Mandates of the Special Rapporteur on freedom of religion or belief and the Special Rapporteur on minority issues

Ref.: OL IND 9/2025
(Please use this reference in your reply)

22 September 2025

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on freedom of religion or belief and Special Rapporteur on minority issues, pursuant to Human Rights Council resolutions 58/5 and 52/5.

In this context, we would like to bring to the attention of your Excellency's Government some observations concerning the **Waqf Amendment Act (2025) ("2025 Act")**[1], which alters the way Islamic endowments are established, managed, and protected in India. The 2025 Act has been examined in light of applicable international human rights standards. We believe the effective implementation of this law would have significant implications for India's ability to fully uphold its obligations to respect, protect and fulfil human rights, particularly the rights to freedom and religion and belief.

Special Procedures mandate holders have previously raised their concerns with your Excellency's Government concerning certain human rights violations targeted at members of religious minorities, particularly those of the Muslim faith, including IND 6/2017, IND 7/2022, IND 9/2022, IND 8/2023, IND 5/2024, IND 10/2024 and IND 6/2025. We thank your Excellency's government for providing a response to IND 10/2024. Nonetheless, we remain concerned at the appearance of a pattern of systematic targeting and discrimination against religion or belief minorities in India since at least 2017.

The Waqf Amendment Act

The Waqf Amendment Act came into force on 8 April 2025. The law brings forth significant amendments to the Waqf Act of 1995 ("1995 Act"), which establishes the legal framework governing the establishment and administration of Awqaf in India. Awqaf are Islamic charitable endowments, comprising of properties, assets, or funds dedicated for religious purposes. The fundamental objective of Awqaf is to ensure that its benefits are utilized perpetually by the designated community, the members of the Muslim faith. The 1995 Act established several safeguards which protect the Muslim community in India from public or private encroachment, including by establishing the Central Waqf Council and State and Waqf boards, who were tasked with controlling and managing all Islamic trusts in India.

We are concerned about the law's scope and its potential targeting of Islamic institutions, which seems to put them under a level of heightened state control and reduced autonomy. Sections of the 2025 Act appear to contravene several of India's obligations under international human rights law and would disproportionately impact Muslim communities particularly in the States of Uttar Pradesh, West Bengal, Kerala

[1] Waqf Amendment Act, 2025, as passed by Lok Sabha on 3.4.2025.

and Karnataka, territories which hold 600,000 acres of Waqf property.

The law profoundly alters eight principles of the 1995 Act, causing concerns with regards to India's obligations under international human rights law, particularly as it pertains to the freedom of religion or belief.

First, the 2025 Act abolishes the "Waqf by use," which allowed for the established practice of recognizing longstanding public use of space without documentation as recognized Waqf properties. This, in large part, served to safeguard historically significant sites such as places of prayer, mosques, graveyards and shrines, for which there was never any official registration documentation. According to the information provided, the elimination of the Waqf by use creates the risk of delegitimizing historically significant and recognized Waqf sites, which pre-date the establishment of formal land records.

Second, the 2025 Act provides that government properties cannot become Waqf. This legal threshold applies regardless of past notifications of public usage. If a dispute were to arise on such a point pertaining to a particular piece of property, an inquiry is to be launched by a public official, during which the property is treated as *de facto* non-Waqf. This creates the risk of the central State unilaterally extinguishing Waqf claims.

Third, the 2025 Act transfers some powers previously conferred to Waqf boards to new State appointed District Collectors. This new role, which replaces the previous Survey Commissioner under the 1995 Act, is given quasi-judicial powers to conduct Waqf certification surveys, authenticate registration details and make binding decisions on property disputes. According to the information provided, an individual need not have proper knowledge of Islamic law before taking on the District Collector's mandate. This creates the risk of displacing power away from Waqf specific institutions, thus partially or fully extinguishing the safeguards put in place to protect the Waqf framework.

Fourth, the 2025 Act restructures Waqf tribunals. This entails the new inclusion of a joint-secretary level officer, a judicial member and a person with knowledge of Islamic law. Appointments to tribunals are now led by the State government. These changes create the risk of curtailing the tribunal's powers to stay proceedings or offer meaningful relief pertaining to disputes over Waqf property, fully or partially extinguishing the power held by community appointed members of the tribunal, while placing adjudication powers in the hands of members who are appointed by the State.

Fifth, the 2025 Act imposes a mandatory framework of digital compliance, which provides that Waqf properties must upload detailed information to an online government portal within 6 months. The information to be uploaded includes data pertaining to the property's income, its usage, any court cases in which it has been involved, and any beneficiaries of the site. This provision places a burden on community-based institutions, many of which lack the proper capacity to comply with digital requirements within such a short timeframe.

Sixth, the 2025 Act imposes the obligation for all new Awqaf to be registered through written deed. This alters the previous method of work, which accepted verbal

dictations for Waqf documentation, and allowed for the recognition of undocumented Awqaf. The previous system of recognition facilitated the active participation in the Waqf system of non-literate donors, originating from both rural and urban contexts throughout India.

Seventh, the 2025 Act imposes the mandatory inclusion of non-Muslim members on Waqf bodies. Both the Central Waqf Council and State Waqf Boards are now required to integrate two non-Muslim members onto their constitution. This amendment imposes State-mandated external representation within bodies which are responsible for managing the internal religious affairs of a religious community – in this case, the Muslim community in India.

Finally, the 2025 Act amends and expands the penalties for non-compliance with the law pertaining to Islamic charitable endowments. The Act either introduces or enhances penal provisions, which range from substantial fines to imprisonment, for non-compliance with administrative obligations under the law, such as failing to upload Waqf details in the designated timeframe, refusing possession by the State, or generally violating directions from authorities. This penal scheme could disproportionately criminalise the behaviour of Muslim community members for routine administrative lapses, which further places a burden on religious institutions and communities.

International Law Framework

Article 18 of the ICCPR, which India ratified on 10 April 1979, states that "Everyone shall have the right to freedom of thought, conscience and religion. These rights shall include freedom […] either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching."

We note that the UN Human Rights Committee has previously transmitted its concern regarding reports of discrimination and violence directed against religious minorities, including Muslims, in India (CCPR/C/IND/CO/4, para. 13). The Committee also noted its particular concern regarding vigilante attacks against religious minorities (Ibid, para. 47), more specifically regarding attacks by 'cow vigilante' groups (Ibid, para. 45) which appeared to disproportionately target individuals of the Muslim faith. These events, in addition to the appearance of discrimination against Muslims in India through the Waqf amendment act, are concerning developments as they pertain to the right to freedom of religion or belief.

As established by the UN Human Rights Committee (CCPR) in general comment No. 22, the freedom of religion or belief "extends to ritual and ceremonial acts giving direct expression to belief, as well as various practices integral to such acts, including the building of places of worship, the use of ritual formulae and objects, the display of symbols, and the observance of holidays and days of rest." The Committee also underlined that "acts integral to the conduct by religious groups of their basic affairs, such as the freedom to choose their religious leaders, priests and teachers," and therefore, the right to determine religious leaders in accordance with one's own religious traditions and practices, is guaranteed by article 18 of the UDHR.

Paragraph 8 of general comment No. 22 notes that "article 18(3) permits restrictions on the freedom to manifest religion or belief only if limitations are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others. In interpreting the scope of permissible limitation clauses, States parties should proceed from the need to protect the rights guaranteed under the Covenant, including the right to equality and non-discrimination on all grounds specified in articles 2, 3 and 26. Limitations imposed must be established by law and must not be applied in a manner that would vitiate the rights guaranteed in article 18. The Committee observes that paragraph 3 of article 18 is to be strictly interpreted: restrictions are not allowed on grounds not specified there, even if they would be allowed as restrictions to other rights protected in the Covenant. Limitations may be applied only for those purposes for which they were prescribed and must be directly related and proportionate to the specific need on which they are predicated. Restrictions may not be imposed for discriminatory purposes or applied in a discriminatory manner."

Information as to respect for the rights of religious minorities under article 27 of the ICCPR is also necessary for the Committee to assess the extent to which the freedom of thought, conscience, religion and belief has been implemented by States parties. Article 27 of the ICCPR guarantees minorities, inter alia, the rights of everyone to enjoy his or her own culture and to profess and practice their own religion. This right must be respected without discrimination, "without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." Moreover, article 1 of the 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities establishes the obligation of States to protect the existence and identity of religious minorities within their territories and to adopt the appropriate measures to achieve this end, while article 2 recognizes that persons belonging to religious minorities have the right to profess and practice their own religion without discrimination and article 4 requires States to ensure that persons belonging to minorities, including religious minorities, may exercise their human rights without discrimination and in full equality before the law.

Article 6(g) of the 1981 UN General Assembly Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (A/RES/36/55) also provides the freedom to "train, appoint, elect or designate by succession appropriate leaders called for by the requirements and standards of any religion or belief". Article 2(1) states that "[n]o one shall be subject to discrimination by any State, institution, group of persons, or person on grounds of religion or other belief." In article 4(1), the 1981 Declaration states that: "All States shall take effective measures to prevent and eliminate discrimination on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms [...]".

Article 22 of the ICCPR protects the right to freedom of association, including the rights of everyone to associate with others and to pursue common interests. Freedom of association is closely linked to the rights to freedom of expression, to peaceful assembly and to take part in cultural life and is of fundamental importance to the functioning of democratic societies. These rights can only be restricted in very specific circumstances, where the restrictions serve a legitimate public purpose as recognized

by international standards and are necessary and proportionate for achieving that purpose.

According to article 15 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) on the right of everyone to take part in cultural life, ratified by India in 1979, and general comment No. 21 of the Committee on Economic, Social and Cultural Rights relating to this right, States must refrain from interfering with the exercise of the right of everyone to seek, receive and impart information and ideas of all kinds and forms, including art forms, to access their own cultural and linguistic heritage and that of others; they have obligations to respect and protect cultural heritage in all its forms and must adopt appropriate measures or programmes to support minorities or other groups in their efforts to preserve their culture (E/C.12/GC/21, paragraph 44, 48, 49 and 52.f). The Committee stated that "The obligation to respect includes the adoption of specific measures aimed at achieving respect for (…) the right of all persons to express their cultural identity freely and to exercise their cultural practices and way of life." The Committee also stressed the right to take part in the development of the community to which a person belongs, and in the definition, elaboration and implementation of policies and decisions that have an impact on the exercise of a person's cultural rights (para. 15.c).

The Committee on Economic, Social and Cultural Rights further specified that article 15, paragraph 1(a), of "the Covenant also includes the right of minorities and of persons belonging to minorities to take part in the cultural life of society, and also to conserve, promote and develop their own culture. This right entails the obligation of States parties to recognize, respect and protect minority cultures as an essential component of the identity of the States themselves. Consequently, minorities have the right to their cultural diversity, traditions, customs, religion, forms of education, languages, communication media (press, radio, television, Internet) and other manifestations of their cultural identity and membership" (general comment 21, para. 32).

In this connection, reports of successive Special Rapporteurs in the field of cultural rights have recommended that States recognize and value the diversity of cultural heritages present in their territories and under their jurisdiction, and acknowledge, respect and protect the rights of individuals and groups to feel associated (or not) with specific elements of cultural heritages; to access, enjoy and continuously (re)create the cultural heritages that are meaningful to them; and to transmit this heritage to future generations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned observations.

2. Please provide a full description of the current standing of the Waqf Amendment Act, including details of any ongoing proceedings related to the law before Indian courts.

3. Please provide information on how the provisions of the Waqf Amendment Act outlined above respect India's obligations under international human rights law, especially as it pertains to the freedom of religion or belief, minority rights, and the right of non-discrimination.

This communication, as a comment on pending or recently adopted legislation, regulations or policies, and any response received from your Excellency's Government will be made public via the communications reporting website after 48 hours. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Please accept, Excellency, the assurances of my highest consideration.

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Special Rapporteur on freedom of religion or belief

Nicolas Levrat
Special Rapporteur on minority issues