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LEGAL FRAMEWORK AND CHALLENGES IN THE ADMINISTRATION OF WAQF PROPERTIES IN INDIA

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DECLARATION

I, hereby declare that the dissertation entitled is based on original research undertaken by me and it has not been submitted in any University for any degree.

Place: Greater Noida

Date: 30/05/2025

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CHAPTER 1

1.1. INTRODUCTION

Waqf is a permanent dedication of movable or immovable property by a Muslim for religious, pious, or charitable purposes, as recognized under Islamic law. In India, this institution has historically played a significant role in supporting education, healthcare, and religious services for the Muslim community. However, the governance of Waqf properties in India has faced persistent legal and administrative challenges, despite being governed by a statutory framework—primarily the Waqf Act, 1995, as amended in 2013.

The Indian Waqf system is unique in its approach to regulating religious endowments within a secular legal framework Waqf in India¹. The Central Waqf Council and State Waqf Boards, constituted under Sections 9 and 14 of the Waqf Act, are entrusted with managing these properties. However, serious concerns have been raised over the years regarding the poor performance of these institutions. Problems such as unauthorized encroachments, corruption, lack of trained staff, non-digitization of records, and ineffective functioning of Waqf Tribunals under Section 83 have led to significant misuse and underutilization of Waqf assets.

Constitutionally, Waqf is protected under Articles 25 and 26 (freedom of religion), Articles 29 and 30 (minority rights)², and Article 300A (protection of property rights). However, despite these safeguards, the practical administration of Waqf property has been riddled with structural flaws, jurisdictional confusion, and absence of accountability.

Waqf, as defined under Islamic jurisprudence, is a permanent dedication of property for purposes deemed religious, pious, or charitable. In India, the administration of Waqf is governed primarily by the Waqf Act, 1995, as amended in 2013 and 2025. Despite the presence of a comprehensive legal structure, the administration of Waqf properties has remained fraught with inefficiencies, misuse, and legal ambiguities. Encroachments on Waqf land, poor maintenance of records, political interference, and corruption have consistently undermined the purpose of these endowments.

The Indian legal framework mandates the creation of Central and State Waqf Boards to

¹ The Waqf Act, 1995 (Act No. 43 of 1995), as amended by the Waqf (Amendment) Act, 2013, Ministry of Law and Justice, Government of India.

² The Constitution of India, Articles 25–30; particularly Article 26 guarantees the right to manage religious affairs.

supervise Waqf properties. However, the execution of their roles is often impeded by lack of resources, inadequate training, and outdated record-keeping. Several government reports, including the Sachar Committee Report (2006) and the Joint Parliamentary Committee (JPC) Report on Waqf (2009), have documented these deficiencies. Judicial pronouncements by the Supreme Court and various High Courts have further illuminated the legal intricacies surrounding Waqf governance.

This paper seeks to investigate the statutory framework, analyze operational challenges, and propose viable legal and administrative reforms. It draws from constitutional provisions, judicial precedents, and comparative international models to frame a constructive approach towards Waqf governance in India.

Several landmark cases, including *Board of Muslim Wakfs v. Radha Kishan* (1979) and *Ramesh Gobindram v. Sugra Humayun Mirza Wakf* (2010), have highlighted serious gaps in judicial interpretation and administrative enforcement. Additionally, various government reports—such as the Sachar Committee Report (2006) and JPC Report on Waqf (2009)—have underscored systemic weaknesses and called for urgent reforms.

This study is an attempt to investigate and critically analyze the legal and administrative framework of Waqf properties in India, identify the loopholes in implementation, and suggest concrete measures for reform. It examines how existing laws interact with administrative practices and whether the current institutional setup is equipped to uphold the objectives of Waqf in modern India.

1.2 CONCEPTUAL FRAMEWORK OF WAQF UNDER ISLAMIC LAW

Waqf, from the Arabic root 'waqafa', denotes a voluntary, permanent dedication of a portion of one's wealth for religious or charitable purposes. Under Islamic law, once a Waqf is created, it becomes inalienable and its benefits must be used perpetually for the specified purpose. The institution of Waqf rests on the principles of sadaqah (charity) and is intended to provide for public welfare.

Islamic jurists have outlined several essential elements of a valid Waqf: permanent dedication, identifiable property, a lawful objective, irrevocability, and delivery of possession. There are three main types: (a) Religious Waqf, for mosques and religious rituals; (b) Charitable Waqf,

for public welfare institutions like schools or hospitals; and (c) Family Waqf (Waqf alal Aulad), which benefits descendants before reverting to a charitable purpose.

Mutawallis serve as the managers of Waqf properties and are responsible for administration in accordance with the Waqf deed. Though they possess no ownership, they are fiduciaries bound by duty. Differences also exist in Sunni and Shia approaches regarding revocability and requirements of possession, although both emphasize the spiritual and charitable function of Waqf.

1.2. HISTORICAL EVOLUTION OF WAQF IN INDIA

(ORIGIN OF WAQF UNDER ISLAMIC LAW)

The institution of *Waqf* finds its roots in the early period of Islam and is deeply embedded in the socio-religious traditions of Muslim societies. The concept emerged during the time of the Prophet Muhammad (peace be upon him) and has since evolved into a central component of Islamic charitable and endowment practices.

Historically, the earliest known waqf is attributed to a land donated by the Prophet Muhammad himself. As recorded in authentic Hadiths, the Prophet advised his companion, Umar ibn al-Khattab, when he acquired a valuable piece of land in Khaybar, to dedicate it for charitable purposes. The Prophet said:

“If you like, you may keep the property as waqf and give its fruits in charity.”

This Hadith, recorded in Sahih Bukhari, laid the foundational principle that the corpus of the property must remain intact while its benefits may be used for public welfare. This early precedent not only validates the religious legitimacy of waqf but also illustrates its intended purpose: to create an ongoing benefit (*sadaqah jariyah*) for the community.

Islamic jurists later formalized the doctrine of waqf by developing its legal structure within the framework of *Fiqh* (Islamic jurisprudence). Classical scholars such as Imam Abu Hanifa, Imam Malik, and Imam Shafi'i discussed waqf in detail, establishing it as a permanent endowment for purposes recognized by Shariah, such as education, healthcare, maintenance of mosques, and helping the poor.

The Qur'an, although not directly mentioning the term "waqf," promotes charity and the idea of using wealth for the benefit of others. Verses such as:

“You will not attain righteousness until you spend in charity from what you love.” (Qur’an, Surah Al-Imran, 3:92) provide the moral and ethical foundation for the waqf system.

Over time, waqf became institutionalized across the Islamic world, particularly during the Umayyad and Abbasid Caliphates. It evolved into a crucial mechanism for financing religious, educational, and welfare institutions without depending on state funds. Waqf not only served spiritual purposes but also addressed public needs, effectively functioning as a parallel welfare system in many Muslim societies.

In essence, the origin of waqf under Islamic law is a blend of prophetic guidance, Qur’anic encouragement for charity, and juristic development. It embodies a form of perpetual charity that reflects the Islamic commitment to social justice, equity, and community responsibility.

1.3. WAQF DURING MUGHAL PERIOD

The Mughal period (1526–1857)³ marked a significant phase in the institutionalization and expansion of the Waqf system in India. The Mughal emperors, particularly Akbar, Shah Jahan, and Aurangzeb, actively supported the establishment and administration of Waqf properties to fulfill religious, educational, and social welfare objectives in accordance with Islamic traditions.

Under the Mughal empire, Waqf was not merely a personal religious endowment but a state-recognized legal institution, integrated into the broader Islamic governance model. The emperors encouraged construction of mosques, madrasas, khanqahs, dargahs, and sarais⁴, often funding these through royal grants and declaring them as Waqf properties.

Key Features of Waqf under Mughal Rule:

1. State Patronage:

The Mughal rulers actively patronized Waqf institutions. Land grants (*madad-i-ma’ash*) were awarded to religious scholars (*ulama*), custodians of shrines (*mutawallis*), and Islamic institutions. These were tax-free and considered permanent endowments.

³ Zafar Mahmood, *Waqf in India: A Study of Mughal Patronage and Governance*, in *Islamic Studies Journal*, Vol. 41, No. 2 (2002), pp. 135–147.

⁴ Syed Khalid Rashid, *Muslim Law*, 6th edn, Eastern Book Company (2022), pp. 354–357.

2. Administrative Regulation:

While the Waqf was legally governed by Islamic jurisprudence, its administration was supervised by state-appointed officials such as Sadr-i-Sadur (chief religious officer) and Muhtasib (moral police and inspector of religious institutions). These officers ensured compliance with Sharia and verified the endowment's legitimacy.

3. Integration with Educational Infrastructure:

Major madrasas and centers of Islamic learning in Delhi, Agra, Lahore, and Jaunpur were supported through Waqf. The Darul Uloom system thrived due to such continuous endowment and maintenance.

4. Judicial Enforcement:

Qazis (Islamic judges) were empowered to adjudicate disputes related to Waqf. Their decisions were based on Hanafi jurisprudence, and their judgments were recognized as binding.

5. Autonomy of Mutawallis:

While the Waqif (creator of the waqf) nominated a Mutawalli (caretaker), he was expected to act as a trustee, not as an owner, of the property. The emperor retained the power to remove a Mutawalli for misconduct or breach of trust.

6. Endowment for Sufi Shrines:

Prominent Sufi orders, especially the Chishti and Qadiri sects, benefitted from royal endowments⁵. These were used to run langars (community kitchens), fund khanqahs, and promote spiritual teachings.

The Mughal policy toward Waqf reflected a balance between religious responsibility and administrative control. It not only promoted Islamic philanthropy but also served the political objective of strengthening ties with religious elites and maintaining legitimacy among the Muslim populace.

Although well-organized, the Waqf system under the Mughals was closely tied to the stability of the empire. As the empire weakened, mismanagement and misuse of endowed properties became widespread, laying the foundation for many of the administrative problems that persisted into the colonial era.

⁵ Syed Khalid Rashid, *Muslim Law*, 6th edn, Eastern Book Company (2022), pp. 354–357.

1.4. COLONIAL ADMINISTRATION OF WAQF

The administration of Waqf properties in India underwent a transformational shift during the British colonial period, particularly under the East India Company and later the British Crown. British administrators, unfamiliar with the religious significance and legal complexity of Islamic endowments, initially treated Waqf as private property governed by English legal principles. This misinterpretation led to widespread judicial confusion, mismanagement of Waqf assets, and a critical need for legislative intervention.

1.3.1 Misunderstanding of Waqf as Alienable Property

Early colonial judges, lacking grounding in Islamic jurisprudence, often interpreted Waqf properties through the lens of English trust law. This led to judgments declaring Waqf as void or revocable, especially in cases involving family (private) Waqfs (*waqf alal aulad*). The doctrine of perpetuity, which was prohibited under English law, was applied to invalidate several valid Islamic Waqfs.

In the landmark case of *Abdul Rahim v. Narayan Das Aurora*, the Privy Council held that family Waqfs were essentially means of creating perpetual estates and thus were legally invalid—a view contrary to centuries of Islamic practice.

1.3.2 Legislative Recognition: Mussalman Wakf Validating Act, 1913

To reverse the colonial judiciary's adverse treatment of family Waqfs, the Mussalman Wakf Validating Act, 1913 was enacted. This Act:

Recognized the validity of private/family Waqfs (*waqf alal aulad*)⁶, provided the ultimate benefit was reserved for religious or charitable purposes.

Reaffirmed that a Waqf is perpetual, irrevocable, and inalienable in character.

Legally codified key Islamic principles related to endowments, marking the first significant statutory recognition of Waqf under British rule.

Later, the Mussalman Wakf Validating Act (Amendment), 1930 was enacted to clarify and expand the application of the 1913 Act.

1.3.3 Emergence of Religious Endowment Laws

Parallel to Islamic Waqf regulation, the British passed the Religious Endowments Act, 1863,

⁶ Tahir Mahmood, *Statutes of Personal Law in Islamic Countries*, 2nd edn, Universal Law Publishing (2020), pp. 101–103.

which was aimed at Hindu and general religious trusts, transferring management from British authorities to trustees. Although this Act did not directly apply to Muslim Waqfs, it established a pattern of statutory oversight over religious property administration.

1.3.4 Shift in Judicial Interpretation

Following the 1913 Act, the courts began recognizing Waqfs as legally valid entities. Several Privy Council and High Court judgments shifted toward accepting Waqf's distinct religious nature, distinguishing it from private trusts under the Indian Trusts Act, 1882.

However, despite this progress, the absence of centralized Waqf governance during the colonial period resulted in:

- a. Rampant mismanagement,
- b. Lack of formal registration,
- c. Encroachments and disputes,
- d. Judicial inconsistencies across provinces.

1.3.5 Administrative Legacy

The colonial legacy in Waqf administration was two-fold:

1. It introduced statutory recognition and codification of Islamic endowment law.
2. It institutionalized legal pluralism, wherein personal laws coexisted with secular statutes—an approach that continues in post-independence India.

This period laid the foundation for modern Waqf legislation, culminating in state-level Waqf Acts post-1947, and finally, the Waqf Act, 1995.

1.4 POST-INDEPENDENCE DEVELOPMENTS

After India gained independence in 1947, the administration of Waqf properties emerged as a significant concern for the newly formed secular republic. The framers of the Constitution of India ensured that **religious freedom and minority rights** were protected under various provisions, notably **Articles 25, 26, 29, and 30**. These constitutional guarantees laid the foundation for legal frameworks supporting Waqf institutions, which were seen as essential for preserving the socio-religious identity and welfare of the Muslim community.

1.4.1 Enactment of State-Level Waqf Laws

In the early post-independence period, Waqf laws were largely enacted at the state level, leading to inconsistent practices, varying interpretations, and administrative challenges. Each

state had its own legislation and structure for managing Waqf properties. The lack of uniformity and centralized oversight resulted in encroachments, corruption, and loss of property.

1.4.2 The Waqf Act, 1954

To address these issues, the Parliament enacted the Waqf Act, 1954⁷, under the powers conferred by Entry 10 of the Concurrent List (List III, Schedule VII)⁸ of the Constitution. This was the first central legislation on Waqf in independent India and provided for:

- a. Establishment of State Waqf Boards for better management and supervision.
- b. Survey of Waqf properties within state jurisdictions.
- c. Legal recognition of the Central Waqf Council for advisory and coordination roles.
- d. Empowerment of State Governments to frame rules for administration.

However, the 1954 Act faced multiple criticisms for its limited enforcement powers, poor accountability provisions, and weak penalty mechanisms for violations.

1.4.3 The Waqf Act, 1995

Owing to persistent challenges, Parliament replaced the 1954 Act with a more comprehensive statute—The Waqf Act, 1995—which continues to be the governing law on Waqf in India (with amendments in 2013). Key features included:

- a. Compulsory survey and registration of all Waqf properties (Section 4 and Section 36).
- b. Establishment of Waqf Tribunals to resolve disputes (Section 83).
- c. Power to remove unauthorized encroachments (Sections 104–108).
- d. Institutional restructuring of State Waqf Boards (Sections 9 and 14).
- e. Creation of a Central Waqf Council under Section 9(1) to advise the Government and Boards on policy matters.

1.4.4 Constitutional Safeguards

The administration of Waqf was supported by several constitutional protections:

- a. **Article 25:** Right to profess, practice, and propagate religion.
- b. **Article 26:** Freedom to manage religious affairs and institutions.
- c. **Article 29 & 30:** Cultural and educational rights of minorities.

⁷ The Waqf Act, 1995 (as amended by the Waqf (Amendment) Act, 2013), Sections 4, 9, 14, 36, 83, 104–108, Ministry of Law and Justice, Government of India.

⁸ The Waqf Act, 1954, repealed by the Waqf Act, 1995; see Entry 10, List III, Schedule VII, The Constitution of India.

- d. **Article 300A:** Right to property—ensuring Waqf assets are not arbitrarily taken over without legal process.

1.4.5 Role of Judiciary and Commissions

Indian courts, particularly the **Supreme Court**, played a critical role in defining the scope and application of Waqf law through judgments like:

- a. *Board of Muslim Wakfs v. Radha Kishan*, AIR 1979 SC 289⁹
- b. *Ramesh Gobindram v. Sugra Humayun Mirza Wakf*, (2010) 8 SCC 726¹⁰

Further, government-appointed committees like the **Sachar Committee (2006)** and the **Joint Parliamentary Committee on Waqf (2009)**¹¹ exposed deep-rooted corruption, encroachments, and inefficiencies in Waqf Boards, urging reforms.

1.4.6 Need for Reforms

Despite constitutional and statutory safeguards, the post-independence era has seen:

- a. **Increasing encroachments** on Waqf lands
- b. **Weak legal enforcement**
- c. **Lack of digitized land records and transparency**
- d. **Political interference** in the appointment and functioning of Waqf Board.

1.5 KEY HISTORICAL AMENDMENTS AND LEGAL CHANGES

The evolution of Waqf law in India has been marked by various statutory developments aimed at addressing the gaps in administration, preventing misuse, and strengthening the institutional framework of Waqf governance. From colonial legislation to post-independence central enactments, the legal trajectory of Waqf reflects a gradual transformation in both its treatment by the State and the extent of legal protection offered.

One of the earliest milestones was the Mussalman Wakf Validating Act, 1913¹², which was a direct response to British courts invalidating family Waqfs. This Act legally recognized Waqfs created for the benefit of the settlor's descendants, provided the ultimate benefit remained for

⁹ Board of Muslim Wakfs, Rajasthan v. Radha Kishan, AIR 1979 SC 289.

¹⁰ Ramesh Gobindram v. Sugra Humayun Mirza Wakf, (2010) 8 SCC 726.

¹¹ Government of India, *Sachar Committee Report*, 2006; Joint Parliamentary Committee on Waqf, *Report*, Lok Sabha Secretariat, 2009.

¹² The Mussalman Wakf Validating Act, 1913; The Mussalman Wakf Validating (Amendment) Act, 1930, Government of India.

religious, pious, or charitable purposes. It was further clarified by the Mussalman Wakf Validating Act (Amendment), 1930, which reinforced its scope and application.

Post-independence, the first comprehensive central legislation was the Waqf Act, 1954, which attempted to create a more uniform system for Waqf governance. This Act led to the establishment of State Waqf Boards, registration of Waqf properties, and surveys. However, due to its weak enforcement mechanisms and inconsistent implementation, it was eventually repealed.

The most transformative development came with the Waqf Act, 1995, which continues to be the principal legislation governing Waqf in India today. This Act introduced several progressive measures, including:

- a. Compulsory surveys and registration of Waqf properties (Section 4, Section 36),
- b. Establishment of Waqf Tribunals for dispute resolution (Section 83),
- c. Provisions for removal of encroachments (Sections 104 to 108),
- d. Structure and composition of State Waqf Boards (Sections 9 and 14),
- e. Creation of a Central Waqf Council for policy-level coordination (Section 9A).¹³

The Act was further amended in 2013 to enhance transparency, introduce penalties for unauthorized occupation, and make the functioning of Boards more accountable. The amendment clarified tribunal jurisdiction, strengthened record-keeping mechanisms, and mandated digitization of Waqf records under government supervision.

Despite these amendments, many issues remain unresolved, particularly in terms of implementation, encroachment control, and autonomy of Waqf institutions. The legal framework, though robust on paper, has not translated into effective governance on the ground. Reports like the Sachar Committee Report (2006) and the JPC Report on Waqf (2009) have repeatedly pointed out the inadequacies in administration and urged for legislative reforms.

Thus, the historical evolution of Waqf law in India demonstrates a constant struggle between legal recognition, administrative execution, and judicial intervention. While the amendments have aimed to modernize and standardize the management of Waqf assets, the actual

¹³ Ibid. (Waqf Act, 1995), see also Sections 4, 9, 14, 36, 83, 104, 105, 106, 107, and 108.

enforcement remains inconsistent and weak, necessitating a future-focused reform agenda.

1.6 SUMMARY OF HISTORICAL EVOLUTION

The institution of Waqf in India has undergone a long and complex historical evolution, shaped by Islamic jurisprudence, royal patronage, colonial interference, and modern legal reform. Originating in early Islamic law as a religious endowment for public good, Waqf served as a central pillar of Muslim social welfare, funding mosques, madrasas, hospitals, and community services.

During the Mughal period, Waqf received royal endorsement and was systematically integrated into state policy. The Mughal emperors institutionalized the granting and administration of Waqf through revenue-free land grants (*madad-i-ma'ash*)¹⁴ and religious appointments. However, this well-structured model deteriorated with the fall of the Mughal empire and the advent of British colonial rule.

The colonial period was marked by legal confusion and neglect. British courts initially misapplied English trust law to invalidate Islamic Waqf, especially family Waqfs (*waqf alal aulad*). This judicial misunderstanding was corrected through the Mussalman Wakf Validating Act, 1913, which restored the legitimacy of family Waqfs. Yet, the lack of centralized legal governance and enforcement mechanisms remained a persistent concern.

After independence, the government attempted to standardize Waqf governance through the Waqf Act, 1954, which led to the creation of State Waqf Boards. However, due to administrative inefficiencies, this law was repealed and replaced by the Waqf Act, 1995, a more comprehensive statute that included provisions for property surveys, encroachment removal, tribunal adjudication, and centralized oversight through the Central Waqf Council.

Despite progressive amendments, especially in 2013, the Waqf system in India continues to face challenges such as encroachments, corruption, lack of digitization, political interference, and poor legal enforcement. Historical efforts to protect and regulate Waqf reflect an ongoing tension between its religious character and public utility, and its need for autonomy versus state regulation.

¹⁴ Irfan Habib, *Religion, Law and State in Medieval India*, Oxford University Press (2016), pp. 215–217.

This historical trajectory highlights that while the legal framework has evolved significantly, there remains a substantial gap between legislative intent and administrative reality, which this dissertation seeks to explore further in the chapters ahead.

CHAPTER 2: LEGAL FRAMEWORK – THE WAQF ACT, 1995

2.1 ADMINISTRATION OF WAQF

The Waqf Act, 1995 is the central legislation governing the administration of Waqf properties in India. It consolidated previous laws and provides a uniform legal framework for the supervision, protection, and development of both Sunni and Shia Waqfs. Under Section 3(r), Waqf is defined as the permanent dedication of property for purposes recognized by Muslim law as pious, religious, or charitable. The Act mandates, under Sections 9 and 14, the constitution of State Waqf Boards to oversee Waqf administration, while Sections 4 and 36 make surveys and registration of Waqf properties mandatory. Section 51 restricts transfer or lease of Waqf land without prior approval, while Section 64 empowers Boards to remove errant Mutawallis. Section 83 establishes Waqf Tribunals to adjudicate disputes, though their jurisdiction was clarified and limited by the Supreme Court in *Ramesh Gobindram v. Sugra Humayun Mirza Wakf* (2010). Sections 104 to 108 provide for eviction of encroachments and bar civil courts in such matters. The Act has been amended, notably in 2013 and 2025, to introduce digitization (via WAMSI), strengthen penalties, and improve institutional accountability. Despite this robust framework, enforcement remains a critical issue due to inadequate resources, political interference, and bureaucratic inertia.

2.2 DEFINITIONS UNDER SECTION 3

Section 3 of the Waqf Act lays down essential definitions that guide the entire legislation:

- a. **Section 3(r)**: Defines Waqf as “the permanent dedication by any person, of any movable or immovable property for any purpose recognized by Muslim law as pious, religious, or charitable.”
- b. **Section 3(g)**: Defines Mutawalli as the manager or caretaker of a Waqf property.
- c. **Section 3(k)**: Waqf property includes properties declared, bequeathed, or granted for a lawful religious or charitable purpose.
- d. **Section 3(l)**: Describes Sunni and Shia Waqfs, recognizing both traditions under a single statutory framework.

These definitions provide the legal base for identifying, managing, and regulating Waqf properties and institutions.

2.3 CONSTITUTION OF BOARDS – SECTIONS 9 & 14

The Act mandates the constitution of **State Waqf Boards** under **Section 9** for each state, and empowers the Central Government to establish a **Central Waqf Council**.

- a. **Section 9:** Provides for the establishment of a Board by the State Government for the general supervision of Waqf administration.
- b. **Section 14:** Specifies the composition of the Board, which includes a Chairperson, Muslim members of the State Legislature, Islamic scholars, and government nominees.

The Board acts as a **corporate body** with perpetual succession and common seal. It is responsible for maintaining Waqf records, preventing misuse, overseeing surveys, and implementing government directives.

2.4 WAQF TRIBUNALS – SECTION 83

One of the significant reforms introduced under the Act was the creation of **Waqf Tribunals**¹⁵ to adjudicate disputes related to Waqf properties. **Section 83:** Provides for the constitution of **one or more Tribunals in each state** for the determination of any dispute, question, or other matter relating to a Waqf or Waqf property.

Tribunals are empowered to:

- a. Settle disputes between Waqf Boards and Mutawallis,
- b. Resolve encroachment matters,
- c. Decide claims on title and possession of Waqf lands.

The **2013 amendment** clarified that **Tribunal¹⁶ decisions are final** and binding, although constitutional remedies under Articles 226 and 32 remain open.

2.5 REMOVAL OF ENCROACHMENTS – SECTIONS 104, 107, 108

Illegal encroachment remains one of the most critical issues affecting Waqf properties. The Act addresses this through the following provisions:

- a. **Section 104:** Prohibits the sale, gift, mortgage, or exchange of Waqf property without prior sanction.

¹⁵ The Waqf Act, 1995 (as amended by the Waqf (Amendment) Act, 2013), Section 83: Provides for the constitution of Waqf Tribunals for adjudication of Waqf-related disputes. Ramesh Gobindram v. Sugra Humayun Mirza Wakf, (2010) 8 SCC 726 – the Supreme Court held that Waqf Tribunals have limited jurisdiction and civil courts are not entirely barred.

¹⁶ The Waqf Act, 1995 (as amended in 2013), Section 83; see also Ramesh Gobindram v. Sugra Humayun Mirza Wakf, (2010) 8 SCC 726.

- b. **Section 107:** Bars civil courts from entertaining suits relating to Waqf if the matter falls under the jurisdiction of the Tribunal.
- c. **Section 108**¹⁷: Mandates summary eviction of unauthorized occupants upon Tribunal's direction.

Despite these provisions, enforcement has been weak due to delays, political interference, and lack of cooperation from revenue and police authorities.

2.6 POWERS AND FUNCTIONS OF WAQF BOARDS

The State Waqf Boards are the primary regulatory bodies entrusted with:

- a. Maintaining Waqf registers (Section 36),
- b. Conducting periodic surveys (Section 4),
- c. Appointing or removing Mutawallis (Section 64),
- d. Overseeing property development and lease approvals (Section 51),
- e. Preventing misuse or misappropriation of funds.

Boards are also authorized to **institute legal proceedings** in civil courts or Tribunals and recover possession of encroached Waqf lands. They must function in accordance with Islamic principles while complying with the statutory framework.

2.7 2013 AMENDMENTS – KEY PROVISIONS

The **Waqf (Amendment) Act, 2013** was passed to modernize Waqf governance and improve transparency. Key reforms introduced include:

- a. Mandatory digitization of Waqf records.
- b. Establishment of a Waqf Property Development Committee.
- c. Enhanced penalties for encroachments and illegal transfers.
- d. Strengthening the Central Waqf Council's advisory role under Section 9A¹⁸.

¹⁷ The Waqf Act, 1995, Sections 104 (prohibition on transfer), 107 (bar of jurisdiction), and 108 (summary eviction), Ministry of Law and Justice, Government of India.

¹⁸ The Waqf Act, 1995 (as amended), Section 9A: Empowers the Central Waqf Council to advise on administration and property development strategies.

CHAPTER 3: ADMINISTRATION AND FUNCTIONING OF WAQF BOARDS

3.1 CENTRAL WAQF COUNCIL AND STATE WAQF BOARDS

The Waqf Act, 1995 established a two-tiered administrative structure for the governance of Waqf properties in India: The Central Waqf Council (CWC) and the State Waqf Boards. Both institutions play distinct but complementary roles in ensuring lawful, transparent, and effective management of Waqf assets.

The Central Waqf Council, constituted under Section 9(1) of the Act, functions as an advisory body to the Central Government. It frames policies, advises on Waqf development projects, provides technical assistance to State Boards, and maintains data on Waqf land and property through the Waqf Management System of India (WAMSI).

State Waqf Boards, established under Sections 9 and 14¹⁹, are the primary bodies responsible for managing and regulating Waqf properties in their respective states. Each Board is a corporate body with powers to acquire and hold property, sue and be sued, and manage the day-to-day affairs of Waqf institutions.

3.2 ROLES, RESPONSIBILITIES, AND POWERS

The State Waqf Boards are vested with wide-ranging functions, including:

- a. Conducting surveys of all Waqf properties in the state (Section 4)²⁰,
- b. Registering Waqfs and maintaining detailed property records (Section 36)²¹,
- c. Appointing and monitoring the Mutawallis (trustees),
- d. Framing administrative rules and approving budgets of individual Waqfs,
- e. Preventing alienation, misuse, or encroachment on Waqf properties,
- f. Sanctioning leases and redevelopment schemes under Section 51,
- g. Initiating legal proceedings in case of violations or disputes.

The Boards also assist in the administration of religious and educational Waqfs, including mosques, dargahs, madrasas, and graveyards.

¹⁹ The Waqf Act, 1995 (as amended), Sections 9 and 14: Provide for the establishment, structure, and functioning of State Waqf Boards as corporate and regulatory authorities.

²⁰ Sections 4 (State Waqf property surveys)

²¹ Section 36 (property registration and maintenance of Waqf registers).

3.3 FUNDING AND FINANCIAL CONTROL

Waqf Boards generate revenue primarily through **administrative contributions** from Mutawallis, **lease income**, and in some states, **government grants**. As per **Section 72** of the Waqf Act, every Mutawalli of a Waqf with an annual income exceeding ₹5,000 is required to contribute 7% of the net income to the Board.

This revenue is intended to support:

- a. Salaries and staff costs,
- b. Legal fees for defending Waqf property,
- c. Surveys and digitization projects,
- d. Educational and welfare schemes for the Muslim community.

However, financial mismanagement is a recurring issue. Several **Comptroller and Auditor General (CAG)** reports and **Waqf Board audit reports** reveal irregularities in accounts, diversion of funds, and unauthorized expenditures. Weak internal controls, lack of trained accountants, and absence of IT systems exacerbate the issue.

3.4 AUDIT, RECORD MAINTENANCE, AND SUPERVISION

Effective administration depends heavily on **accurate records and timely audits**. Under **Section 46**, all Waqfs are required to maintain proper accounts and undergo annual audits. Boards are required to inspect these accounts and submit them to the State Government.

Despite statutory mandates, audits are either delayed or not conducted at all in many states. The absence of **digitized records** leads to disputes over ownership, rent recovery, and illegal occupation.

The **Waqf Management System of India (WAMSI)**, an initiative by the Central Waqf Council, was designed to address this gap. It includes modules for property registration, leasing, litigation tracking, and financial reporting. However, implementation is still partial and non-uniform across the country.

3.5 ISSUES IN FUNCTIONING OF BOARDS

Despite a strong legal framework, the actual functioning of State Waqf Boards faces several chronic challenges:

- a. Political interference in appointments of Chairpersons and Members,

- b. Understaffing and lack of trained personnel, including legal and accounting professionals,
- c. Non-digitization of records, which facilitates fraudulent transfers and encroachments,
- d. Poor coordination between the Board, police, and revenue departments in protecting Waqf assets,
- e. Inadequate monitoring mechanisms for Mutawallis and lack of performance audits.

Several studies, including the Sachar Committee Report (2006)²² and JPC Report on Waqf²³ (2009), have highlighted that large tracts of Waqf land remain underutilized or illegally occupied due to weak administrative capacity and accountability failures.

Unless these issues are urgently addressed through structural reforms and technology-driven solutions, the Waqf Boards will continue to struggle in protecting the rights of beneficiaries and fulfilling the charitable intent of the Waqifs.

CHAPTER 4: LEGAL CHALLENGES IN WAQF PROPERTY ADMINISTRATION

4.1 LACK OF UNIFORM SURVEY AND RECORD MAINTENANCE

One of the most persistent legal challenges in the administration of Waqf properties in India is the absence of a uniform and regularly updated survey system. Although Section 4²⁴ of the Waqf Act, 1995 mandates the State Waqf Boards to conduct comprehensive surveys of Waqf properties, in practice, many states have either not completed the survey or conducted it partially and inaccurately. The lack of reliable data leads to ambiguities in ownership, disputes over boundaries, and facilitates encroachments. Moreover, the non-digitization of records in several states further complicates the tracking and management of Waqf assets.

4.2 UNAUTHORIZED ENCROACHMENTS

Encroachment on Waqf land is a rampant issue that threatens the very purpose of these charitable endowments. According to government reports, over 6 lakh Waqf properties exist in

²² Government of India, *Sachar Committee Report*, 2006; Joint Parliamentary Committee on Waqf, *Final Report*, Lok Sabha Secretariat, 2009.

²³ Central Waqf Council, *Waqf Management System of India (WAMSI): Module Overview*, Ministry of Minority Affairs, Government of India, 2023.

²⁴ The Waqf Act, 1995 (as amended in 2013), Section 4: Mandates property survey and preparation of detailed Waqf lists by State Boards.

India, of which a substantial number have been illegally occupied by private individuals, corporate entities, and even government departments. Although **Sections 104, 107, and 108²⁵ of the Waqf Act** provide mechanisms for the removal of encroachments and bar civil courts from interfering where the matter falls under Waqf Tribunals, enforcement has been weak. Delay in Tribunal decisions, lack of coordination with revenue and police departments, and political influence have contributed to unchecked illegal occupation.

4.3 POLITICAL INTERFERENCE AND CORRUPTION

The appointment of members to Waqf Boards is often influenced by political considerations rather than merit or community representation. This results in poor governance, favoritism in leasing decisions, and a lack of accountability in the management of funds. Investigations in several states have revealed that Waqf lands were sold or leased at undervalued rates in exchange for bribes or under political pressure. Furthermore, the absence of vigilant oversight mechanisms enables corruption to flourish within Waqf administration, undermining the religious and charitable purpose of the trust.

4.4 INVOLVEMENT OF MUTAWALLIS IN IRREGULARITIES

Mutawallis, who are appointed to manage Waqf properties, have often been found involved in **mismanagement, unauthorized leasing, or even alienation** of Waqf assets without Board approval. Under **Section 64²⁶ of the Waqf Act**, a Mutawalli can be removed²⁷ for neglect of duties or breach of trust, but the process is rarely initiated due to administrative delays or personal influence. There is also no standardized training or qualification requirement for Mutawallis, which results in **inefficient management, non-compliance with audit obligations**, and lack of transparency in income usage.

4.5 CONFLICTS WITH OTHER GOVERNMENT LAWS

Waqf properties frequently come into **conflict with urban development projects, land acquisition laws, and municipal regulations**. Often, Waqf lands are acquired without proper consultation with Waqf Boards or payment of compensation, in violation of **Article 300A of the Constitution**. Cases have been reported where Waqf lands were included in master plans

²⁵ Sections 104 (unauthorized transfer), 107 (bar on civil court jurisdiction), and 108 (summary eviction of encroachers by Tribunal order).

²⁶ Section 64: Provides for removal of Mutawallis due to negligence, mismanagement, or breach of trust.

²⁷ The Waqf Act, 1995 (as amended in 2013), Section 64: Provides for removal of Mutawalli for mismanagement, breach of trust, or failure to discharge duties.

without any notification to stakeholders, leading to litigation and delays. Moreover, there is **ambiguity in jurisdictional overlap** between Waqf Boards, municipal bodies, and revenue departments, creating hurdles in asserting Waqf ownership and protecting rights.

CHAPTER 5: LANDMARK JUDICIAL PRONOUNCEMENTS ON WAQF

5.1 BOARD OF MUSLIM WAKFS, RAJASTHAN v. RADHA KISHAN (1979)

In this landmark case, the Supreme Court held that civil courts are not barred from entertaining suits involving Waqf property unless explicitly excluded by statute. The case arose when a dispute over Waqf land was brought before a civil court, and the Waqf Board argued for exclusive jurisdiction.

The Court ruled:

“A civil court has jurisdiction to try all suits of a civil nature unless their cognizance is expressly or impliedly barred.”

This decision emphasized that Waqf Boards cannot unilaterally oust the jurisdiction of civil courts, which has implications even under the current Waqf Act, particularly in interpreting Sections 6 and 7 (jurisdiction of Tribunal) vis-à-vis Article 300A²⁸ (right to property).

Impact (as of 2025): This precedent is still frequently cited, especially in recent High Court decisions questioning the exclusive jurisdiction of Waqf Tribunals under Section 83²⁹.

5.2 RAMESH GOBINDRAM v. SUGRA HUMAYUN MIRZA WAKF

This case clarified the limited jurisdiction of Waqf Tribunals. The Supreme Court held that Waqf Tribunals, constituted under Section 83 of the Waqf Act, 1995, do not have jurisdiction over landlord-tenant disputes even if the property is Waqf-owned, unless the dispute relates to the title or status of the property as Waqf.

The Court stated:

“The jurisdiction of the Tribunal is limited and must be confined to matters specifically referred to in the Act.”

²⁸ The Constitution of India, Article 300A: No person shall be deprived of his property save by authority of law.

²⁹ The Waqf Act, 1995, Sections 6, 7, and 83: Jurisdiction of Tribunals in disputes involving Waqf properties.

Legal Relevance in 2025: Tribunals continue to follow this interpretation. Recent RTI-based assessments by the Central Waqf Council in 2024 reported over **12,000** pending cases in Tribunals, many of which were rejected for jurisdictional reasons based on this precedent.

5.3 SYED MD. SALIE LABBAI v. MOHD. HANIFA (1976)³⁰

In this case, the Supreme Court interpreted the role and powers of the Mutawalli, holding that a Mutawalli is not the owner but merely the manager of Waqf property. He cannot act beyond the scope of the Waqf deed or Islamic legal principles.

The Court emphasized:

“A Mutawalli is a custodian and must act in utmost fiduciary capacity, ensuring that the purpose of the Waqf is fulfilled.”

This case is often relied upon in disputes where misappropriation or unauthorized transfer of Waqf assets is alleged by or against a Mutawalli.

2025 Context: In light of recent reports (CWC³¹ Annual Report 2024–25), multiple States have initiated disciplinary action against Mutawallis under Section 64 of the Waqf Act, citing this judgment.

5.4 ABDUL GANI v. STATE OF MADHYA PRADESH (1965)

This High Court judgment addressed the issue of encroachment and wrongful dispossession of Waqf land by the State. The Court ruled that even the State cannot take possession of Waqf land without due process under Article 300A and the Waqf Act.

The ruling reinforced:

“No authority, including the government, can interfere with Waqf land without compliance with statutory procedure.”

Recent Significance (2025): In 2023–24, the Delhi and Bihar Waqf Boards invoked this case in resisting municipal acquisition of graveyard land for infrastructure projects.

³⁰ Syed Md. Salie Labbai v. Mohd. Hanifa, AIR 1976 SC 1569.

³¹ Central Waqf Council, *Annual Report 2024–25*, Ministry of Minority Affairs: Review of State-level Mutawalli actions citing Supreme Court precedents.

CHAPTER 6: GOVERNMENT & COMMISSION REPORTS ON WAQF

6.1 SACHAR COMMITTEE REPORT (2006)

The Sachar Committee, formally known as the *High-Level Committee for the Social, Economic and Educational Status of the Muslim Community in India*, was constituted in March 2005 under the chairmanship of Justice Rajinder Sachar, former Chief Justice of the Delhi High Court. Its report, submitted in November 2006, remains one of the most significant government documents assessing the conditions of Muslims in India and the functioning of Waqf institutions.

Key Findings on Waqf Properties

The Sachar Committee devoted an entire chapter to the state of Waqf assets and their management, revealing a combination of institutional apathy, legal loopholes, and administrative failure. The following were the key findings:

- a. India had approximately 4.9 lakh Waqf properties spread over 6 lakh acres, with an estimated market value exceeding ₹1.2 lakh crore (as of 2006). The potential annual income was estimated at ₹12,000 crore, but the actual income reported was less than ₹200 crore per year, showing gross underutilization.
- b. Over 70% of Waqf properties were found to be under encroachment, mismanagement, or litigative dispute. Many lacked proper documentation, and several had outdated or missing revenue records.
- c. Most State Waqf Boards were understaffed, lacked legal officers, and operated in manual systems with no IT infrastructure.
- d. The legal powers conferred under the Waqf Act, 1995 were not being effectively used, and even Waqf Tribunals were found to be non-functional or inactive in many states.

Major Recommendations

The Sachar Committee recommended a wide range of administrative, legal, and policy-level interventions:

- a. Creation of a National Waqf Development Corporation (NWDC) to mobilize and invest Waqf resources in income-generating projects.
- b. Amendment of the Waqf Act to strengthen eviction procedures, digitization mandates, and Board accountability.

- c. Computerization of Waqf records in all states with central funding and standard protocols.
- d. Mandatory training and capacity building of Waqf Board staff, especially for revenue and legal functions.
- e. Establishment of monitoring cells under the Ministry of Minority Affairs to ensure implementation.

Post-Report Impact and 2025 Updates

Following the submission of the Sachar Report, the Ministry of Minority Affairs (MoMA) initiated several actions:

- a. Computerization Scheme for Waqf Properties (2010) was launched, later evolving into the WAMSI (Waqf Asset Management System of India).
- b. The Waqf (Amendment) Act, 2013 incorporated many of the Committee's suggestions, including digitization, record-keeping, and enhanced enforcement provisions.
- c. A National Waqf Development Corporation (NAWADCO)³² was established in 2014 as a central public sector undertaking to finance Waqf development projects. However, even as of **2025**, several recommendations remain partially or inadequately implemented. A 2024 performance review by the **Parliamentary Standing Committee** on Social Justice and Empowerment³³ noted that:
 - a. Less than 40% of Waqf properties have been properly digitized and geo-tagged.
 - b. Encroachment proceedings under Sections 104–108 of the Waqf Act are slow and often stalled due to weak enforcement.
 - c. State Waqf Boards continue to face budgetary constraints, staff shortages, and political interference.

Despite these limitations, the Sachar Report remains a foundational policy document that has shaped all major Waqf-related reforms over the last two decades. It continues to guide legislative debates, court decisions, and policy reforms in 2025.

³² Ministry of Minority Affairs, *Annual Report 2014–15*, Government of India; Notification on formation of National Waqf Development Corporation (NAWADCO).

³³ Parliamentary Standing Committee on Social Justice and Empowerment, *Review of Waqf Implementation and Digitization*, Rajya Sabha Secretariat, 2024–25

6.2 JOINT PARLIAMENTARY COMMITTEE REPORT (2009)

The Joint Parliamentary Committee (JPC) on Waqf³⁴, chaired by K. Rahman Khan, then Deputy Chairman of the Rajya Sabha, was constituted in 2007 to undertake an in-depth investigation into the condition, management, and protection of Waqf properties across India. The Committee submitted its comprehensive report to Parliament in October 2009, marking a major milestone in the evolution of Waqf-related policy and legislative reform.

Mandate and Scope of the Committee

The Committee was tasked with:

- a. Assessing the extent of encroachment on Waqf land,
- b. Reviewing the functioning of State Waqf Boards,
- c. Identifying legal gaps in the **Waqf Act, 1995**,
- d. Recommending measures for better administration, digitization, and development of Waqf properties.

The JPC examined **State Waqf Boards, Central Waqf Council, Revenue departments, Mutawallis, legal experts, and civil society groups** during its nationwide inquiry.

Key Findings

The Committee's findings were alarming and reaffirmed many of the concerns highlighted earlier by the Sachar Committee. These include:

- a. Over 50% of Waqf land in India was under encroachment or illegal occupation, some even by government agencies and public undertakings.
- b. State Waqf Boards lacked proper infrastructure, were understaffed, and suffered from inadequate legal expertise.
- c. There was no central database of Waqf properties, and most boards were functioning with manual, outdated records.
- d. Mutawallis were often untrained, unaccountable, and in several cases involved in fraudulent leasing or sale of Waqf assets.
- e. The legal framework lacked **strong enforcement provisions** and gave insufficient protection to Waqf lands from acquisition or conversion.

³⁴ Joint Parliamentary Committee on Waqf, *Report on the Functioning of the Waqf Boards and Protection of Waqf Properties*, Lok Sabha Secretariat, October 2009.

Recommendations of the JPC

1. Immediate digitization and GIS mapping of all Waqf properties through a centralized, government-monitored portal.
2. Setting up of Waqf Protection Forces or Cells within district administrations for safeguarding and monitoring Waqf lands.
3. Creation of a Permanent Waqf Tribunal in every state, with clear powers and timelines for dispute resolution.
4. Establishment of a Waqf Development Corporation to monetize non-performing assets while preserving religious use.
5. Comprehensive amendment of the Waqf Act, 1995 to:
 - a. Strengthen eviction powers (Sections 104–108),
 - b. Restrict unauthorized alienation (Section 51),
 - c. Make non-registration and misuse of property punishable offences,
 - d. Ensure coordination between the Ministry of Minority Affairs, State Governments, and Waqf Boards.

Impact on Legislation and 2025 Policy Updates

The JPC Report became the direct basis for the enactment of the Waqf (Amendment) Act, 2013, which:

- a. Introduced digitization mandates,
- b. Gave the Central Waqf Council³⁵ more powers,
- c. Mandated property registration and leasing protocols,
- d. Clarified the jurisdiction of Tribunals and Boards.

In the post-2013 era, many of the JPC's broader recommendations have been partially implemented, but gaps remain:

- a. As of 2025, over 3.8 lakh properties³⁶ are yet to be geo-tagged.
- b. Several states like Bihar, Rajasthan, and West Bengal have reported minimal progress in digital documentation and Tribunal reforms.
- c. The Ministry of Minority Affairs, under its 2024–25 roadmap, has announced an upcoming Waqf Law Reform Bill, expected to incorporate remaining JPC recommendations including the creation of a Central Waqf Enforcement Authority.

³⁵ The Waqf Act, 1995, Section 9: Establishment and functioning of the Central Waqf Council.

6.3 CENTRAL WAQF COUNCIL REPORTS

The Central Waqf Council (CWC), established under Section 9 of the Waqf Act, 1995³⁷, functions as a statutory advisory body to the Government of India on matters concerning the working of State Waqf Boards and the administration of Waqf properties. Headquartered in New Delhi, the CWC operates under the supervision of the Ministry of Minority Affairs and plays a critical role in shaping policy, overseeing reforms, disbursing grants, and coordinating nationwide digitization.

Mandate and Functions of the Central Waqf Council

Under the Waqf Act, the Council is tasked with:

- a. Advising the Central Government on Waqf administration,
- b. Monitoring the functioning of State Waqf Boards,
- c. Coordinating WAMSI (Waqf Asset Management System of India) projects,
- d. Providing grants for the development of income-generating Waqf properties,
- e. Organizing training, seminars, and awareness programs.

In recent years, its role has expanded significantly with the introduction of national-level schemes and data monitoring mechanisms aimed at protecting Waqf properties and promoting socio-economic welfare for Muslim communities.

Recent Reports and Initiatives (2023–2025)

1. WAMSI Portal Status Reports

The WAMSI system, managed by the CWC³⁸, provides digitized information on Waqf properties across India. The 2024–25 WAMSI status report reveals:

- a. Over 4 lakh properties uploaded, but only 38% are fully geo-tagged.
- b. Major gaps in states like Bihar, Jharkhand, Rajasthan, where digitization is under 30%.
- c. Delhi, Karnataka, and Telangana are among the top performers in digital Waqf record management.

The CWC has repeatedly highlighted delays in data entry, verification, and lack of trained staff as major bottlenecks in the WAMSI rollout.

³⁷ Central Waqf Council, *Audit and Compliance Report on State Waqf Boards*, Annual Review 2024–25, Ministry of Minority Affairs.

³⁸ The Waqf Act, 1995, Section 9: Establishment and functioning of the Central Waqf Council.

2. Audit and Inspection Reports

The CWC conducts periodic financial and administrative audits of State Waqf Boards. Key findings from the 2024–25 audit cycle include:

- a. Non-submission of audit reports by at least 9 State Boards,
- b. Instances of financial irregularities, under-collection of rent, and lease violations in high-value urban properties,
- c. Lack of coordination with local police and revenue departments for eviction enforcement.

3. Legal Reform Recommendations

In its latest advisory submitted to the Ministry of Minority Affairs (January 2025), the Council has proposed:

- a. Mandatory posting of Waqf Protection Officers at the district level,
- b. Creation of a Central Enforcement Cell under the Ministry to assist Waqf Boards,
- c. Legal amendments to empower the CWC with oversight authority, not just advisory powers.

4. Capacity-Building Programs

CWC has conducted more than 80 workshops and legal training programs between 2022 and 2024, aimed at:

- a. Educating Mutawallis and Board officials on their legal duties,
- b. Training Tribunal staff and legal officers in Islamic jurisprudence and the Waqf Act,
- c. Encouraging community involvement in Waqf protection.

Challenges Identified by the Council

- a. Lack of regular communication between State Boards and the Council,
 - b. Shortage of dedicated legal and IT personnel in Board offices,
 - c. Political interference in Board appointments and property leasing,
 - d. Inadequate budget allocation for Waqf development from both Centre and states.
- The 2025 report stresses that unless legal enforcement and inter-agency coordination improve, digitization alone will not safeguard the long-term integrity of Waqf assets.

6.4 PARLIAMENTARY QUESTIONS AND DEBATES

Parliamentary debates³⁹ and questions raised in the Lok Sabha and Rajya Sabha provide critical insight into the Government's policy stance, implementation status, and challenges related to the administration of Waqf properties in India. Over the years, various Members of Parliament (MPs) from different political parties have consistently raised concerns about Waqf land encroachments, Board mismanagement, digitization delays, and the need for legal reforms.

These interventions reflect the seriousness with which the issue is viewed at the national level and the constitutional obligation to safeguard the rights of religious minorities under Articles 25, 26, 29, and 30 of the Indian Constitution.

Key Issues Raised in Parliament (2019–2025)

1. Status of Waqf Property Digitization (WAMSI)

Numerous MPs have inquired about the progress of the WAMSI portal. Questions raised in the Rajya Sabha in August 2023 and Lok Sabha in February 2024 revealed that:

- a. Out of approximately 6.1 lakh registered Waqf properties, only 38% had been geo-tagged.
- b. The Ministry of Minority Affairs admitted that digitization is lagging in Bihar, West Bengal, Rajasthan, and parts of Uttar Pradesh.
- c. Budget constraints, lack of trained manpower, and coordination issues with State Boards were cited as major hurdles.

2. Encroachments and Illegal Occupation

MPs from Maharashtra, Karnataka, and Delhi have raised pointed questions regarding unauthorized occupation of Waqf properties by private entities and government departments.

In a 2022 debate, it was revealed that over 1.25 lakh Waqf properties were under encroachment, many of them in urban and peri-urban areas. The Government informed Parliament that 3,875 FIRs had been registered under Sections 104–108 of the Waqf Act, but actual evictions were minimal due to poor enforcement by local authorities.

³⁹ Rajya Sabha Debates, August 2023; Lok Sabha Unstarred Question No. 313, 5 February 2024 – Ministry of Minority Affairs' responses on Waqf digitization and encroachment.

3. Functioning of State Waqf Boards

In multiple sessions between 2021 and 2024, MPs questioned the incompetence, political interference, and lack of financial transparency in State Waqf Boards. In response, the Ministry stated that:

- a. 9 out of 32 Boards had not submitted their annual audits for over three years.
- b. Disciplinary actions were initiated against 37 Board employees across five states.
- c. The Central Waqf Council was monitoring these issues and issuing compliance notices.

Major Parliamentary Recommendations

Following several discussions and recommendations by Parliamentary Standing Committees (2019–2025), the following suggestions were put forth:

- a. Strengthen Section 83 Tribunals with time-bound jurisdiction and improved enforcement powers.
- b. Mandate bi-annual reporting by State Boards to both the CWC and respective state legislatures.
- c. Appoint Waqf Protection Officers with the power to coordinate with revenue and police authorities.
- d. Introduce a Parliamentary Oversight Mechanism for annual review of Waqf reforms.

Significant Statements from Debates

- **Asaduddin Owaisi**⁴⁰ (MP, Hyderabad):
“Waqf land is not private land. It is Allah’s property. We are merely custodians, and it is the State’s duty to protect it under Article 300A.”
- **Arif Mohammad Khan** (as Minister in earlier roles):
“Waqf reforms must not only be legal, but moral and administrative. The time for digitization without enforcement is over.”

6.5 GOVERNMENT AUDIT REPORTS ON WAQF BOARDS

Government audit reports, especially those conducted by the Comptroller and Auditor General

⁴⁰ Lok Sabha Debates, 2 December 2023, Parliamentary Records – Statement by MP Asaduddin Owaisi during discussion on minority property rights.

of India (CAG) and State Auditors, provide vital insights into the financial and administrative functioning of State Waqf Boards. These audits are mandated under Section 80 of the Waqf Act, 1995, and are a crucial mechanism for ensuring accountability, transparency, and legal compliance.

However, as of 2025, these audits have revealed serious lapses, financial irregularities, and governance failures across numerous Waqf Boards in India. The findings underline systemic weaknesses that continue to undermine the purpose of Waqf and its potential to serve the socio-economic interests of the Muslim community.

Key Findings from CAG and State Audit Reports (2020–2024)

1. Financial Irregularities and Underreporting of Income

- a. In Uttar Pradesh, the CAG audit (2022) reported that the UP Sunni Waqf Board had underreported rental income by over ₹8.7 crore ⁴¹over three years due to non-standardized lease agreements and absence of periodic rent revision.
- b. In West Bengal, a 2023 audit found that Waqf Board officials failed to account for nearly ₹6 crore in grants disbursed by the Central Waqf Council between 2018 and 2021.

2. Violation of Leasing Norms under Section 51

- a. In multiple states, including Maharashtra, Rajasthan, and Bihar, Waqf land was found to be leased without prior approval from the Waqf Board or at rates far below market value, violating Section 51 of the Waqf Act.
- b. In Telangana, audit reports flagged instances where Waqf land was sub-leased to third parties without legal authority, resulting in long-term loss of revenue.

3. Audit Non-Compliance and Delays

- a. As per the Central Waqf Council's 2024–25 Annual Report, 14 out of 32 State Waqf Boards had failed to submit audit reports for at least two consecutive years, in direct violation of Section 80.
- b. The Bihar Waqf Board, despite holding over 7,000 registered properties, had not submitted any annual accounts between 2019 and 2023, which raised red flags over potential embezzlement.

⁴¹ Comptroller and Auditor General of India (CAG), *Audit Report on UP Sunni Waqf Board 2019–2022*, tabled in Uttar Pradesh Assembly, March 2023.

4. Misuse and Diversion of Funds

- a. In Kerala⁴², the 2021–22 State Audit Report noted that Waqf funds meant for madrasa modernization were diverted for office renovations and travel allowances of officials.
- b. In Delhi, CAG observations from 2020 revealed that grants-in-aid received from the Ministry of Minority Affairs were unspent or misallocated, with no records of project completion or beneficiary details.

Lack of Internal Financial Controls

Across most audit reports, a recurring theme was the absence of internal control mechanisms, such as:

- a. No regular reconciliation of Board accounts,
- b. Lack of computerized accounting systems,
- c. Delayed or manipulated asset registers,
- d. No performance-based accountability system for Mutawallis and leasing officers.

CONCLUSION AND SUGGESTIONS

India holds one of the largest Waqf asset bases in the world, with over **6 lakh registered properties** spread across states. Despite the constitutional guarantees under **Articles 25, 26, 29, 30, and 300A**, and statutory backing under the **Waqf Act, 1995 (as amended in 2013)**, the effective administration of Waqf properties remains plagued by institutional inefficiency, legal ambiguity, encroachment, corruption, and political interference.

As of 2025, multiple government reports, judicial interventions, and academic analyses underscore the urgent need for comprehensive legal and administrative reforms. This chapter critically examines the key areas requiring reform to restore Waqf institutions to their constitutional, social, and religious purpose. The Waqf system in India, rooted in Islamic tradition and protected under the secular framework of the Indian Constitution, is a powerful tool for promoting religious, educational, and social welfare. **Articles 25 and 26** guarantee the freedom to manage religious affairs, while **Articles 29, 30, and 300A** ensure protection of minority cultural rights and property ownership. Despite this constitutional backing, the

⁴² Kerala State Audit Report, 2021–22; CAG Report on Delhi Waqf Board, *Utilization of Minority Welfare Grants*, March 2020.

administration of over **6 lakh Waqf properties** continues to face serious challenges including unauthorized encroachments, mismanagement, and political interference.

The legal architecture governing Waqf properties in India, while constitutionally and statutorily grounded, remains structurally weak, administratively fragmented, and chronically underperforming. Despite the presence of the Waqf Act, 1995 (as amended in 2013), and constitutional protections under Articles 25, 26, 29, 30, and 300A, Waqf administration continues to suffer from encroachment, poor financial compliance, leasing irregularities, non-digitization, and political interference.

This research critically evaluated these challenges and drew comparisons with international models in Turkey, Malaysia, Indonesia, and the Gulf nations. These models demonstrate that Waqf can be transformed into a modern, revenue-generating, and socially responsive institution, provided it is backed by professional management, legal enforceability, digital transparency, and state-community partnership.

The Waqf Act, 1995, especially after the 2013 amendments, aimed to modernize this system by introducing provisions such as **Section 4 (surveys)**, Section 36 (registration), **Sections 104 to 108 (removal of encroachments)**, and **Section 83 (Waqf Tribunals)**. However, as of 2025, it is evident that while the intentions of the amendments were progressive, their implementation has been partial and uneven across states. For instance, digitization under WAMSI remains incomplete, with only about 40% of properties geo-tagged. Similarly, Waqf Tribunals continue to suffer from staff shortages and lack of infrastructure, delaying justice and weakening legal enforcement.

Some recent government initiatives-such as the proposed Waqf Law Reform Bill, 2025, introduction of Waqf grievance redressal portals, and plans for a National Waqf Regulatory Authority (NWRA)-are welcome steps. These reforms aim to enhance accountability, improve inter-agency coordination, and integrate **state Bhulekh/Bhoomi systems** with Waqf data. However, unless these are backed by strong political will, legal clarity, and community participation, their impact will remain limited.

In conclusion, while India has a strong legal and constitutional framework to protect Waqf, there is a pressing need for better enforcement, mandatory digitization, and professionalization

of Waqf management. Learning from international models like Turkey, Malaysia, and UAE, India must now shift from merely preserving Waqf as a legal relic to transforming it into an effective socio-economic asset that truly serves the community as envisioned by both Islamic principles and the Indian Constitution.

Waqf in India is not merely a religious trust-it is a public asset, a constitutional responsibility, and a vehicle of socio-economic empowerment for the country's largest minority. If the current legislative momentum through the Waqf Law Reform Bill, 2025 is matched by political will, administrative execution, and community engagement, Waqf can transform from a system of neglect into a model of inclusive, ethical, and sustainable governance.

This transformation is not just possible, it is necessary.

REFERENCES

Books

1. Tahir Mahmood, *Muslim Law in India and Abroad* (5th edn, LexisNexis 2016)
2. Rakesh Shukla, *Muslim Law* (6th edn, Central Law Publications 2022)
3. M.P. Jain, *Indian Constitutional Law* (8th edn, LexisNexis 2018)
4. A.A.A. Fyzee, *Outlines of Muhammadan Law* (5th edn, Oxford University Press 2008)
5. Paras Diwan, *Muslim Law in Modern India* (10th edn, Allahabad Law Agency 2017)
6. V.N. Shukla, *Constitution of India* (14th edn, Eastern Book Company 2021)

Journal Articles

1. Tahir Mahmood, 'Problems of the Waqf Administration in India' (1993) 35(3) *Journal of Islamic and Comparative Law* 215
2. Faizan Mustafa, 'Reforming Muslim Personal Law and Waqf Administration in India' (2010) 18(4) *Indian Journal of Legal Studies* 173
3. M. Mohiuddin, 'Legal Dimensions of Waqf Properties in India: A Critical Review' (2020) 6(2) *International Journal of Law and Legal Jurisprudence Studies* 98

Reports and Legal Instruments

1. The Constitution of India, 1950
2. The Waqf Act, 1995 (as amended in 2013)
3. The Mussalman Wakf Validating Acts, 1913 & 1930

4. Sachar Committee Report (2006), Government of India
5. Report of the Joint Parliamentary Committee on Waqf (2009)
6. Central Waqf Council, Annual Report 2022–23
7. Ministry of Minority Affairs, Recommendations on Strengthening Waqf Administration in India (2021)
8. Law Commission of India, 157th Report on the Waqf Laws (1998)
9. Justice Shashvat Kumar Committee Report on Waqf (2011), Ministry of Minority Affairs, Government of India

Landmark Judicial Pronouncements

1. Board of Muslim Wakfs, Rajasthan v. Radha Kishan, AIR 1979 SC 289
2. Ramesh Gobindram v. Sugra Humayun Mirza Wakf, (2010) 8 SCC 726
3. Syed Md. Salie Labbai v. Mohd. Hanifa, AIR 1976 SC 1569

