

Frequently Asked Questions on Waqf Board

1. What is Waqf ?

A 'Waqf' is a permanent dedication of movable or immovable property for purposes recognized by Muslim law as pious, religious, or charitable.

2. Give details about the historical evolution of Waqf Act's administration in India.

Evolution of Waqf Administration Through Legislative Framework

The governance of waqf properties in India has been regulated through several legislative enactments aimed at improving administration and preventing mismanagement:

- I. **Privy Council Ruling (1894):** The Privy Council ruled that Waqf-alal-Aulad was invalid because Waqf should serve public religious or charitable purposes, not just family benefits. This decision caused dissatisfaction among Indian Muslims.
- II. **The Mussalman Wakf Validating Act, 1913:** This Act clarified and affirmed the right of Muslims to create waqfs for the benefit of their families and descendants, with eventual charitable purposes.
- III. **The Mussalman Wakf Act, 1923:** Introduced to improve the management of waqf properties by ensuring proper accounting and transparency in their administration.
- IV. **The Mussalman Wakf Validating Act, 1930:** Provided retrospective effect to the 1913 Act, reinforcing the legal validity of family waqfs.
- V. **The Wakf Act, 1954:** Established State Waqf Boards (SWBs) for the first time, providing for the systematic administration, supervision, and protection of waqf properties.
- VI. **Amendments to the Wakf Act, 1954 (1959, 1964, 1969, and 1984):** These amendments aimed to further improve the administration of waqf properties.
- VII. **The Waqf Act, 1995:** This comprehensive Act repealed the 1954 Act and its amendments. Key provisions included:
 - Creation of Waqf Tribunals to adjudicate disputes relating to waqf properties.
 - Strengthening the Central Waqf Council (CWC) by empowering it to issue directives to State Waqf Boards in cases of irregularities or violations of the Act.

Despite these reforms, waqf administration continued to face inefficiencies and mismanagement.

VIII. the Waqf Act, 1995, was further amended in 2013 through The Waqf (Amendment) Act, 2013, introducing significant changes, including:

- Change in the definition of waqf – The amendment provided for any person to create waqf in place of ‘a person professing Islam’.
- **Sect specific membership in waqf boards – In case of Shia waqf the member shall belong to Shia Muslim and in case of Sunni waqf the member shall belong to Sunni Muslim.**
- Overriding effect of waqf over other laws – The Amendment provided for overriding effect of waqf on any other law.
- Amendment provides that the District Magistrate shall be responsible for implementation of the decision of the Board.
- Despite these amendments, challenges persisted in effectively addressing waqf related issues. Some of the key challenges are as following:-
- Lack of transparency in waqf property management.
- Incomplete surveys and mutation of waqf land records.
- Insufficient provisions for women’s inheritance rights.
- Large number of prolonged litigations including encroachment. In 2013, there were 10,381 pending cases which have now increased to 21,618 cases.
- Irrational power of the waqf Boards in declaring any property as waqf land based on their own inquiry.
- Large number of disputes related to government land declared as waqf.
- Lack of proper accounting and auditing of waqf properties.
- Administrative inefficiencies in waqf management.
- Improper treatment to Trust properties.

- Inadequate representation of stakeholders in Central Waqf Council and State Waqf Boards.

3. When were the CWC and SWBs constituted?

The provision for State Waqf Board was introduced in Wakf Act 1954, providing a systematic administration, supervision, and protection of waqf properties.

The Central Waqf Council was established under Wakf (Amendment) Act, 1964 for the purpose of advising the Central Government on matters concerning the working of waqf boards and the due administration.

4. What are the key administrative bodies responsible for Waqf management in India?

The Waqf Act, 1995 governs Waqf administration in India. The main administrative bodies are:

- Central Waqf Council (CWC):** Advisory body under the Ministry of Minority Affairs, guiding Waqf administration.
- State Waqf Boards (SWBs):** Custodians of Waqf properties, responsible for management, protection, and utilization.
- Waqf Tribunals:** Judicial bodies for resolving Waqf-related disputes.

This framework ensures transparency, efficiency, and accountability in Waqf management.

5. What is Central Waqf Council and its function?

The Central Waqf Council (CWC) is a statutory body established under Section 9 of the Waqf Act. Its functions are :-

- To advise and issue directives to the State Governments and State Waqf Boards in case where it satisfies that there are prima facie evidence of irregularity or violation of the provisions mentioned in the Act.
- The Council can ask the SWBs to furnish information regarding the financial, survey, maintenance of waqf deeds, revenue records, encroachment of waqf properties, annual reports, audit reports in manner prescribed.

6. What is the composition of Central Waqf Council ?

The changes introduced in the constitution of the Central Waqf Council (CWC) is designed to create two distinct categories: one exclusively for Muslims (10 members) as explained below:

The following members to be appointed by the Central Government from amongst Muslims, namely:— (10 members in Muslim category)

- (i) Three persons to represent Muslim organisations having all India character and national importance;
- (ii) Chairpersons of three Boards by rotation;
- (iii) One person to represent the mutawallis of the waqf having a gross annual income of five lakh rupees and above;
- (iv) Three persons who are eminent scholars in Muslim law;

Out of the above members, two will be Muslim women. and another category (12 members). Out of this category two member will be non-Muslim. Remaining all will be Muslims.

- a) The Union Minister in-charge of waqf Chairperson, ex officio;
- b) Three Members of Parliament of whom two shall be from the House of the People and one from the Council of States;
- c) Two persons who have been judges of the Supreme Court or a High Court;
- d) One Advocate of national eminence;
- e) Four persons of national eminence, one each from the fields of administration or management, financial management, engineering or architecture and medicine;
- f) Additional Secretary or Joint Secretary to the Government of India dealing with waqf matters in the Union Ministry or department – member, ex-officio; .

As per section 9 (2), in other categories (12 members) there is no bar for nomination of women members only restriction is there will be two non-Muslim. Proviso to section 9(2) (c), ensures that two Muslim women shall be members. Representation of Muslim women is being ensured.

7. What are the key responsibilities of a Mutawalli in managing Waqf properties?

Their responsibilities include ensuring funds are used for religious or charitable purposes, maintaining financial records, and preventing encroachments. If found guilty of mismanagement, they can be removed by the Waqf Board. The proposed Bill also imposes several punishments in case of mismanagement by the Mutawalli.

8. What is a Waqf Board?

A Waqf Board is a statutory body established under the Waqf Act, for administration, management and regulating waqf properties in India. As reported on Waqf Assets Management System of India (WAMSI) portal, for 30 States/UTs- there are 32 Boards.

9. Give details about the composition of the Waqf Board?

The changes introduced to the constitution of the Waqf Board is designed to create two categories: one exclusively for Muslims (4 members) i.e,

The following members belonging to Muslim community, namely:-

- (i) One mutawalli of the waqf having an annual income of one lakh rupees and above;
- (ii) One eminent scholar of Islamic theology;
- (iii) Two or more elected members from the Municipalities or Panchayat:

Provided that in case there is no Muslim member available from any of the categories in sub-clause (c) to (i) to (ii), additional members from category sub-clause (iii) may be nominated:

Provided that two of total members of the Board appointed under in the clause (c), shall be women.

Another category (7 members), out of this category, 2 members will be non-Muslim, excluding ex officio, remaining will be Muslims.

(a) A Chairperson;

- (i) one Member of Parliament from the State or, as the case may be, the National Capital Territory of Delhi;
- (ii) one Member of the State Legislature;

(b) Two persons who have professional experience in business management, social work, finance or revenue, agriculture and development activities:

(c) One officer of the State Government, not below the rank of Joint Secretary to the State Government; ex officio member

(d) One Member of the Bar Council of the concerned State or Union territory:

Provided further that two of the members of the Board appointed under this sub-section, shall be non-Muslim, excluding ex officio member

Provided also that the Board shall have at least one member each from Shia, Sunni and other backward classes among Muslim Communities;

Now representation of Muslim women is being ensured. As per section 14(1) in other category there is no bar for nomination of women members. Only restriction is that there will be two non-Muslim members.

The composition of State Waqf Boards has further been expanded to include two non-Muslim members, one member from Shia, Sunni, Bohra, Aghakhani, and other backward classes among Muslims. Which will promote inclusivity and diversity in waqf property management.

10. What are the functions of State Waqf Boards?

The State Waqf Boards are responsible for the administration, management, and protection of Waqf properties from encroachment and alienation. They exercise significant authority in matters such as:

- i. Registration of Waqfs (**Section 36**)
- ii. Removal of Mutawallis (**Section 64**)
- iii. Leasing of Waqf properties (**Section 56**)
- iv. Taking over management of Waqfs in cases of mismanagement (**Section 65**)

The functions of the State Waqf Boards clearly shows that it is not entirely religious practise and regulation or restricting any economic, financial, political or other secular activity which may be associated with religious practice, can be regulated by the State.

11. What powers do the State Waqf Boards have in managing Waqf properties?

The State Waqf Boards play a vital role in overseeing and managing Waqf properties. They are responsible for registering Waqfs, removing Mutawallis, leasing properties, and taking control of Waqf assets in cases of mismanagement.

The Boards also have the authority to monitor financial transactions, prevent encroachments, alienation, and protect Waqf properties from illegal occupation.

12. How many properties does the Waqf Board control?

As per data available on Waqf Assets Management System of India (WAMSI) portal, for 25 States and 5 UTs- there are 32 Boards, presently as per portal, 8.72 lakh properties covering an area of 37.39 acres.

Sl. No	Contents	Counts
1.	No. of State Waqf Boards	32
2.	No. of State	23
3.	No. of UTs	7
4.	No. of Waqf Properties	8.73 lakh
5.	Area of total Waqf Property (in Acres)	37.39 lakh
6.	No. of waqf properties in Rural Area	5,51,552
7.	Total area of waqf properties in Rural Area (in acres)	20,17,536
8.	No. of waqf properties in Urban Area	3,21,251
9.	Total area of waqf properties in Urban Area (in acres)	19,03,827
10.	Total No of Waqf Deeds	1088
11.	Total Waqf by User Property	4,02,089
12.	Area of Waqf by User property (in acres)	22.14 lakh
13.	Remaining Waqf Property	4,44,037
14.	Area of remaining waqf properties (in acres)	14.29 lakhs
15.	Total Property (Waqf-Alal-Aulad)	26,676
16.	Area of Waqf-alal-aulad property(in acres)	0.88 lakhs
17.	Total no. of encroachment	58,890
18.	Total no. of litigations (Cases)	31,999
19.	Total no. of encroachment related litigations	16,140
20.	Total no. of encroachment cases where petitioner is Muslim	3165

21.	Total no. of Government land declared as Waqf	5973
22.	Total no. of properties declared as waqf under Section 40	515
23.	Total no. of mutated properties	40,592

13. Are decisions made by the Waqf Board final and absolute?

No, Waqf Board decisions are not final. The Waqf Act provides for review and appeal through the Waqf Tribunal, which has the exclusive jurisdiction to adjudicate Waqf-related disputes.

14. What is a Waqf Tribunal and its functions?

The concept of Tribunals was first time introduced in the Waqf Act, 1995 under section 83, wherein power has been given to the State government to constitute as many Tribunals as it may think fit by notification for determination of any dispute or question arises. The Tribunal under Section 83 has given power to address disputes related to wakf properties and eviction.

Functions of the Waqf Tribunal:

- i. Adjudication of Waqf Disputes
- ii. Appeals Against Waqf Board Orders
- iii. Enforcement of Waqf Laws and Governance
- iv. Exclusive Jurisdiction Over Waqf Matters

15. What is the composition of Tribunal ?

As per Section 83(4) of the Act, the Waqf Tribunal consists of three members, including:

- (a) one person, who shall be a member of the State Judicial Service holding a rank, not below that of a District, Sessions or Civil Judge, Class I, who shall be the Chairman;
- (b) one person, who shall be an officer from the State Civil Services equivalent in rank to that of the Additional District Magistrate, Member;
- (c) one person having knowledge of Muslim law and jurisprudence, Member; and the

appointment of every such person shall be made either by name or by designation.

16. What role does the Waqf Tribunal play in reviewing the decisions of the Waqf Board?

The Waqf Tribunal, established under Section 83 of the Waqf Act, 1995, is a specialized judicial body that reviews disputes related to Waqf property ownership, management, and administration. It has the authority to hear appeals against Waqf Board decisions.

The present status is as shown in the table below:

Litigation Records as per WAMSI Portal (As of Sept-2024)	
Total records of Litigation cases (At Waqf Boards)	12,792
Total records of Litigation cases (Tribunal & Other Courts)	19,207
Total No. of cases of Alienation	1,340
Total No. of Encroachment Cases	5220

17. How does the appeal process work for challenging Waqf Board decisions?

An aggrieved party can file an appeal before the Waqf Tribunal, providing evidence and legal arguments. The Tribunal then examines the case and issues a decision. If dissatisfied, a party may approach the High Court for further review.

18. Can High Courts intervene in decisions made by the Waqf Tribunal?

Yes, the High Court can review Waqf Tribunal decisions under constitutional remedies, ensuring that justice is served in cases of legal errors or procedural violations.

19. What are the challenges faced in the present scenario in waqf administration?

The Waqf (Amendment) Bill, 2025 addresses longstanding issues such as:

- (i) Lack of transparency in waqf property management.
- (ii) Incomplete surveys and mutation of waqf land records.
- (iii) Insufficient provisions for women's inheritance rights.

- (iv) Large number of prolonged litigations including encroachment. In 2013, there were 10,381 pending cases which have now increased to 21,618 cases.
- (v) Irrational power of the waqf Boards in declaring any property as waqf land based on their own inquiry.
- (vi) Large number of disputes related to government land declared as waqf.
- (vii) Lack of proper accounting and auditing of waqf properties.
- (viii) Administrative inefficiencies in waqf management.
- (ix) Improper treatment to Trust properties.
- (x) Inadequate representation of stakeholders in Central Waqf Council and State Waqf Boards.

20. What changes were recommended by the Joint Committee on the Waqf Amendment Bill?

- i. A new Clause (2A) has been suggested to be added to Section 2 of the Act. This change clearly separates trusts from waqf. If a Muslim creates a trust under any law, it will not be considered waqf. This will allow any Muslim communities to manage their own trusts without interference from the Waqf Boards, whether these trusts were created before or after the commencement of this Act.
- ii. Clause 3, Section 3 (r): A person can only dedicate property to waqf if he is a practising Muslim and legally owns it and has the right to transfer it. The dedication must be honest and without malafide. In 2013, the law was changed to allow any person to create a waqf, not just practicing Muslims. The new amendment returns to the old rule, allowing only Muslims (who have been practicing Islam for at least 5 years) to create a waqf.
- iii. Clause 3, Section 3 (r) (i) : The proposed change removes waqf by user from the definition of Waqf. However, taking into consideration the submissions made by the stakeholders and witnesses, waqf by user properties that are already registered with the Waqf Boards shall continue to be covered under the provisions of the Waqf Act unless there is a dispute or the property belongs to the government.

- iv. Clause 3, Section 3 (r) (iv) and Clause 4 Section 3A (2) :In waqf-alal-aulad (family waqf) women's inheritance rights will be protected. A waqif can dedicate a property only after ensuring that women heir received their legitimate share. Additionally, the scope of benefit from such waqf is expanded for maintenance of widows, divorced women, and orphans, if so intended by the waqif.
- v. Clause 4, Section 3B (1) :On and from the commencement of the Waqf (Amendment) Act, 2025 the Mutawalli of each registered Waqf shall file the details on the central portal, within six months. This will help make the management of waqf properties more transparent. If required, the Waqf Tribunal can give more time for the digitization process.
- vi. Clause 4, Section 3C (1) :For government properties that have been declared as waqf, an officer above the rank of Collector, appointed by the State Government, will investigate and submit a report to the government. Until then, these properties will not be treated as waqf.
- vii. Clause 4, Section 3C (2):The change from the Collector to a designated officer ensures fairness in the process, because in many cases, the Collector is responsible for government land and may be representing the government in legal matters. This provision helps protect and confirm the status of government land.
- viii. Clause 6, Section 5 (2A):Sufficient time i.e. from 15 days to 90 days is given to the State Government to upload the notified list after of Auqaf on the portal and database after the completion of survey.
- ix. Clause 7, Section 6 (1): allows people to file a case if there is a dispute about whether a property listed under Section 5(2) is a waqf property or not or whether it is a shia waqf or sunni waqf.
- x. Clause 9, Section 9: As of now the Central Waqf Council comprises of 21 members with the Minister in-charge of Waqf as ex-officio Chairperson. The Waqf (Amendment) Bill included the AS/JS dealing with Waqf matters as ex-officio member of CWC. Further provision was also made for including two non-Muslim members on the CWC. JCWAB has made a minor change by excluding ex-officio

members while counting two non-Muslim members. The composition of the CWC will now be 22 members.

- xi. Clause 10, Section 13 (2A): The State Government may establish separate waqf Boards for Bohras and Aghakhanis communities, acknowledging their distinct religious needs.
- xii. Clause 11, Section 14: As of now the State Waqf Boards comprises of 12 members. The Waqf (Amendment) Bill included the JS dealing with Waqf matters in the state as ex-officio member of SWB. Further provision was also made for including two non-Muslim members on the SWB. JCWAB has made a minor change by excluding ex-officio members while counting two non-Muslim members. The composition of the SWB will now be 11 members. The Waqf Act, 1995 includes non-Muslim stakeholders like beneficiaries, donors, lessees, tenants, and litigants. To better represent their rights and improve the composition of the Board, the amendment adds provisions for two non-Muslim members.
- xiii. Clause 12, Section 16: Disqualifies non-Muslim from being member of the Board. As the Waqf (Amendment) Bill, 2024 provides for inclusion of two non-Muslim members therefore, the following consequential changes are being made in Section 16 of the Act. Clause (a) of Section 16 of the Act will be replaced with the following:
 - (a)The person is under twenty -one years old.
 - (aa) In the case of a member under clause (c) of Section 14(1), the person is not a Muslim.
- xiv. Clause 18, Section 36(10) : Waqf (Amendment) Bill, 2024 inserted sub-section 10 barring unregistered Waqf from enforcing their rights through legal proceedings in any Court after expiry of six months from the commencement of the Waqf (Amendment) Act, 2025. JCWAB gives extra time beyond the six months to ensure that the Mutawalli or Board has a fair opportunity to seek legal help.
- xv. Clause 33, Section 72: The reduction of the annual contribution from 7% to 5% allows mutawallis to keep more funds for religious, charitable, or pious activities. The Central Government now has the authority to set the maximum amount of contribution that needs to be paid to the Board.

xvi. Clause 35, Section 83: The selection process for Tribunal members has been expanded, and a fixed tenure has been introduced to ensure stable functioning. Initially, the Bill proposed a two-member Tribunal, but the committee recommended keeping it as a three-member Tribunal for better functioning. One of the members must have knowledge of Muslim law and jurisprudence. The Waqf Tribunal will now include both serving and retired officials each serving for five years or until they reach 65 years of age, whichever comes first.

xvii. Clause 36, Section 84: As the Act already provides for expeditious proceedings and decisions by the Tribunal, JCWAB recommended for omission of clause 36. As per Section 84 of the Act,” shall hold its proceedings as expeditiously as possible and shall as soon as practicable, on the conclusion of the hearing of such matter give its decision, in writing and furnish a copy of such decisions to each of the parties to the dispute.”

xviii. 18. Clause 37, Section 91: Retaining original time for allowing three months time by the Waqf Board to appear and plead as a party to the proceeding before the collector under Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 at any time within a period of three months from the date of receipt of such notice.

xix. Clause 40A, Section 107: Omission of Section 107

Existing provision: Act 36 of 1963 not to apply for recovery of waqf properties: Nothing contained in the Limitation Act, 1963 (36 of 1963) shall apply to any suit for possession of immovable property comprised in any waqf or for possession of any interest in such property.

This is expected to help in reducing litigation and will also make Waqf Board more vigilant in safeguarding waqf properties.

The names of the following Act have been substituted as:-

(i) “Indian Penal Code, 1860” as “Bharatiya Nyaya Sanhita, 2023 (BNS)”.

(ii) “The Indian Evidence Act, 1872” as “The Bharatiya Sakshya Bill, 2023 (BSB)”.

(iii) “The Land Acquisition Act, 1894” as “The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013”

(iv) “Code of Criminal Procedure, 1973” as “Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS)”.

21. What are the key reforms in the Waqf (Amendment) Bill, 2024, and how do they enhance waqf administration?

Key Reforms in The Waqf (Amendment) Bill, 2024:

The amendments to the Waqf Act, as recommended by the Joint Committee on Waqf Amendment Bill, 2024 (JCWAB), introduce progressive reforms, including:

- i. Separation of Trusts from Waqf: Muslim-created trusts under any law will not be considered waqf, ensuring individuals retain full control over their trusts.
- ii. Introduction of Technology: Implementing technology to make the management of waqf properties scientific, efficient, and transparent.
- iii. Establishment of a Central Portal: Automating the full life cycle of waqf properties, including registration, accounts and audit, contributions, and litigation.
- iv. Dedication of Waqf properties by practicing Muslim: Only person practicing Islam for at least five years can dedicate his own property to waqf. This will restore substantially the earlier position that existed before Waqf (Amendment) Act, 2013 where the change in person entitled to do waqf from “any person professing Islam” to “any person” was done.
- v. Protection of ‘Waqf by User’ Properties: Properties already registered with Waqf Boards will remain so unless disputed or identified as government land. As per WAMSI, there are 4.02 lakhs Waqf by User properties out of total 8.72 lakhs waqf properties as on date.
- vi. Women’s Rights in Family Waqf: Mandating that women receive their rightful inheritance before any waqf dedication, with special provisions for widows, divorced women, and orphans.
- vii. Transparent Waqf Property Management: Mutawallis must register property details on a central portal within six months, enhancing accountability.

- viii. Government Land and Waqf Disputes: An officer above the rank of Collector will investigate government properties claimed as waqf, preventing unwarranted claims.
- As per data received on 05.09.2024 from 25 out of 32 States/ UTs Waqf Boards, a total of 5973 government properties have been declared as waqf properties.
 - ASI informed the JPC during their presentation on 06.09.24, 132 protected monuments have been declared as waqf properties.
 - MoHUA informed the JPC during their presentation on 05.09.24, 108 properties under control of Land and Development Office, 130 properties under control of Delhi Development Authority and 123 properties in the public domain were declared as waqf properties and brought into litigation.
- ix. Strengthening Waqf Tribunals: A structured selection process and fixed tenure for tribunal members are established to ensure stability and efficiency in dispute resolution. As per WAMSI Portal, there are 21618 pending cases in the Tribunals as on date.
- x. Non-Muslim Representation in Waqf Boards: The inclusion of two non-Muslim members in both Central and State Waqf Boards acknowledges diverse stakeholders.
- xi. Reduction in Annual Contributions: The mandatory annual contribution from waqf institutions to Waqf Boards is reduced from 7% to 5%, allowing more funds to be allocated for charitable purposes.
- xii. Application of the Limitation Act: The Limitation Act, 1963, will now apply to waqf property claims, aiming to reduce prolonged litigation.
- xiii. Annual Audit Reforms: Waqf institutions with annual earnings exceeding ₹1 lakh must undergo audits conducted by State Government-appointed auditors.
- xiv. Addressing Unlawful Claims: The Bill removes Section 40, which previously allowed Waqf Boards to arbitrarily claim properties as waqf, preventing instances such as the declaration of entire villages as waqf:

- Thiruchenthurai Village, Tamil Nadu
- Govindpur Village, Bihar
- 15,000 acres in Karnataka (Vijayapura, Chitradurga, Yadgir, Dharwad, Ballari)
- Surat Municipal Corporation Headquarters
- Kerala (September 2024): Around 600 Christian families in Ernakulam challenged the Waqf Board's claim over their land, leading to legal action and petitions before the Joint Parliamentary Committee.

As per information out of 30 States/UTs, data was given only by 8 States where 515 properties have been declared as waqf under Section 40.

These cases underscored the arbitrary and unregulated power exercised by Waqf Boards. To address this, Section 40 of the Waqf Act is being omitted, ensuring fair and just administration of Waqf properties.