

# What Concerns About the Waqf Amendment Bill Does the JPC's Report Identify?

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Representative image. Telangana Waqf Board headquarters. Photo: [waqf.telangana.gov.in](http://waqf.telangana.gov.in).

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The Waqf (Amendment) Bill 2024 has recently returned to public attention following the report of the joint parliamentary committee (JPC) tasked with examining it. This legislative amendment, aimed at reforming the governance of waqf properties, has faced substantial opposition, particularly regarding its implications for the long-standing principle of 'waqf by user'.

The purpose of this article is to compile and analyse the critiques highlighted in the JPC's report, focusing on how the Bill's changes threaten the legal and communal foundations of waqf institutions.

## Understanding 'waqf by user'

The concept of 'waqf by user' is rooted in Islamic legal traditions, recognising properties as religious or charitable endowments based on their prolonged and uninterrupted use for communal purposes, even without formal documentation.

Historically, many mosques, graveyards, shrines and other religious sites were established through oral declarations or community practices, with their status as waqf affirmed by consistent public usage over generations.

The Waqf Act of 1995 formally codified this principle, protecting properties that functioned as waqf through customary use, regardless of written deeds. This legal recognition ensured that centuries-old religious sites, often lacking formal paperwork due to historical or administrative gaps, retained their protected status.

### **Impact of the 2024 amendment on ‘waqf by user’**

The Waqf (Amendment) Bill, 2024 proposes a radical shift by eliminating the concept of ‘waqf by user’ through the removal of clause (i) from Section 3(r) of the 1995 Act.

Under the amended law, only properties with formal waqf deeds – and those established by individuals who have “practiced Islam for at least five years” – will qualify as waqf. This change strips legal recognition from countless undocumented properties historically classified as waqf through usage.

The JPC’s report cites stakeholders as emphasising that this risks destabilising the status of waqf by user properties. These can include mosques, graveyards and shrines managed informally by local communities for decades or even centuries.

The Bill’s retroactive application remains ambiguous, raising fears that existing ‘waqf by user’ properties could lose their protected status overnight.

Additionally, the amendment empowers district collectors to determine whether disputed properties qualify as waqf or government land. Critics argue this centralises authority in state officials, undermining the autonomy of waqf boards and creating conflicts of interest.

The requirement for a five-year practice of Islam to create a waqf is further criticised as arbitrary, lacking clear definitions and excluding potential donors.

This restriction automatically excludes recent converts who may wish to donate. By adding this bureaucratic hurdle, the Bill would prevent certain well-intentioned donors from establishing a waqf, ultimately limiting charitable contributions and the expansion of waqf properties.

### **Analysis of the amendment’s consequences**

The JPC’s report identifies three primary concerns stemming from the removal of ‘waqf by user.’

First, the amendment disregards the historical and communal basis of waqf, which has long relied on oral traditions and customary usage. Many properties, particularly in rural or marginalised communities, lack formal deeds due to administrative neglect or lost records. Invalidating their status could expose them to encroachment, litigation or state appropriation.

Second, the emphasis on formal documentation creates practical barriers for smaller waqf institutions. Compliance with the new requirements may prove burdensome for communities with limited resources or legal awareness, exacerbating disparities in property protection.

The Bill's silence on supporting documentation efforts or transitional measures that help smaller waqf institutions ease the move from informal waqf practices to the newly mandated formal documentation and digital registration system – such as extended deadlines, financial assistance, legal aid or simplified procedures – has been flagged by critics as a critical oversight.

Third, the transfer of authority to district collectors weakens the role of waqf boards and centralises decision-making within the state bureaucracy. Critics argue this erodes the Muslim community's autonomy over religious endowments, contradicting constitutional guarantees under [Article 25](#).

The JPC's report also cites stakeholders as highlighting the contradiction in allowing the government to adjudicate disputes involving its own land, raising concerns about fairness and transparency.

### **The JPC's recommendations and unresolved concerns**

In response to these critiques, the JPC proposed a proviso to safeguard existing 'waqf by user' properties registered before the Bill's enactment. However, this excludes properties under dispute or those claimed as government land, leaving significant gaps in protection.

Stakeholder suggestions cited by the report underscore the need for clarity on retroactivity and for the government not to tamper with existing registration of waqf properties.

Despite these recommendations, concerns persist. The Bill's failure to define "practicing Islam" or address documentation challenges for older properties leaves room for misuse and legal ambiguity.

Furthermore, the committee's limited focus on transitional measures fails to address the broader erosion of community-led governance.

### **Conclusion**

The Waqf (Amendment) Bill, 2024, has ignited fierce debate over its potential to dismantle the legal safeguards for 'waqf by user' properties. The JPC's report cites stakeholders as flagging the risks of excluding undocumented religious sites from protection, centralising authority in state officials and undermining constitutional guarantees of religious autonomy.

While the committee's recommendations offer partial remedies, the Bill's long-term impact hinges on addressing gaps in retroactivity, documentation support and community representation. As the government revisits the amendment, balancing administrative

efficiency with the preservation of minority rights remains a critical challenge.

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