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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provide dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

**WAQF BOARD GOVERNANCE IN INDIA: A
CRITICAL STUDY ON RELIGIOUS FREEDOM AND
SECULARISM IN LIGHT OF THE WAQF
(AMENDMENT) ACT, 2025**

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INTRODUCTION:

The governance of Waqf in India has always been a matter of complex interaction between religion, law, and politics. Waqf, as an Islamic charitable endowment, serves both spiritual and social purposes, ensuring the continuity of religious practices and the welfare of the community. The Waqf Act, 1995, with its subsequent amendments, sought to regulate waqf properties while safeguarding the rights of religious communities under Articles 25 and 26 of the Constitution. However, the Waqf (Amendment) Act, 2025 has sparked intense legal and constitutional debates. The removal of “*waqf by user*”, the inclusion of non-Muslims in Waqf Boards, and the enhanced powers of the central government are viewed by critics as intrusions into the community’s right to religious autonomy and self-governance. The amendment also raises broader concerns of secularism and federalism, which are recognised as part of the basic structure of the Constitution. In this backdrop, the present study seeks to critically examine the implications of the 2025 Amendment on religious freedom, secular principles, and governance of Waqf institutions, drawing upon judicial precedents, constitutional interpretation, and socio-legal analysis.

RESEARCH OBJECTIVES:

- a. To analyse the constitutional rights implicated by the Waqf (Amendment) Act, 2025, particularly with respect to freedom of religion (Arts. 25 & 26) and the principle of secularism.
- b. To critically assess the implications of the 2025 Amendment on the federal distribution of powers between the Union and the States.

- c. To evaluate the impact of the amendment on religious and cultural autonomy of the Muslim community.
- d. To explore judicial responses and ongoing constitutional litigation challenging the Act.
- e. To suggest reforms and policy recommendations that balance transparency in governance with protection of minority rights.

RESEARCH METHODOLOGY:

The present research adopts a socio-legal methodology, integrating both doctrinal and empirical dimensions:

1. Doctrinal/Legal Analysis

Examination of constitutional provisions (Arts. 14, 25, 26, 29). Study of the Waqf Act, 1995, and the Waqf (Amendment) Act, 2025. Review of key judicial pronouncements such as *Shirur Mutt Case (1954)*, *S.R. Bommai v. Union of India (1994)*, and recent writ petitions (e.g., *W.P.(C) No. 269/2025*).

2. Socio-Legal Dimension

Collection of secondary data from parliamentary debates, Law Commission reports, media discussions, and public opinion surveys on the 2025 Amendment. Interviews or questionnaires with stakeholders such as community leaders, lawyers, academicians, and members of Waqf Boards (non-doctrinal component). Analysis of how the Amendment is perceived in terms of religious freedom, minority rights, and cultural preservation.

WHAT IS WAQF:

The term 'Waqf' refers to gifts given by Muslims for charitable or religious reasons, such as mosques, schools, hospitals, or other public organizations. Waqfs cannot be sold, gifted, inherited, transferred or encumbered. Once a property is donated, it becomes the property of God, and according to Islamic theology, the 'Waqf property' is eternal. In other words, waqfs are a traditional type of Islamic charitable foundation in which a donor permanently reserves property for religious or charitable purposes.

WHY THE WAQF AMMENMENT ACT 2025?

Waqf is a religious endowment in Islamic law in which a person devotes movable or immovable property to religious or charitable causes. Such properties are managed by waqf

boards under the Waqf Act of 1995. The original Act outlined the duties and authority of the Central Waqf Council, the Waqf Boards, and the protocols for waqf property management, dispute settlement, and protection. The 1995 Act has been in existence for almost three decades. However, over the years, numerous parties have expressed concerns about the exploitation, encroachment, and mismanagement of waqf holdings¹. The Waqf (Amendment) Bill, 2024, introduced in the Lok Sabha in August 2024, sought to address these difficulties. After being vetted by a Joint Parliamentary Committee (JPC), the Bill was amended and passed by both Houses of Parliament, culminating in the President's signature. The government National Democratic Alliance (NDA) hailed the law as a critical reform for transparency and minority welfare, but the opposition expressed worries about its ramifications. All opposition amendments were defeated by voice vote. The Waqf (Amendment) Bill, 2025, represents a crucial step in reforming Waqf property management in India.

REFORMS IN THE WAQF AMENDMENT ACT 2025:

i) Waqf Property Management:

Mismanagement, corruption, and inefficiency have plagued Waqf property administration for years, preventing it from accomplishing its primary purpose of aiding poor people. The Waqf (Amendment) Act of 2025 aims to solve these issues by implementing steps that improve openness, accountability, and efficiency in Waqf management. So, this act seeks to streamline Waqf Property Management while protecting private property rights and heritage locations.

ii) Changes in the Central Waqf Council Composition:

Previously, all members of the Central Waqf Council had to be Muslims, with at least two female members. The amendment now requires that at least two members are non-Muslims, paving the way for more inclusive and varied participation. While crucial members such as Islamic law professors, Muslim organization representatives, and Waqf Board chairpersons must continue to be Muslims, former judges, MPs, and distinguished individuals nominated under general categories are no longer restricted by religious criteria. The government believes that centralized control will result in more effective administration of waqf properties. The measure also encourages inclusion and fair distribution of Waqf resources. It requires that members of the backward classes be included in State and Central Waqf Boards and guarantees representation from a variety of Muslim sects, including the Bohra and Aghakhani

¹ The Waqf Act, 1995

communities. To increase transparency and accountability, the Boards will also include two non-Muslim members².

iii) Safeguarding rights of inheritance:

This move in monitoring aligns with the President's objective for a more responsible waqf management system. The amendment states that waqf-alal-aulad (a waqf established for the donor's family) cannot impede on the inheritance rights of legitimate successors, including women. This ensures that the waqf process is not abused to prevent legitimate inheritance. The President's involvement in this reform demonstrates the administration's commitment to justice and equity.

iv) Qualifications for Declaring a Waqf:

Waqf could be established under the old law through endowment, extended religious usage (waqf by user), or official declaration. The new Act limits the declaration of waqf to Muslims who have practiced Islam for at least five years and lawfully own the property being designated waqf. This aims to avoid fake declarations and ensure that only the real owners can dedicate land for religious purposes.

v) Centralized Accounts Oversight:

Previously, state governments could audit waqf accounts at their own discretion. According to the modification, the Comptroller and Auditor General (CAG) or any other designated official may be used by the Central government to audit waqf accounts. This central oversight strives to increase accountability and reduce corruption.

As the President supervises these changes, it is critical to guarantee that the community's voices are heard. A computerized platform and database will streamline Waqf registration, surveys, audits, leasing, and litigation, resulting in scientific, efficient, and transparent governance.

vi) Expanded Tribunal Appeal Mechanism:

This reform, sponsored by the President, establishes a precedent for future legislative initiatives involving waqf management. Waqf Tribunal rulings were final under the Waqf Act of 1995, with separate room for judicial review. The modification removes the finality clause. Appeals can now be lodged to High Courts within 90 days, offering a key check on potential abuse of

² The Waqf Amendment Act 2025

power and increasing access to justice³.

vii) Separate boards for Aghakhani and Bohra sectors:

The original rule permitted separate Sunni and Shia Waqf Boards if the Shia population accounted for more than 15% of waqf holdings or income in a state. In keeping with India's religious diversity and the distinctive customs of many Islamic sub-sects, the new Act permits separate boards for the Aghakhani and Bohra sects. Separate Waqf boards allowed for Bohra and Agakhani sects, along with Shia and Sunni sects.

viii) Central Authority to Make Rules:

The Central government now has the jurisdiction to create rules for waqf registration, account publication, and Waqf Board sessions. This centralized control aims to achieve uniformity and streamline governance.

ix) Non-Muslim Stakeholders:

Two non-Muslim members will be included in both Central and State Waqf Boards to ensure inclusivity. Donors, litigants, lessees, and tenants are involved in Waqf management, making their representation in Waqf Boards and the Central Waqf Council (CWC) are essential for fairness.

x) Repealing Waqf by the User:

Furthermore, the President stressed the necessity of safeguarding the rights of all players in the waqf system. One of the most contentious amendments is the elimination of the waqf-by-user clause. Previously, assets that had been utilized for religious activity for a long time may be declared waqf without formal dedication. This resulted in various land conflicts. The modification now requires legal ownership and clear disclosure, thus prohibiting such conversions based only on long-term use.

RELIGIOUS FREEDOM UNDER THE INDIAN CONSTITUTION:

In the Indian Constitution, the Right to Freedom of Religion is guaranteed under Articles 25 to 28 (Part III – Fundamental Rights).

Article 25 deals Guarantees to every person (citizen or non-citizen) the right to freely profess,

³ The Waqf Amendment Act 2025

practice, and propagate religion⁴.

Article 26 deals Freedom to manage religious affairs.

Every religious denomination has the right:

- a) To establish and maintain institutions for religious and charitable purposes.
- b) To manage its own affairs in matters of religion.
- c) To own and acquire movable and immovable property.
- d) To administer such property in accordance with law⁵.

Article 27 deals Freedom from payment of taxes for promotion of any particular religion No person shall be compelled to pay taxes, the proceeds of which are specifically appropriated to promote or maintain any particular religion or religious denomination⁶.

Article 28 deals Freedom as to attendance at religious instruction or religious worship in certain educational institutions⁷.

Sardar Syedna Taher Saifuddin Saheb v. State of Bombay, 1962⁸:

The Supreme Court reaffirmed that, absent a compelling state interest, religious denominations are free to conduct their internal affairs as they see fit.

The Commissioner, Hindu Religious Endowments, Madras v. Sri Lakshmindra Thirtha Swamiar of Shirur Mutt⁹:

The case arose when the *Madras Hindu Religious and Charitable Endowments Act, 1951* sought to regulate the administration of Hindu religious institutions, including mathas (monastic institutions). The head of the Shirur Mutt challenged the Act, arguing that it violated the fundamental right to freedom of religion. The Supreme Court held that The term “religion” includes all essential practices and beliefs of a faith, not just matters of doctrine. The State cannot interfere in religious matters or essential practices, but it can regulate the secular aspects of religious institutions (like property, finance, and administration). The distinction between religious affairs and secular administration is crucial: the former is protected, while the latter can be subject to reasonable state regulation. This case laid down the “Essential Religious Practices Doctrine”, which continues to guide Indian courts in deciding whether a practice is

⁴ Article 25 of Indian Constitution

⁵ Article 26 of Indian constitution

⁶ Article 27 of Indian constitution

⁷ Article 28 of Indian constitution

⁸ AIR 1962 SC 853

⁹ AIR 1954 SC 282

integral to religion and thus constitutionally protected.

Ratilal Panachand Gandhi v. State of Bombay¹⁰

The case challenged provisions of the Bombay Public Trusts Act, 1950, which regulated management of public religious and charitable trusts. Ratilal Gandhi argued that the Act violated Articles 25 & 26 (freedom of religion and right to manage religious institutions). The issues was raised that Whether State regulation of religious and charitable trusts violates the freedom of religion guaranteed under the Constitution. The Court held that Religion includes not just belief but also practice and performance of rituals. Articles 25 & 26 guarantee that Right to profess, practice, and propagate religion. Right of religious denominations to establish and manage religious & charitable institutions. However, these rights are not absolute – subject to public order, morality, health, and law. The State can regulate secular aspects of religious institutions (like finances, property management), but cannot interfere in essential religious practices. In this case laid down the principle like Religious freedom protects both belief and practice. State cannot interfere with essential religious functions, but can regulate secular/charitable management of trusts.

S.P. Mittal v. Union of India, 1983¹¹

In this matter that Concerned Auroville (an institution for research and education with spiritual ideals). The Court held that not every institution with a spiritual background qualifies as a “religious denomination” under Article 26. To be a religious denomination, it must have, A system of beliefs (common faith), A common organization, Designation by a distinctive name. Not every institution with spiritual or philosophical background qualifies as a "religious denomination." Test for religious denomination: Distinctive name, Common faith, Common organization.

SUPREME COURT: IS THE AMENDMENT UNCONSTITUTIONAL?

On April 16, 2025 the Supreme Court of India began hearing 73 petitions questioning the constitutional validity of the Waqf (Amendment) Act. While the Union government has filed a caveat to prevent any *ex parte* relief. In this petition before the bench of before a bench led by CJI B.R. Gavai with Justice A.G. Masih and the issues was framed following¹²:

¹⁰ 1954 SCR 1055

¹¹ AIR 1; 1983 SCR (1) 729

¹² W.P. (C) No. 269/2025

- a) Whether the Waqf (Amendment) Act, 2025 is in contravention to the object of the Waqf Act, 1995?
- b) Whether the mandate that a Waqf can be made only by persons who have demonstrably practiced Islam for at least five years, violates right to freedom of religion
- c) Whether the exclusion of “Waqf by user” from the definition of Waqf is discriminatory
- d) Whether inclusion of non-Muslim members to the Central Waqf Council and State Waqf Boards violates Articles 26(b) and Article 26(d)

Petitioner are argued that the amendments interfere with the “essential and integral part of Islamic faith,” undermining the autonomy of Muslim institutions to manage waqf properties. “What is sought through Parliamentary legislation is to interfere with essential and integral part of faith.” Its violation of minority religious autonomy (Articles 25 & 26) The deletion of the “waqf by user” doctrine was challenged as arbitrary and retroactive. Many historic waqfs (like Jama Masjid, Delhi) were originally constituted orally and lack documentation, making it practically impossible to re-establish legal status under the amended law. “Many of these properties were created hundreds of years ago, and there won’t be any documents.” It’s Threat to Historic Waqf Status (“waqf by user”). The amendment removed exemptions (like in Section 107 of the 1995 Act) that kept waqf properties outside the purview of the Limitation Act, potentially jeopardizing reclaiming encroached properties. The JPC’s rationale was questioned, and they argued statutes of limitation operate retrospectively. It’s Erosion of Legal Protection via Limitation Act. Violation of Articles 14, 15, 21, 29, and 300-A (right to equality, non-discrimination, life and personal liberty, cultural and educational rights, property rights) cited in broader petitions. The petition highlighted that the amendments came amidst broader concerns of undermining Muslim religious and cultural heritage, including attempts to alter the character of historic mosques and waqf properties. Hence, Urgent Need for Safeguarding Religious Heritage.

Respondent’s side arguments that this amendment act Presumption of Constitutionality & Need for Deliberate Hearing. They emphasized that the law was passed by Parliament after due process and debates, urging the Court not to grant any "blanket stay" without hearing their justification. And also Assurances to Maintain Status Quo (Interim Measures) SG Tushar Mehta gave binding assurances that—until the next hearing—(i) no waqf property, including waqf by user, would be denazified or undergo status change, and (ii) no appointments would be made to Central or State Waqf Boards/Councils per the amended Sections 9 and 14.

Defending the Intent and Policy Objectives of the Amendments Through a voluminous preliminary affidavit, the government contended the law brings reform—transparency, institutional oversight, inclusivity—and denied claims that it undermines Muslim rights. They dismissed the narrative as “mischievous and false,” reminding the Court of Parliament’s robust democratic mandate¹³.

Interim Order:

Interim order was passed by the the bench led by CJI B.R. Gavai reserved orders on April 17, 2025 & later extensions. The Supreme Court of India did not stay the *Waqf (Amendment) Act, 2025* as a whole, but it recorded and relied on assurances given by Solicitor General Tushar Mehta on behalf of the Union Government¹⁴.

1. No denotification of waqf properties

The Union assured that no waqf properties (including “waqf by user”) would be denotified under the new provisions until further orders.

2. No appointments to new Waqf Boards/Councils

The Centre also undertook that no appointments (including of non-Muslims) would be made to the Central Waqf Council or State Waqf Boards as per the amended Sections 9 and 14.

3. Status Quo to Continue

Effectively, the Court directed that the status quo on existing waqf properties and institutions be maintained.

4. No Blanket Stay

The Court refused to grant a blanket stay on the entire Amendment Act, noting that the law carries a presumption of constitutionality and requires detailed hearing. Reserved orders on interim relief. Final adjudication on constitutionality is still pending.

RESEARCH ANALYSIS:

i) VIOLATION OF THE RIGHT TO FREEDOM OF RELIGION:

The deletion of “*waqf by user*” has particularly destabilised centuries-old religious institutions such as mosques, dargahs, graveyards, and shrines that were created through community use rather than formal documentation. For example, Delhi’s Jama Masjid is one of many properties

¹³ W.P. (C) No. 269/2025

¹⁴ W.P. (C) No. 269/2025

that originated under this doctrine. By extinguishing this recognition, the amendment curtails the community's Article 25 right to freely practice religion and Article 26 right to manage its own affairs in matters of religion. Furthermore, the amendment introduces a condition that only a person who has been a "practising Muslim for five years" may dedicate property as waqf. This arbitrary restriction not only violates Article 14 (equality before law) but also intrudes into the domain of personal faith, which the State is constitutionally barred from regulating. Perceived targeting of the Muslim community that several organisations and political parties have interpreted the amendment as a targeting exercise against the Muslim population. The modification has resulted in considerable demonstrations and legal opposition. Organisations such as the All India Muslim Personal Law Board have stated their intention to challenge the law in the Supreme Court. It may violate Article 26(b) of the Indian Constitution, which grants every religious sect the right to administer its own religious affairs. The Act intrudes into the internal autonomy of the Muslim community to manage its own religious endowments. By deleting the long-standing concept of "waqf by user", thousands of historic mosques, dargahs, and graveyards—many created centuries ago without formal documentation—are left vulnerable to denotification. This threatens the community's right under Articles 25 and 26 to freely practice and manage its religious institutions.

ii) THREAT TO SECULARISM:

The Indian Constitution adopts a model of principled secularism—not hostility to religion, but neutrality and equal respect towards all faiths. The Supreme Court in *S.R. Bommai v. Union of India (1994)* recognised secularism as part of the basic structure of the Constitution¹⁵. The 2025 Amendment undermines this neutrality by, allowing non-Muslim representation on Waqf Boards and the Central Waqf Council; Authorising the Collector, a government officer, to adjudicate disputes on waqf property with a presumption in favour of the State; and Expanding the Union's supervisory authority over a religious endowment body. Such measures amount to direct State interference in denominational institutions, contradicting the secular principle that the State must neither control nor administer religious trusts except to ensure fairness and transparency.

By permitting the inclusion of non-Muslims on Waqf Boards and the Central Waqf Council, the Act undermines the principle of secular neutrality. In a truly secular framework, the State must respect the denominational character of religious institutions and avoid direct interference

¹⁵ AIR 1994,SC 1918

in their governance. Instead, the amendment allows for State intrusion into a religious trust, creating tension between constitutional secularism and political oversight. Adverse Impact on Minority Rights are it may violate Articles 29 and 30 of the constitution, which protect minorities' educational and cultural rights, as well as their ability to govern institutions of their choosing.

iii) EROSION OF FEDERALISM:

Federalism, another feature of the Constitution's basic structure, is also imperilled by the 2025 Amendment. Under the 1995 Act, State Waqf Boards were entrusted with primary responsibility for management of waqf properties within their jurisdictions. This arrangement respected the federal division of powers under List II and List III of the Seventh Schedule, wherein matters relating to religious endowments and land fall predominantly under State control. The 2025 Amendment centralises this authority by: Allowing the Union Government to exercise stronger control over appointments; Giving District Collectors a decisive role in inquiries into waqf disputes, effectively replacing the jurisdiction of Waqf Tribunals; and Undermining the autonomy of State Waqf Boards in favour of central oversight. This centralisation weakens cooperative federalism and reduces the States' constitutional space in managing local religious endowments. Increased government control over Waqf properties: This can limit the community's ability to manage religious and charity institutions autonomously.

iv) PROPERTY RIGHTS AND CULTURAL HERITAGE:

By subjecting waqf property disputes to the Limitation Act, the amendment diminishes the ability of the community to reclaim encroached or misappropriated waqf land. Many such properties have been under unauthorised possession for decades, and the removal of the exemption effectively legalises such encroachments. This undermines Article 300-A (right to property) and threatens the preservation of India's Islamic cultural and architectural heritage. Ambiguity Regarding the Limitation Act of 1963 that the deletion of Section 107 of the Waqf Act, which formerly allowed an exception to the Limitation Act, has sparked widespread outrage. Critics say that this change will limit Waqf Boards' capacity to repossess encroached properties, particularly those that have been unlawfully inhabited for an extended period. Without this safeguard, persons who have been in possession of waqf land for more than 12 years may claim ownership through adverse possession, thus legitimizing illegal invasion and weakening the community's rights to religious endowments. Lack of consultation are the Act

was passed without considerable engagement with relevant parties such as community leaders, waqf specialists, and civil society organisations. There is a lack of democratic discourse, and questions of legitimacy and disenfranchisement of the Muslim community emerge.

FINDINGS FROM THE SURVEY RESPONSES:

I conducted a survey regarding my topic among advocates, Muslim friends, and Non-Muslim friends. Based on the responses I received, I came with certain findings and conclusion.

The questionnaire for the sample data and its results can be divided into three categories are i) Level of Awareness about the Waqf and the amendment act 2025 ii) Level of Awareness what kind of reforms made in that amendment act iii) Involvement in their opinion among the amendment. Based on the responses I received, I came with certain findings and conclusion.

- a) Sixty percent of the people are aware about the Waqf Amendment Act 2025, twenty percent are somewhat aware, and twenty percent are not aware about that act.
- b) A majority of the respondents, particularly from the Muslim community, expressed that the amendment undermines the rights of minorities by interfering with the administration and autonomy of Waqf properties.
- c) Both Muslim and non-Muslim respondents highlighted that the Act contradicts the principle of secularism enshrined in the Constitution, as it allows excessive state control over religious endowments.
- d) Advocates and community members observed that the amendment restricts the free practice and management of religious institutions, thereby limiting the constitutional right to freedom of religion under Articles 25 and 26
- e) Many respondents emphasized that the Act centralizes control in the hands of the Union Government, thereby weakening the role of State Governments in managing Waqf affairs. This was seen as a direct violation of the federal structure of the Indian Constitution.
- f) Interestingly, even several non-Muslim respondents shared the view that the amendment is arbitrary and discriminatory, and if enforced, it may create distrust among communities and affect India's pluralistic fabric.

CONCLUSION:

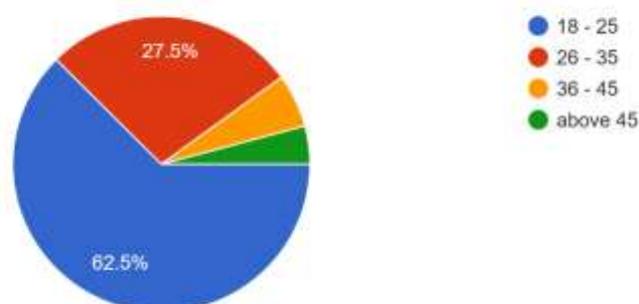
The study on *Waqf Board Governance in India: A Critical Study on Religious Freedom and Secularism in Light of the Waqf (Amendment) Act, 2025* reveals that the amendment raises serious constitutional and socio-legal concerns. The findings indicate that the Act potentially undermines the protection of religious freedom guaranteed under Articles 25 and 26 of the Indian Constitution, as it imposes excessive state interference in the management of Waqf properties, which are essentially religious endowments. Furthermore, the amendment has been widely perceived as a violation of minority rights, safeguarded under Articles 29 and 30, as it curtails the autonomy of the Muslim community in managing its own religious and charitable institutions. Such restrictions threaten the delicate balance of secularism, which forms a basic feature of the Constitution, and also weaken the principle of federalism by centralizing powers that traditionally belonged to the states. Therefore, in the aspect of protecting religious freedom and minority rights, it becomes essential that any legislative reform concerning Waqf governance must uphold constitutional guarantees, respect community autonomy, and reinforce India's pluralistic and secular fabric. Only through such an approach can the rights of minorities be protected, while ensuring harmony and trust among diverse communities.

ANNEXURE – I

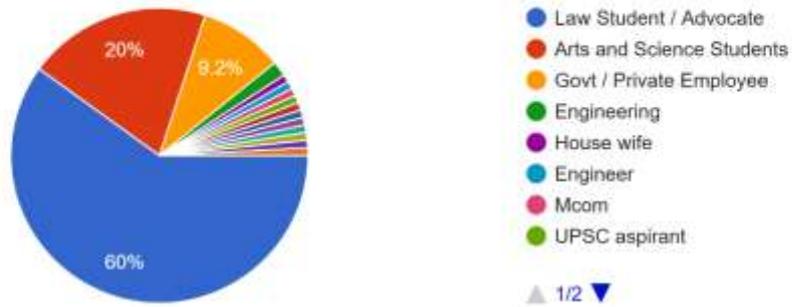
I Conducted a survey among Muslims and Non-Muslims and advocates etc. The questions along with response are following:-

2. What is your age group?

120 responses

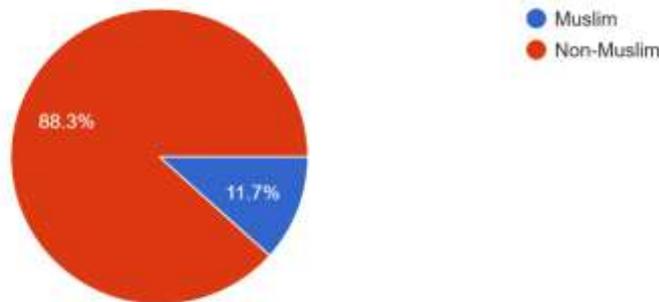


3. What is your occupation or primary work?
120 responses

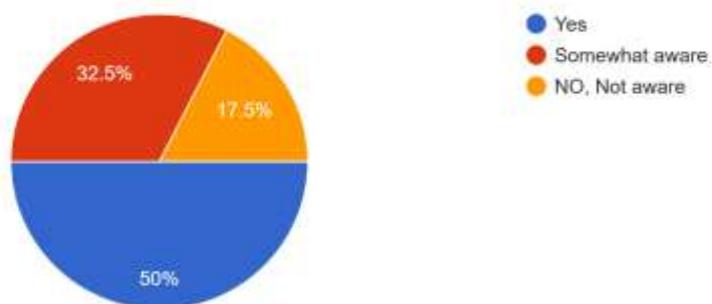


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4. Are you Muslim and Non-Muslim?
120 responses

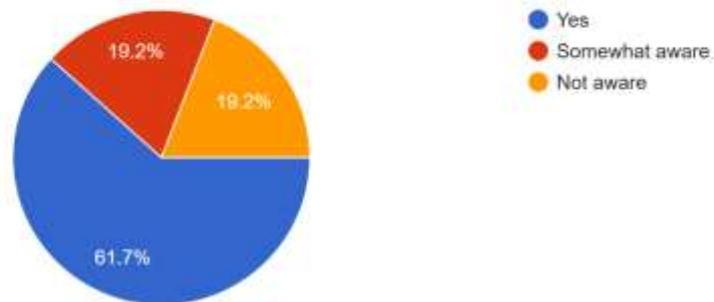


5. Are you aware of the functions of the Waqf Board in India?
120 responses



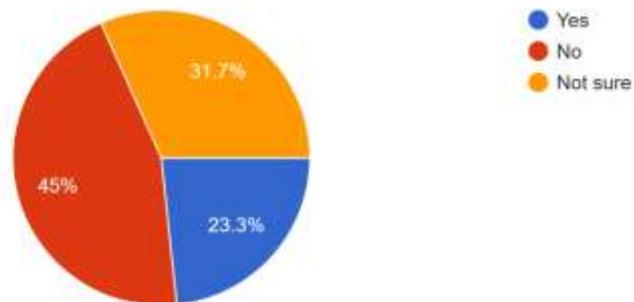
6. Are you aware of the Waqf (Amendment) Act 2025, passed in India?

120 responses



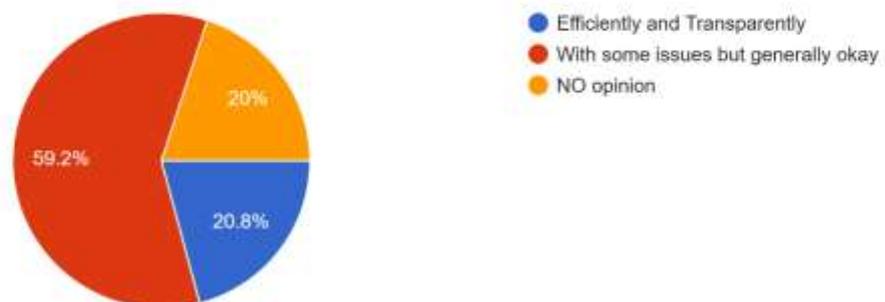
7. Do you think reforms in Waqf governance through amendment 2025 will improve protection of minority rights?

120 responses



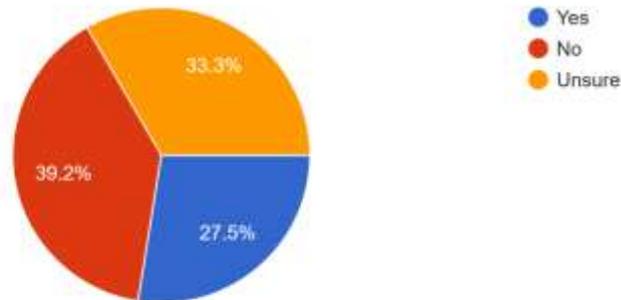
8. How do you think Waqf properties are generally managed?

120 responses



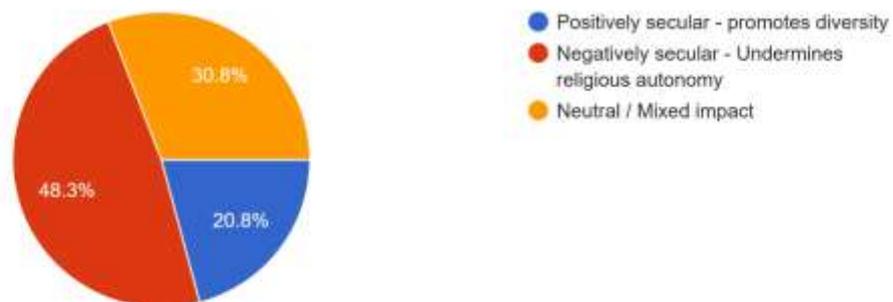
9. Do you agree that requiring a person to practice Islam for at least 5 years to create a waqf property better prevents misuses?

120 responses



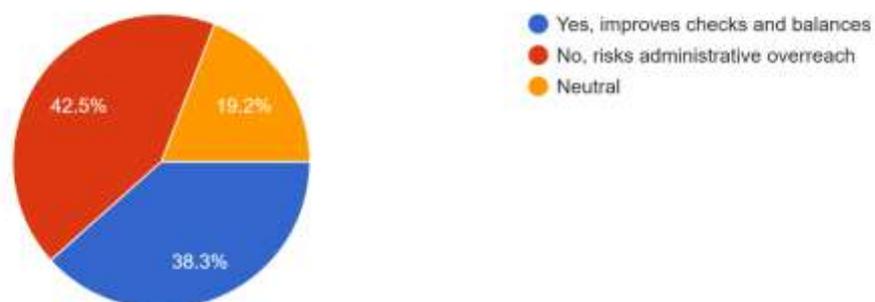
10. This Act introduces mandatory inclusion of non-Muslims on Waqf Boards. what is your view in terms of secularism?

120 responses



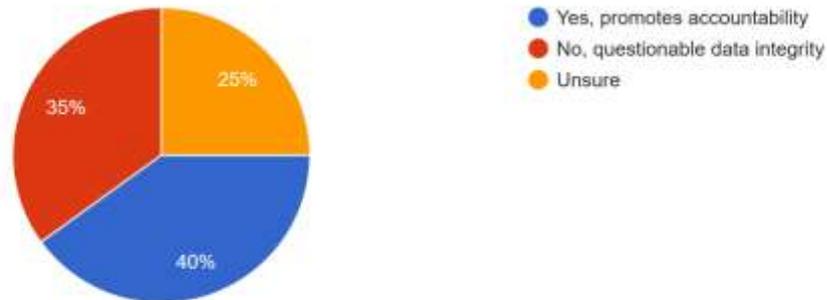
11. Dispute resolution is shifted from Waqf Tribunal to District/state officials, with appeal now allowed to the High Court. Does this strengthen legal accountability ?

120 responses



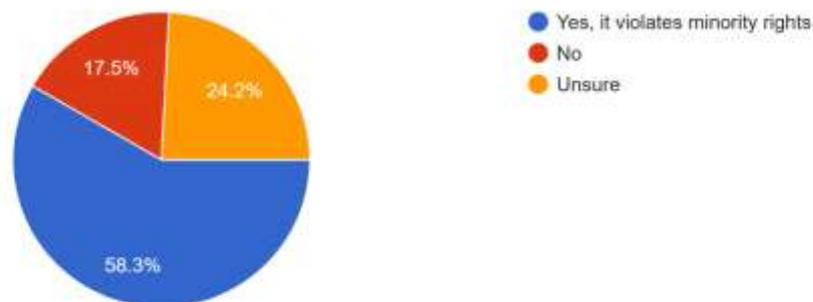
12. The Act mandates digitization of waqf property records within six months. Do you feel this enhances transparency?

120 responses



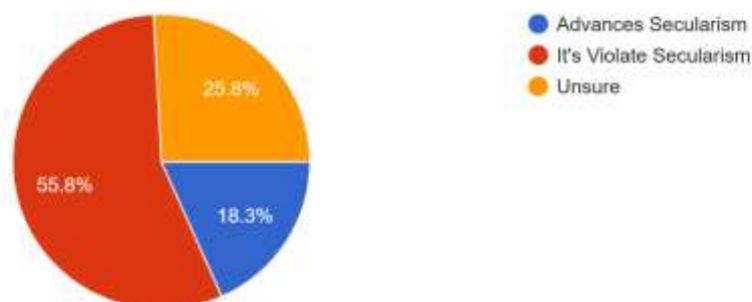
13. Critics argue the Act centralizes control and could undermine religious autonomy. Do you think this violates constitutional protection (Articles 14,15,26)?

120 responses



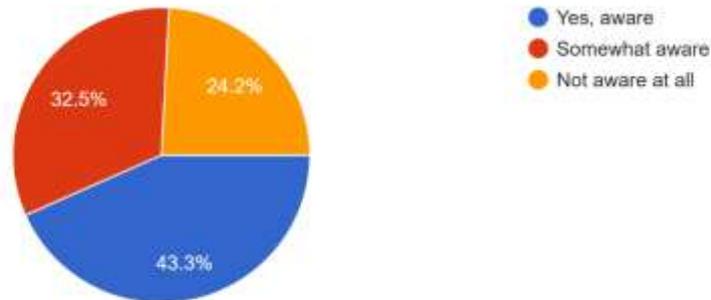
14. Overall, do you believe the waqf (Amendment) Act, 2025 advances or undermines the principles of secularism in India?

120 responses



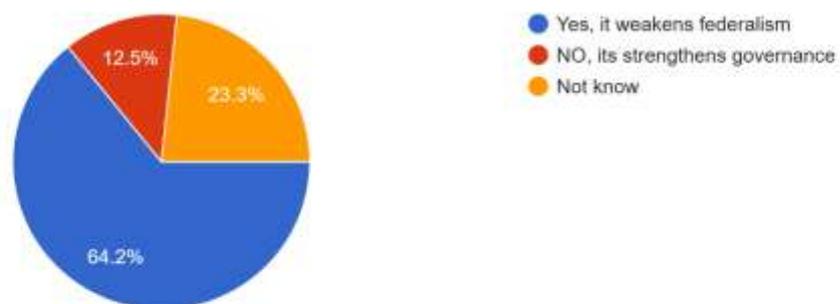
15. Are you aware that the Waqf (Amendment) Act,2025 changes certain powers from State Waqf Boards to the Central Government?

120 responses



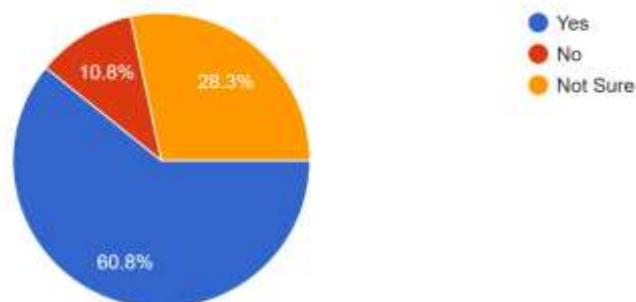
16. Do you think centralizing over Waqf matters affects the federal structure guaranteed under Constitution (Articles 245 - 263)?

120 responses



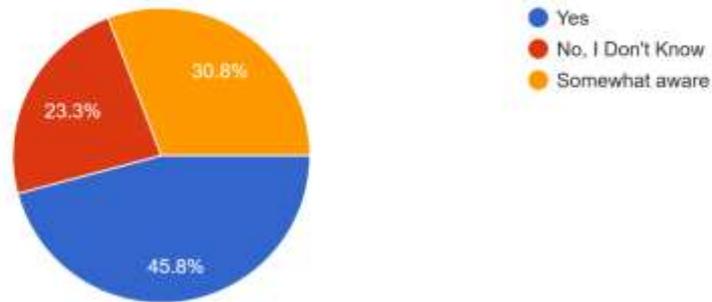
17. Do you think State Waqf Boards will lose autonomy under the new amendments?

120 responses



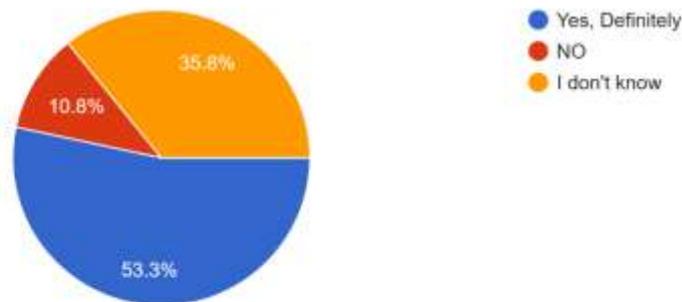
18. Before today, were you aware of the concept of "Waqf by user"?

120 responses



19. Do you think repealing "waqf by user" could lead to loss of historic mosques, graveyards and madrasas without papers?

120 responses



20. What is your opinion regarding Waqf Board Amendment Act 2025?

120 responses



REFERENCE:

Journals:

1. Supreme Court Cases (Criminal)
2. NLU Law Review

Website's:

1. www.pib.gov.in
2. <https://indiankanoon.org/doc>
3. <https://www.casemine.com/judgement/in>
4. www.livelaw.in
5. www.barandbench.com
6. www.thenewsminute.com

