

Q. How is the Indian concept of secularism different from the western model of secularism? Discuss. **(2018)**

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