

What are the key changes proposed in the new Waqf Bill? | Explained

The revised Bill incorporates contentious amendments based on the recommendations of a Joint Parliamentary Committee

Updated - April 03, 2025 03:16 am IST



AARATRIKA BHAUMIK



People offer 'namaz' at a mosque administered by Waqf Board, on the day of tabling of the Waqf (Amendment) Bill in the Lok Sabha, in Srinagar, on April 2, 2025. | Photo Credit: PTI

Union Minority Affairs Minister Kiren Rijiju tabled the **Waqf (Amendment) Bill** in the Lok Sabha on Wednesday (April 2, 2025), amid uproar by the Opposition.

Parliament LIVE: 'JPC adopted 14 amendments to Waqf Bill', detail LS MPs

Initially introduced in Parliament last year, the Bill was referred to a Joint Parliamentary Committee (JPC) chaired by BJP MP Jagdambika Pal for scrutiny. The committee submitted its report on February 13, 2025, receiving the Union Cabinet's approval six days later. However, Opposition MPs on the panel objected to the rejection of their proposed amendments and alleged that their dissenting notes had been redacted from the report without their consent.

The new Bill, which was tabled along with repealing the 2024 version, seeks to amend the **Waqf Act, 1995**, which governs the administration of waqf properties in India. It proposes sweeping reforms that would expand the government's role in regulating waqf properties and adjudicating disputes related to them.

A look at the key changes proposed in the revised Bill:

Retention of 'waqf by user' properties

The original version of the Bill abolished the concept of "waqf by user" — a doctrine rooted in Islamic legal traditions that recognised properties as religious or charitable endowments based on their uninterrupted communal use, even in the absence of formal documentation. Historically, numerous mosques, graveyards, shrines, and other religious sites were established through oral declarations or customary practices, with their waqf status legitimised by continuous public usage over generations.

The JPC report cautioned that dismantling this doctrine could destabilise the legal standing of such properties, many of which have been informally managed by local communities for decades.

Accordingly, the revised Bill now clarifies that "waqf by user" properties registered on or before the law's commencement will retain their status unless disputed or designated as government property. This amendment seeks to assuage concerns that the law's retrospective application could abruptly strip existing properties of their protected status.

Nevertheless, apprehensions persist regarding a provision mandating that individuals must "show or demonstrate that [they have] been practicing Islam for at least five years" to establish a waqf. Critics have argued that this requirement arbitrarily excludes potential donors, particularly recent converts who may wish to endow property for religious or charitable purposes.

Non-muslim representation

The new Bill retains provisions allowing non-Muslims to be appointed to key waqf institutions, including the Central Waqf Council, State Waqf Boards, and waqf tribunals. It authorises the Centre to nominate three Members of Parliament—two from the Lok Sabha and one from the Rajya Sabha—to the Central Waqf Council without requiring them to be Muslims. Additionally, the Bill permits the appointment of a non-Muslim Chief Executive Officer and mandates that State governments include at least two non-Muslim members on the Waqf Boards.

Incorporating a recommendation from the JPC, the Bill now specifies that the State government official serving on the Waqf Board must be a Joint Secretary-level officer "dealing with waqf matters". Notably, non-Muslims will remain a minority in both the Council and the Waqf Boards.

The composition of waqf tribunals has also been revised, expanding them from a two-member to a three-member body. Each tribunal will now include a district judge, a joint secretary-level officer from the State government, and an expert in Muslim law and jurisprudence. The Bill also clarifies that tribunals constituted before the law's enactment will continue to function until the tenure of their chairperson and members expires.

Opposition parties have argued that these changes could encroach upon the community's constitutionally protected right to manage its religious affairs. However, the government has maintained that the inclusion of non-Muslims in waqf institutions is designed to enhance expertise and transparency without diminishing community representation.

Surveys by senior government officers

Under the previous version of the Bill, district collectors or officers of equivalent rank were authorised to survey waqf properties. However, based on the JPC's recommendations, the amended Bill now mandates that senior officers above the rank of district collectors conduct these surveys, particularly in cases where government ownership is disputed.

Additionally, the revised Bill designates these senior government officers as the final arbiters in such disputes, replacing the waqf tribunals prescribed under the 1995 Act. It also bars the classification of a property as waqf until the officer submits a final report. If the officer determines that a property belongs to the government, they must update revenue records and report to the State government. The government will then instruct the Waqf Board to amend its records accordingly.

The government's rationale for implementing this crucial change and centralising decision-making within the state bureaucracy is the alleged misuse of waqf laws. During parliamentary proceedings, Mr. Rijju criticised the **UPA government's decision** to transfer 123 waqf properties in the capital to the Delhi Waqf Board in the final days of its tenure. The Centre had previously constituted a two-member committee headed by Justice (retired) S.P. Garg to reassess this decision.

Also read | Any change in Waqf Act will not be tolerated, says Muslim Personal Law Board

Registration portal

To enhance the accuracy of waqf property records, the revised Bill retains provisions for establishing a centralised registration system. Under this system, all information regarding waqf properties must be uploaded to a designated portal within six months of the law's enactment. Additionally, any new waqf property registrations must be submitted exclusively through this portal to the respective Waqf Boards.

However, the revised Bill introduces a concession allowing the concerned waqf tribunal to extend the six-month deadline. If a *muttawali* (custodian) submits an application demonstrating sufficient cause for failing to file the property details within the stipulated period, the tribunal may grant an extension for a duration it deems appropriate.

Application of Limitation Act

The Bill seeks to repeal Section 107 of the 1995 Act, which had rendered the **Limitation Act, 1963** (1963 Act) inapplicable to waqf properties. Notably, this provision was absent from the earlier version of the Bill. The 1963 Act imposes a statutory bar on initiating legal proceedings after a prescribed period. Section 107 effectively exempted waqf boards from the 12-year limitation period for reclaiming encroached properties.

Opposition leaders such as AIMIM chief Asaduddin Owaisi have contended that removing this exemption would enable individuals who have unlawfully occupied waqf properties for over 12 years to claim ownership through adverse possession.

Judicial review

The new Bill retains provisions enabling judicial intervention in waqf disputes by removing the finality of waqf tribunal decisions. Aggrieved parties are permitted to appeal directly to the concerned High Court within 90 days of receiving the tribunal's order. This provision purportedly aims to enhance judicial oversight and curb the arbitrary exercise of power by Waqf Boards or tribunals.

Notably, the Bill bars courts from entertaining suits regarding the enforcement of any right unless the concerned waqf property has been registered within six months of the law's commencement. An exception is permitted only if the court finds "sufficient cause" for the delay.

Published - April 02, 2025 05:44 pm IST