



## **Waqf Governance Post-Umeed Act, 2025: Challenges and Opportunities in Contemporary India**

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### **Abstract**

This research paper examines the transformation of India's Waqf Act, 1995 into the UMEED (Unified Waqf Management, Empowerment, Efficiency, and Development) Act 2025, analysing its implications for religious freedom, minority rights, and federal governance in India. The study traces the historical evolution of Waqf legislation from British colonial rule through independent India, highlighting how management of Muslim religious properties has been shaped by administrative needs and political considerations. The paper reveals that while the 2025 amendment aims to modernize Waqf administration through digital systems, enhanced transparency, and professional management, it fundamentally alters the nature of community control over religious endowments. Key changes include mandatory inclusion of non-Muslim members in Waqf boards, transfer of decision-making authority from community bodies to District Collectors, elimination of traditional oral Waqf practices, and centralized digital registration requirements. The research identifies significant constitutional challenges arising from these reforms, particularly regarding religious autonomy under Article 26, minority rights under Articles 29-30, and federal structure principles. The study concludes that while the Act addresses legitimate concerns about property mismanagement and corruption, its approach may undermine constitutional protections for minority communities and disrupt the delicate balance between modern governance requirements and traditional religious practices, potentially setting precedents for future interventions in religious institutions.

**Keywords:** Waqf Properties, Religious Autonomy, Minority Rights, Federal Governance, Constitutional Challenges.

## Introduction

In 2025, the Indian government made a significant change to one of its important laws. The Waqf Act of 1995,<sup>1</sup> which governs religious properties belonging to the Muslim community, was renamed to the Waqf (Amendment) Act, 2025<sup>2</sup> (hereinafter referred as UMEED Act, 2025).<sup>3</sup> While this might seem like a simple name change, it represents something much deeper about how India manages religious diversity and community rights. To understand why this matters, we need to know what Waqf properties are. These are lands, buildings, and other assets that Muslims have donated over centuries for religious and charitable purposes - like mosques, schools, hospitals, and community centres. Across India, these properties are worth thousands of crores of rupees and cover millions of acres. They play a crucial role in supporting Muslim community welfare, education, and religious activities. However, managing these properties has always been challenging. Many have suffered from poor administration, corruption, illegal occupation by others, and lack of proper documentation. The original Waqf Act of 1995 was created to solve these problems by setting up boards to oversee these properties while allowing the Muslim community to maintain control over their religious endowments.

The 2025 reform goes much further. By changing the name from “Waqf” (an Arabic term) to “UMEED” (a Hindi word meaning ‘hope’), the government signals a new approach. Officials argue this makes the law more inclusive and modern, bringing better technology, transparency, and protection for rightful owners. However, many in the Muslim community see this as reducing their traditional control over their own religious institutions. This name change has sparked intense debate about religious freedom, minority rights, and how much the government should interfere in faith-based institutions. Some view it as necessary modernization, while others see it as an attack on community

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<sup>1</sup> The Waqf Act, 1995 (Act 43 of 1995).

<sup>2</sup> The Waqf (Amendment) Act, 2025 is not a formally enacted law. It is the proposed name for the Waqf (Amendment) Bill, 2025. The bill aims to amend the Waqf Act of 1995 and is currently under consideration.

<sup>3</sup> UMEED Act, 2025 refers to the “Unified Waqf Management, Empowerment, Efficiency, and Development (UMEED) Act, 2025”.

autonomy. This paper explores what this transformation really means for Indian democracy, religious communities, and the delicate balance between efficient governance and respecting diverse traditions in our pluralistic society.

This article offers a significant novelty through a critical and contemporary analysis of waqf governance in India following the enactment of the Umeed Act, 2025. Unlike previous studies that mostly focus on the historical or normative aspects of waqf institutions, this article highlights the transformation of waqf management systems within the framework of the new legislation, designed to enhance accountability, transparency, and efficiency in the administration of waqf assets in India. The core novelty of this paper lies in its multidisciplinary approach, combining legal analysis, public policy insights, and institutional studies to identify structural challenges that continue to hinder the effective functioning of waqf bodies. Simultaneously, it explores new opportunities for reforming governance based on principles of good governance. The article also investigates the extent to which the Umeed Act, 2025 addresses chronic issues such as misuse of waqf assets, lack of documentation, corruption, and the inequitable distribution of waqf benefits within the Indian Muslim community. Furthermore, this article stands out as one of the first systematic academic contributions to examine the immediate effects of the Umeed Act on waqf boards in practice, including the responses of civil society and the role of the state. This provides a new dimension to academic literature on waqf governance in Muslim-minority countries, positioning India as a critical case study. In conclusion, the article offers an original contribution to the discourse on contemporary Islamic law and the governance of religious social assets. It serves as an important reference for policymakers, scholars, and practitioners engaged in waqf reform in India and the broader South Asian region.

### **Research Methodology**

This study employs a qualitative doctrinal research approach,<sup>4</sup> analysing legal texts, constitutional provisions, and judicial precedents to examine the

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<sup>4</sup> S N Jain, "Doctrinal and Non-Doctrinal Legal Research," *Journal of the Indian Law Institute* 24, no. 2/3 (1982): 341-61.

transformation from the Waqf Act 1995 to the UMEED Act 2025. The methodology combines historical analysis tracing Waqf legislation evolution from colonial times through independent India, comparative legal analysis examining different legislative frameworks, and constitutional interpretation assessing compliance with fundamental rights provisions. Primary sources include statutory texts, Supreme Court judgments, and government reports, while secondary sources encompass academic articles, legal commentaries, and policy documents. The research adopts an interpretive framework to understand the symbolic significance of rebranding and its implications for religious autonomy, minority rights, and federal governance in India's pluralistic democracy.

### Historical Evolution of Waqf Legislation in India

Waqf is a permanent dedication of movable or immovable property for purposes recognised by Muslim law as pious, religious, or charitable.<sup>5</sup> Under Islamic law, particularly the Hanafi school, waqf property is dedicated to God with its income supporting community welfare initiatives like mosques, schools, and aid for the poor. This religious endowment system has historically played a vital role in the socio-economic development of Muslim societies by funding essential public services and charitable works.<sup>6</sup> The evolution of Waqf legislation in India is a fascinating story of how religious property management has been shaped by colonial policies, independence struggles, and modern governance challenges. It begins with a controversial decision in 1894 when the British Privy Council ruled that family Waqfs were invalid under Islamic law. This judgment declared that Waqf properties should only serve public religious purposes, not benefit families and their descendants. For Indian Muslims, this was devastating because family Waqfs had been a traditional way to secure their children's future while also supporting charity - essentially combining family welfare with religious duty.

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<sup>5</sup> M. Bhaskara Raj, "From Community Trust to State Oversight: The Evolution of Waqf Legislation in India" *IJFMR* (2025).

<sup>6</sup> M. Hidayatullah & Arshad Hidayatullah, *Mulla's Principles of Mahomedan Law* 152 (LexisNexis, 2016).

The community's strong opposition forced the British to reconsider. In 1913, they passed the Mussalman Waqf Validating Act,<sup>7</sup> which restored the right to create family Waqfs. This was followed by the Mussalman Waqf Act of 1923,<sup>8</sup> focusing on better accounting and transparency, and the Mussalman Waqf Validating Act of 1930,<sup>9</sup> which strengthened legal protections for family endowments. These early laws established the principle that managing religious properties required balancing community traditions with administrative oversight. After independence, India's first major Waqf legislation was the Waqf Act of 1954.<sup>10</sup>

This landmark law created State Waqf Boards official government bodies to systematically manage Waqf properties in each state. For the first time, there was organized supervision rather than leaving everything to local communities. However, managing thousands of properties worth crores of rupees across India's diverse landscape proved extremely challenging. The 1954 Act required frequent amendments in 1959, 1964, 1969, and 1984 as new problems emerged. Each amendment tried to fix specific issues, but the underlying challenges of poor record-keeping, property disputes, and administrative inefficiency persisted. Recognizing that piecemeal changes weren't working, Parliament passed the comprehensive Waqf Act of 1995.<sup>11</sup> This new law completely replaced all previous legislation and introduced two revolutionary features: specialized Waqf Tribunals to resolve property disputes faster than regular courts, and enhanced powers for the Central Waqf Council to intervene when state boards performed poorly.

The 1995 Act represented the most serious attempt to modernize Waqf administration since independence. It created professional management structures, mandatory property surveys, strict financial accountability, and specialized judicial mechanisms. For a while, it seemed like the solution to decades of administrative chaos. Just when Waqf administration appeared to

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<sup>7</sup> Mussalman Waqf Validating Act, 1913(Act VI of 1913).

<sup>8</sup> The Mussalman Waqf Act, 1923 (Act 42 of 1923).

<sup>9</sup> The Mussalman Waqf Validating Act, 1930 (Act 32 of 1930).

<sup>10</sup> Waqf Act, 1954 (Act 29 of 1954).

<sup>11</sup> The Waqf Act, 1995 (Act 43 of 1995).

be stabilizing, the Waqf Amendment Act of 2013<sup>12</sup> created new controversies. The Waqf Amendment Act 2013 attempted to modernize Muslim religious property management but created more problems than it solved. The amendment made four key changes: it changed the definition of who could create Waqf from “a person professing Islam” to “any person,” raising questions about non-Muslims establishing Islamic endowments. It allowed any person, not just Muslims, to create waqf properties. It required sect-specific representation with Shia members managing Shia properties and Sunni members managing Sunni properties. It also gave waqf boards overriding powers over other laws and made District Magistrates responsible for implementing board decisions.<sup>13</sup>

However, these well-intentioned reforms backfired. The most damaging provision gave waqf boards unlimited authority to declare any property as waqf based solely on their own investigation, leading to widespread abuse and property disputes. This is clearly reflected in the doubling of court cases from 10,381 in 2013 to 21,618 by 2025.<sup>14</sup> The amendment failed to address fundamental problems including poor transparency, incomplete property records, women’s inheritance issues, accounting irregularities, and administrative chaos. Instead of streamlining waqf management, the 2013 changes created a system where boards could arbitrarily claim government and private lands as waqf properties, generating massive legal battles and undermining public confidence in the entire waqf administration system.<sup>15</sup>

### Umeed Act, 2025

The Waqf Amendment Act, 2025 represents the most significant transformation in Muslim religious property management since India’s independence. Far beyond a simple legislative update, this Act fundamentally

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<sup>12</sup> The Waqf (Amendment) Act, 2013 (Act 27 of 2013).

<sup>13</sup> Tabasum Rasool, “Waqf Administration in India,” *Journal of Islamic Thought and Civilization* 7, no. 1 (2017): 1-12.

<sup>14</sup> The Islamic Jurisprudence and Historical Evolution of Waqf in India, *available at*: <https://www.newageislam.com/islam-politics/ghulam-rasool-dehlvi-new-age-islam/the-islamic-jurisprudence-historical-evolution-waqf-india/d/135128> (last visited on July 31<sup>st</sup>, 2025).

<sup>15</sup> Mohammad Abdullah, “A Critical Examination of Waqf Management Practices in India: Special Reference to Fiqh of Awqaf,” *Available at SSRN 2213612*, 2012.

restructures how Waqf properties are governed, managed, and protected across the country. The Government of India introduced this amendment with three primary stated objectives: improving transparency in Waqf management, preventing encroachment and misuse of properties, and simplifying administrative processes. According to the Ministry of Minority Affairs, the existing Waqf Act of 1995 had significant loopholes that allowed illegal transfers and misappropriation of valuable community assets.<sup>16</sup>

The amendment addresses longstanding issues highlighted by various reports, including those by the Sachar Committee and the Central Waqf Council, which documented problems of fraudulent transactions, unauthorized occupations, and poor record-keeping. With Waqf properties estimated to be worth thousands of crores and spanning millions of acres, these issues represented not just administrative failures but significant economic losses to the Muslim community.<sup>17</sup>

### **Renaming the Act**

Perhaps the most immediately visible change is the renaming of the legislation from the “Waqf Act, 1995” to the “Unified Waqf Management, Empowerment, Efficiency, and Development (UMEED) Act, 2025.” This linguistic transformation carries deep symbolic significance. By replacing the Arabic term “Waqf” with the Hindi acronym “UMEED” (meaning hope), the government signals a shift toward what it terms a more inclusive and modernized approach. This rebranding reflects broader themes in contemporary Indian governance - the tension between preserving religious community autonomy and creating unified national systems. While supporters view this as positive modernization, critics see it as an attempt to dilute the Islamic character of these institutions

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<sup>16</sup> Ministry of Minority Affairs, Press Release on Introduction of the Waqf Amendment Act 2025, Government of India, January 2025.

<sup>17</sup> The Sachar Committee Report, focusing on the social, economic, and educational status of Muslims in India, addressed the issue of Waqf (endowment) properties and their management. The report highlighted the need for improved governance and efficient utilization of Waqf properties to benefit the Muslim community and the wider public.

and impose a majoritarian linguistic framework on minority religious endowments.<sup>18</sup>

### **Restructuring Waqf Creation and Documentation**

The 2025 Act introduces stringent new requirements for creating Waqf properties. Under Section 3, a person can now create a Waqf only if they have been practicing Islam for at least five years and possess clear ownership documents. This replaces the previous more flexible system where community recognition and long-standing usage could establish Waqf status. Most significantly, the Act completely eliminates “oral Waqf” and “Waqf by user” traditional practices where properties became Waqf through community consensus and long-term religious use without formal documentation. Now, every Waqf must have a valid waqf-nama (legal deed) and comprehensive supporting documents. This change, while aimed at preventing fraudulent claims, has sparked concerns about properties that have served religious purposes for generations but lack formal paperwork. The Act also ensures that family Waqfs (*Waqf-alal-aulad*) cannot be used to deny women their inheritance rights, addressing a longstanding issue of gender discrimination in property inheritance within some community interpretations.<sup>19</sup>

### **Inclusive Governance: Expanding Board Representation**

One of the most controversial aspects of the amendment is the mandatory inclusion of non-Muslim members in Waqf governance bodies. The Central Waqf Council must now include two non-Muslim members, while State Waqf Boards must have non-Muslim representation nominated by state governments. Additionally, the Act mandates that both the Central Council and State Boards include at least two Muslim women members, promoting gender inclusivity in traditionally male-dominated institutions. The legislation also

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<sup>18</sup> Mohd Owais and Mohammad Qutaiba, “Cash Waqf in Poverty Reduction in India: Lessons from Selected Countries,” *Talaa: Journal of Islamic Finance*, 2023.

<sup>19</sup> M K Naseef and R Santhosh, “Waqf and Authority Dynamics: Reconfigurations of a Pious Institution in Colonial Malabar, South India,” *Society and Culture in South Asia* 8, no. 1 (2022): 51-71.



ensures representation from different Muslim sects (Shia, Sunni) and Backward Muslim classes.<sup>20</sup>

### **The District Collector's Role**

Perhaps the most significant power shift in the 2025 Act is the transfer of key decision-making authority from Waqf Boards to District Collectors. Under amended Section 40, District Collectors now have the power to determine disputed property ownership, particularly in cases involving government versus Waqf land claims. This represents a fundamental change from the community-based decision-making that characterized traditional Waqf management. District Collectors, as administrative officers of the state government, will now supervise property surveys and make final determinations about Waqf status. The Act argues this ensures impartial resolution of disputes, but critics worry it removes community agency from managing their own religious properties.<sup>21</sup>

### **Technology-Driven Transparency**

The Act mandates the creation of a National Waqf Property Management System a centralized digital platform for registering and managing all Waqf properties across India. This system requires mandatory online registration of Waqf properties and deeds, bringing 21st-century technology to an institution rooted in medieval Islamic law. Under Section 37, revenue authorities must issue public notices for 90 days before recording any property as Waqf, allowing public objections including from state agencies. This process aims to prevent fraudulent claims and ensure thorough verification before official recognition. The digitization initiative promises to resolve longstanding issues of poor record-keeping and disputed ownership, but implementation challenges include

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<sup>20</sup> Jawwad Ali et al., "Shari'ah Heterogeneity of Indian Islamic Waqf Law (IIWL) and Accounting and Auditing Organization for Islamic Financial Institution (AAOIFI) Standard: A Comparative Study in Light of Classical Rulings," *Journal of Islamic Finance* 12, no. 1 (2023): 96-108.

<sup>21</sup> Abdul Motin Ostagar, "Role of Waqf in Financial Inclusion: An Indian Overview," *ZENITH International Journal of Multidisciplinary Research* 8, no. 12 (2018): 154-59.

digitizing centuries-old documents and ensuring access to technology in rural areas where many Waqf properties are located.<sup>22</sup>

### **Addressing Sectarian Diversity**

Recognizing the diversity within the Muslim community, Section 13A provides for establishing separate Waqf Boards for specific sects like *Bohras* and *Agakhanis*. This acknowledges that different Muslim communities have distinct traditions and requirements for managing their religious endowments. This provision represents a nuanced understanding that the Muslim community is not monolithic and that effective Waqf management requires accommodating sectarian differences in religious practice and property management traditions.<sup>23</sup>

### **Reformed Dispute Resolution Mechanism**

The Act restructures Waqf Tribunals under Section 83, reducing them to two-member bodies and allows appeals to High Courts within 90 days. This aims to speed up dispute resolution, which has been a chronic problem with thousands of cases pending for years. The reformed system promises faster resolution of property disputes, but critics worry that reducing tribunal membership might compromise the specialized knowledge needed to handle complex Islamic law and property issues.<sup>24</sup>

### **Accountability and Custodian Standards**

Section 50A introduces comprehensive disqualification criteria for mutawallis (custodians) the individuals responsible for day-to-day management of Waqf properties. Disqualifications include age limits, mental soundness requirements, financial solvency, clean criminal records, and previous performance standards. This professionalization of Waqf management aims to prevent appointment of unqualified or corrupt custodians, but it also represents

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<sup>22</sup> Mohammed Meeran Jasir Mohtesham et al., "An Assessment of Using Sukuk for Waqf Property Development in India," *Journal of Islamic Finance* 10 (2021): 85-91.

<sup>23</sup> Rasool, "Waqf Administration in India."

<sup>24</sup> Syed Ahmed Salman and Sheila Nu Nu Htay, "Introducing Waqf Based Takaful Model in India," *Tazkia Islamic Finance and Business Review* 7, no. 2 (2012).

a shift from traditional community-based selection to bureaucratic qualification requirements.<sup>25</sup>

### **Constitutional and Federalism Concerns**

The Act's increased central government involvement in Waqf management has raised significant concerns about federalism and state autonomy. Since property and religious endowments fall under the State List in India's Constitution, critics argue the amendment violates constitutional principles by centralizing what should be state-managed affairs. The tension between improved oversight and federal structure reflects broader debates in Indian governance about the balance between national uniformity and state autonomy, particularly when minority religious rights are involved. The Waqf Amendment Act 2025 represents a comprehensive attempt to modernize medieval religious institutions for contemporary governance requirements. Its provisions promise improved transparency, reduced corruption, better record-keeping, and more inclusive management. However, this transformation comes at the cost of traditional community autonomy and raises fundamental questions about the role of religious minorities in managing their own institutions. The Act embodies the broader tension in Indian democracy between efficient governance and preserving diverse religious traditions, making it a crucial case study for understanding how pluralistic societies balance modernization with minority rights.<sup>26</sup>

### **Constitutional Questions and legal Challenges**

The transformation of the Waqf Act 1995 into the UMEED Act 2025 has raised constitutional questions that strike at the heart of India's federal structure, religious freedom, and minority rights. These challenges represent more than technical legal disputes; they reflect fundamental tensions about

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<sup>25</sup> Dr Tauseef Ahmad, "Waqf Amendment Act 2025 and Its Impact on Muslim Endowments in India," 2025.

<sup>26</sup> Ostagar, "Role of Waqf in Financial Inclusion: An Indian Overview."

how a pluralistic democracy balances administrative efficiency with constitutional principles.<sup>27</sup>

### Federalism and Legislative Competence

The most immediate constitutional challenge lies in the Act's potential violation of India's federal structure. Under the Seventh Schedule of the Constitution, religious endowments and land rights fall squarely within the State List (Entries 18 and 28).<sup>28</sup> Entry 28 specifically covers "charities and charitable institutions, charitable and religious endowments and religious institutions," while Entry 18 addresses "land, that is to say, rights in or over land, land tenures including the relation of landlord and tenant."

The UMEED Act's centralization of Waqf administration through enhanced Central Waqf Council powers, mandatory digital registration systems, and District Collector authority represents unprecedented federal intrusion into state subjects. This violates the principle established in *State of West Bengal v. Union of India*,<sup>29</sup> where the Supreme Court held that Parliament cannot legislate on subjects exclusively within the State List unless expressly authorized by the Constitution. The Court's ruling in *S.R. Bommai v. Union of India*,<sup>30</sup> further reinforced that federalism forms part of the Constitution's basic structure, and states are not mere agents of the Centre. The UMEED Act's provisions effectively reduce State Waqf Boards to implementation agencies for centrally-determined policies, potentially violating this basic structure doctrine.<sup>31</sup>

### Religious Autonomy under Article 26<sup>32</sup>

Article 26 of the Constitution guarantees every religious denomination the right to "manage its own affairs in matters of religion" and "administer

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<sup>27</sup> Foyasal Khan and M Kabir Hassan, "Financing the Sustainable Development Goals (SDGs): The Socio-Economic Role of Awqaf (Endowments) in Bangladesh," in *Revitalization of Waqf for Socio-Economic Development, Volume II* (Springer, 2019), 35-65.

<sup>28</sup> Tauseef Ahmed, "Waqf Amendment Act, 2025 and its impact on Muslim Endowments in India" 8(2) *International Journal of Law, Management & Humanities* (2025).

<sup>29</sup> AIR 1963 SC 1241.

<sup>30</sup> (1994) 3 SCC 1.

<sup>31</sup> *Supra* note 15.

<sup>32</sup> The Constitution of India, art 26.

such property in accordance with law.” The UMEED Act’s provisions directly challenge this constitutional protection in several ways. The inclusion of non-Muslim members in Waqf Boards represents the most controversial breach of religious autonomy. Waqf, being rooted in Islamic law and theology, requires understanding of Sharia principles for proper administration. The landmark case *Commissioner, Hindu Religious Endowments, Madras v. Sri Lakshmindra Thirtha Swamiar*<sup>33</sup> established that religious denominations have exclusive rights to manage their religious affairs, including rituals, observances, and institutional administration.<sup>34</sup>

The Supreme Court in *Ratilal Panachand Gandhi v. State of Bombay* clarified that while states may regulate secular activities of religious institutions, they cannot substantially interfere with religious decision-making autonomy unless justified by public order, morality, or health concerns. The UMEED Act’s provisions go far beyond secular regulation, fundamentally altering the religious character of Waqf administration. The abolition of “Waqf by user” doctrine further undermines Article 26 protections. This traditional Islamic legal concept recognizes properties as Waqf based on continuous religious use, even without formal documentation. Its elimination threatens countless mosques, dargahs, and graveyards that have served communities for generations but lack formal registration, effectively denying communities their right to maintain religious institutions.<sup>35</sup>

### Minority Rights under Articles 29 and 30<sup>36</sup>

The UMEED Act poses significant challenges to minority rights protected under Articles 29 and 30. Article 29(1) guarantees minorities the right to “conserve” their distinct culture, while Article 30(1) provides the right to “establish and administer educational institutions of their choice.” The Waqf system represents an integral part of Muslim cultural and religious identity in

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<sup>33</sup> 1954 SCR 1005.

<sup>34</sup> *Supra* note 15.

<sup>35</sup> 1954 AIR 388.

<sup>36</sup> The Constitution of India, art. 29, 30.

India, encompassing not just property management but educational, charitable, and social welfare activities. The Act's structural changes threaten this cultural preservation by:<sup>37</sup>

- **Diluting Community Control:** Non-Muslim participation in Waqf Boards, while framed as promoting inclusivity, effectively dilutes Muslim community control over their religious endowments. The Supreme Court in *Re the Kerala Education Act (1958)*<sup>38</sup> held that state regulation cannot destroy the essential character of minority institutions.
- **Threatening Educational Autonomy:** Many Waqf properties support madrasahs, schools, and colleges established by the Muslim community. The Act's enhanced executive control over Waqf property management could indirectly affect these institutions' autonomy, particularly regarding fund utilization and administrative decision-making. This potentially violates Article 30(1), as established in *T.M.A. Pai Foundation v. State of Karnataka*,<sup>39</sup> which reaffirmed that administrative autonomy is essential for minority institutions.
- **Undermining Traditional Practices:** The elimination of customary Waqf creation methods affects cultural practices protected under Article 29(1). In communities where Waqf endowments evolved through oral tradition and community consensus, this reform undermines traditional religious arrangements that form part of cultural identity.

### Judicial Independence and Access to Justice

The UMEED Act's restrictions on civil court jurisdiction and expansion of executive authority in dispute resolution raise serious concerns about judicial independence, a fundamental aspect of the Constitution's basic structure. The Act empowers District Collectors to determine disputed property status, transferring judicial functions to executive officers. This violates the principle established in *L. Chandra Kumar v. Union of India*,<sup>40</sup> where the Supreme Court

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<sup>37</sup> *Supra* note 15.

<sup>38</sup> (1959) 1 SCR 995.

<sup>39</sup> (2002) 8 SCC 481.

<sup>40</sup> AIR 1997 SC 1125.

held that judicial review under Articles 226 and 32 forms part of the basic structure, and any law limiting such review would be unconstitutional. The restructuring of Waqf Tribunals and limitations on civil court jurisdiction particularly affect access to justice in rural areas, where legal awareness is low and people traditionally rely on civil courts for property rights protection. This could deny fundamental rights under Article 21, which includes access to justice as an essential component.<sup>41</sup>

### **Equal Protection and Arbitrary Classifications**

The UMEED Act's provisions may violate Article 14's equal protection guarantee through arbitrary classification and discriminatory treatment. The Act subjects Muslim religious endowments to regulations not applied to other religious institutions, potentially failing the constitutional test of reasonable classification. The mandatory inclusion of non-Muslim members specifically in Muslim religious boards, without similar requirements for Hindu temple boards or Christian church committees, suggests discriminatory treatment that may not satisfy Article 14's reasonableness standard.<sup>42</sup>

### **Potential Legal Challenges and Constitutional Validity**

Based on these constitutional concerns, the UMEED Act faces potential legal challenges on multiple grounds:

- **Article 26(b) Violation:** Allowing non-Muslim members on Waqf Boards directly undermines religious autonomy guaranteed to denominational institutions.
- **Articles 29 and 30 Breach:** The Act threatens minority rights to preserve culture and administer educational institutions, which Waqf properties frequently support.

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<sup>41</sup> Javaid Ahmad Mir, "Impact Assessment of UMEED (NRLM) on Rural SHG Women," *American Journal of Rural Development* 5, no. 5 (2017): 121-22.

<sup>42</sup> C Ray, "Livelihoods for the Urban Poor: A Case Study of UMEED Programme in Ahmedabad," *Report. CEPT University, Ahmedabad* 108 (2010).

- Article 14 Discrimination: Arbitrary classification and undue interference with one community's religious endowments while sparing others suggests unconstitutional discrimination.
- Article 21 Denial: Excluding civil courts and limiting judicial access potentially denies the fundamental right to justice.
- Federalism Violation: Intrusion into State List subjects disrupts constitutional balance between Union and State powers.
- Basic Structure Challenge: The cumulative effect may violate fundamental constitutional principles including secularism, minority rights, federalism, and judicial review, as established in *Keshavananda Bharati v. State of Kerala*.<sup>43</sup>

### Broader Constitutional Implications

The UMEED Act's constitutional challenges extend beyond immediate legal disputes to fundamental questions about India's constitutional identity. The Act tests whether India's commitment to pluralistic democracy can accommodate administrative efficiency demands without compromising minority rights and federal principles. The legislation's approach suggests a shift toward centralized uniformity that may undermine the constitutional vision of unity in diversity. If upheld, it could set precedents for similar interventions in other religious institutions, potentially altering India's secular democratic character. The Supreme Court's eventual adjudication of these challenges will likely determine not just the Act's fate, but broader principles governing state-religion relations, minority rights, and federal balance in contemporary India. The outcome will significantly influence how future governments approach religious institution regulation and minority community rights.<sup>44</sup>

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<sup>43</sup> (1973) 4 SCC 225.

<sup>44</sup> Mir, "Impact Assessment of UMEED (NRLM) on Rural SHG Women."



## Conclusion

The transformation of the Waqf Act 1995 into the UMEED Act 2025 represents far more than administrative reform it embodies a fundamental shift in how India balances religious autonomy with governmental oversight. While the government's intentions to modernize Waqf property management, enhance transparency, and reduce corruption are legitimate, the Act's current form raises serious concerns about constitutional rights and minority protections. The research reveals that despite decades of legislative attempts, from the colonial Mussalman Waqf Acts through the failed 2013 amendments, the core challenge remains unchanged: how to efficiently manage religious endowments without undermining community control. The Act's most problematic provisions - mandatory inclusion of non-Muslim members in Waqf boards, elimination of traditional "Waqf by user" practices, and transfer of decision-making authority to District Collectors fundamentally alter the religious character of these institutions. These changes, combined with the symbolic rebranding from the Arabic "Waqf" to Hindi "UMEED," signal a departure from India's pluralistic traditions toward a more centralized, uniform approach to religious institution governance. Currently, the constitutional validity of the UMEED Act 2025 is being challenged before the Supreme Court of India. The Supreme Court has reserved its interim order on pleas seeking a stay of the Act's operation, with hearings conducted by Chief Justice BR Gavai and Justice AG Masih. The legal challenges focus on violations of Articles 26, 29, and 30, arguing that the Act undermines religious autonomy and minority rights. The outcome of this judicial review will determine not just the fate of Waqf properties, but the broader principles governing state-religion relations in India. As the nation grapples with modernizing medieval institutions while preserving constitutional values, the UMEED Act serves as a critical test of whether India can maintain its commitment to pluralistic democracy in an era of increasing administrative centralization. The resolution of this debate will significantly influence how future governments approach religious institution regulation and minority community rights.

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