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Waqf Governance, Constitutional Secularism, and Minority Rights: Assessing India's UMEED Act 2025 in Comparative Perspective

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Abstract

The waqf (Amendment) Act 2025, renamed the Unified waqf Management, Empowerment, Efficiency and Development (UMEED) Act, represents a transformative moment in India's governance of Islamic endowments, introducing sweeping institutional changes including the abolition of waqf by user, mandatory registration, restructuring of waqf boards, and expanded executive authority. This study examines the constitutional implications of these reforms through doctrinal legal analysis and comparative examination of waqf governance in Turkey, Malaysia, and Indonesia. The findings reveal that while the UMEED Act pursues administrative modernization through transparency, accountability, and digitization, it simultaneously reconfigures the balance of power between state authority and religious autonomy, raising fundamental questions about minority rights under Articles 25–30 of the Indian Constitution. The comparative analysis demonstrates that successful waqf governance requires a hybrid model that combines regulatory efficiency with constitutional safeguards for religious freedom, judicial oversight, and community participation. The study argues that the UMEED Act constitutes a defining constitutional test of India's commitment to secularism and minority protection, with implications for Muslim philanthropy, institutional legitimacy, and democratic governance in pluralist societies. The findings offer policy-relevant insights for strengthening waqf governance while preserving religious autonomy and minority self-governance.

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Introduction

The governance of waqf has become an increasingly significant issue in contemporary debates on Islamic philanthropy, constitutional governance, and state–religion relations (Hughes & Siddiqui, 2024; Mohamed Ismail & Abdel Mohsin, 2023; Mohammad Abdullah, 2020). As one of the oldest institutions of Islamic social finance, waqf has historically functioned as a sustainable

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mechanism for financing education, healthcare, religious services, and community welfare, thereby contributing to the economic and social development of Muslim societies for centuries (Koehler, 2015; Shatzmiller, 2001). In recent decades, however, the governance of waqf has undergone substantial transformation as governments have sought to modernize its administration through legal reforms, institutional restructuring, and stronger regulatory oversight (Ab Rahman et al., 2024; Iskandar & Sofuoğlu, 2023; Mohamed Ismail & Abdel Mohsin, 2023). Although these reforms are frequently justified as efforts to improve transparency, accountability, and economic productivity, they also generate complex constitutional questions concerning the appropriate relationship between state authority and religious autonomy(Fancourt, 2022; Prostak, 2021). Consequently, waqf governance should no longer be understood solely as an issue of administrative reform but also as a constitutional question involving religious freedom, minority rights, and the legitimate scope of state intervention within pluralist democracies (Fancourt, 2022; Prostak, 2021; Uluyol et al., 2021; Harahap et al., 2023).

Among contemporary cases, India represents one of the most significant and controversial examples of waqf reform (Al-Jayyousi et al., 2022; Hamoudi, 2020; Naseef M.K. & Santhosh R., 2022). India administers more than 872,000 registered waqf properties valued at approximately $14.2 billion (BBC, 2025). Government data shows the land under waqf control expanded from 18.3 lakh acres to 39 lakh acres—a 116% increase—after the 2013 amendment to the Waqf Act, making Waqf Boards the third-largest landowner in India after only the Armed Forces and Indian Railways (The Indian Express, 2025; India Today, 2025; The Hindu, 2025). Despite this enormous asset base, institutional challenges have persisted. The Sachar Committee (2006) noted that funds generated from waqf properties were "negligible compared to the quantum of total assets," recommending professional management and better oversight (The New Indian Express, 2025). Decades of administrative inefficiency, land encroachment, and poor governance have significantly constrained the socio-economic potential of waqf institutions. Government data reveals that of 872,852 properties, at least 13,200 are entangled in legal battles, 58,889 have been encroached upon, and more than 436,000 have unclear status (BBC, 2025). Responding to these challenges, the Government of India enacted the Waqf (Amendment) Act 2025, subsequently renamed the Unified Waqf Management, Empowerment, Efficiency and Development (UMEED) Act. The legislation introduces sweeping institutional reforms, including the abolition of "waqf by user" recognition, mandatory digital registration via the UMEED portal, expanded executive authority for district collectors in dispute resolution, and restructuring of waqf boards (SCC Times, 2025). The portal was launched on June 6, 2025, with a six-month upload window mandated by law, extended only for submission without penalties until March 2026 (PIB, 2025; The Indian Express, 2025).

Proponents argue these reforms will strengthen transparency and institutional efficiency (The Hindu, 2025). Critics contend that the Act significantly expands executive control over Muslim religious institutions and threatens constitutional guarantees of religious freedom and minority self-governance under Articles 25–30 of the Constitution (BBC, 2025; The Hindu, 2025). On September 15, 2025, the Supreme Court refused to strike down the entire Act but suspended key provisions: the five-year "practicing Muslim" donor requirement was stayed for being arbitrary, and the district collector's power to adjudicate disputed properties was suspended for violating separation of powers (The Hindu, 2025; BBC, 2025). The Court capped non-Muslim membership on waqf boards (four of 22 at the central level, three of 11 at the state level) while upholding the abolition of waqf-by-user with the caveat that properties registered before April 8, 2025, remain protected (BBC, 2025; The Hindu, 2025). With multiple petitions still under review, the UMEED Act remains one of the most consequential constitutional controversies concerning religious governance in contemporary South Asia.

Existing scholarship has approached waqf governance from several complementary perspectives. Historical and legal studies have examined the evolution of waqf institutions within Islamic jurisprudence and their contribution to public welfare across Muslim societies (Shatzmiller, 2001; Singer, 2018). Another body of literature has emphasized institutional modernization through innovations such as cash waqf, waqf-linked sukuk, digital governance, and sustainable Islamic finance (Musari, 2022; Rusydiana et al., 2024; Siswantoro, 2023). Recent research has also investigated governance challenges, including institutional fragmentation, limited managerial capacity, transparency deficits, and regulatory inconsistencies affecting waqf administration (Adinugraha et al., 2024; Nasution, 2017; Widiastuti et al., 2021). Comparative studies have further demonstrated that different constitutional and institutional arrangements significantly influence the governance of religious endowments across jurisdictions(Misbahuddin & Wahyudin, 2023; Uluyol et al., 2021). Nevertheless, most of this literature continues to examine waqf reform primarily through administrative, managerial, or economic perspectives. Comparatively little attention has been devoted to its constitutional implications, particularly regarding the interaction between state regulation, constitutional secularism, judicial oversight, religious autonomy, and the protection of minority rights.

This limitation becomes particularly evident in relation to the UMEED Act 2025. Despite its far-reaching constitutional and political implications, there remains limited scholarly analysis of how the Act reshapes the constitutional balance between governmental authority and the autonomy of Muslim religious institutions. Existing studies have also paid insufficient attention to the role of constitutional secularism in defining the permissible scope of state intervention in religious endowments or to the comparative lessons that can be drawn from other jurisdictions with established waqf governance systems. Consequently, significant questions remain regarding how administrative modernization can be reconciled with constitutional guarantees of religious freedom and minority self-governance within democratic states. Against this background, this article addresses three interrelated research questions. First, how has the UMEED Act 2025 transformed the governance of waqf institutions in India? Second, how does the Act interact with India's constitutional principles of secularism, religious freedom, and minority rights? Third, what lessons can be drawn from the governance experiences of Turkey, Malaysia, and Indonesia for evaluating India's current reform trajectory?

This article argues that the UMEED Act 2025 represents a defining constitutional test of India's commitment to secularism, minority rights, and democratic governance. Rather than treating waqf reform solely as an administrative modernization project, this study demonstrates that it fundamentally concerns the constitutional limits of state authority over religious institutions. Employing doctrinal legal analysis supported by comparative examination of waqf governance in Turkey, Malaysia, and Indonesia, the article contributes to the literature by developing a constitutional perspective on waqf governance that integrates administrative accountability with judicial oversight, religious autonomy, and minority protection. In doing so, the study demonstrates that effective institutional reform does not require excessive centralization but can instead be achieved through governance models that balance regulatory efficiency with constitutional guarantees in pluralist democratic societies.

Research Methodology

This study adopts a qualitative comparative research design to examine the constitutional arrangements, legal frameworks, governance structures, and state–religion relations shaping *waqf* governance in Turkey, Malaysia, Indonesia, and India. A comparative approach is particularly appropriate because it facilitates the systematic examination of institutional differences across jurisdictions while identifying common patterns, contextual variations, and policy lessons that may inform India's *UMEED Act 2025* reform (Creswell & Poth, 2018; Yin, 2014). The selection of Turkey, Malaysia, and Indonesia as comparative cases is purposive and theoretically justified. Turkey represents a secular model characterized by centralized *waqf* administration under the *Diyanet*; Malaysia illustrates a federal constitutional model in which State Islamic Religious Councils (SIRCs) exercise primary authority over *waqf* administration; and Indonesia represents a decentralized hybrid system coordinated by the Indonesian Waqf Board (*BWI*) through national and regional governance mechanisms (Hamoudi, 2020; Jahar, 2019; Rosli, 2022; Yang et al., 2020). Collectively, these jurisdictions provide diverse institutional arrangements that offer valuable comparative insights for evaluating India's ongoing *waqf*reform.

The study relies exclusively on secondary data collected from peer-reviewed journal articles, academic books, constitutional provisions, legislation, judicial decisions, and government policy documents. A systematic literature review was conducted using three major academic databases: Scopus, Google Scholar, and ScienceDirect, with search terms including "*waqf* governance," "constitutional secularism," "state–religion relations," "*Diyanet*," "SIRCs," "*BWI*," and "judicial accountability" (Ridley, 2012; Snyder, 2019). The search was limited to publications published between 2000 and 2026 while retaining seminal references that provide essential theoretical foundations. All retrieved materials underwent a structured screening process based on predefined inclusion criteria, namely thematic relevance to *waqf*governance and constitutional arrangements, publication quality, academic credibility, and substantive contribution to debates on institutional governance and state–religion relations.

The analytical process follows a thematic comparative approach adapted from Braun and Clarke (2006, 2021). The analysis began with an intensive familiarization process through repeated reading of all selected literature to gain a comprehensive understanding of the constitutional, legal, and institutional contexts of waqf governance across the four jurisdictions. During this stage, key arguments, legal provisions, and governance practices were systematically documented. Subsequently, an open coding process was conducted to identify significant concepts related to constitutional arrangements, governance structures, judicial accountability, state–religion relations, institutional autonomy, and regulatory effectiveness. These initial codes were then organized into broader analytical themes, including constitutional foundations of waqf governance, administrative efficiency, judicial oversight, religious autonomy, and mechanisms of public accountability. The resulting themes were systematically compared across Indonesia, Malaysia, Turkey, and Saudi Arabia to identify institutional similarities, contextual differences, governance trajectories, and transferable best practices. Finally, the findings were synthesized into a coherent comparative narrative that directly addresses the research questions while emphasizing institutional convergence, contextual divergence, theoretical contributions, and practical policy implications for strengthening constitutional governance of waqf institutions in diverse legal and political environments. The overall analytical procedure employed in this study is presented in Table 1

Table 1

Technical Data Analysis Framework

Analytical Stage	Activity	Technique/Approach	Output
Stage 1: Data Collection	Systematic literature search across Scopus, Google Scholar, and ScienceDirect	Keyword-based search, purposive sampling, inclusion and exclusion criteria	Initial corpus of more than 50 scholarly sources
Stage 2: Data Screening	Selection of relevant literature	Thematic relevance assessment and academic credibility evaluation	Final dataset of approximately 30 high-quality references
Stage 3: Coding	Identification of key concepts	Open coding, axial coding, and concept identification	Initial coding framework consisting of more than 45 codes
Stage 4: Theme Development	Organization of related concepts into broader themes	Thematic analysis, pattern recognition, and cross-case clustering	Four major analytical themes
Stage 5: Cross-Case Comparison	Comparative examination across Turkey, Malaysia, Indonesia, and India	Comparative matrix and thematic mapping	Comparative findings and institutional patterns
Stage 6: Synthesis and Interpretation	Integration of empirical findings and theoretical perspectives	Theoretical triangulation, source triangulation, and narrative synthesis	Comparative framework and policy recommendations
Stage 7: Validation	Evaluation of analytical credibility	Methodological triangulation and peer debriefing	Validated and trustworthy research findings

Source: Developed by the authors based on literature synthesis (2026).

Table 1 summarizes the seven-stage analytical framework applied in this study. The process begins with systematic literature collection and screening, followed by coding and thematic development to identify recurring institutional patterns. Comparative analysis is subsequently undertaken to examine similarities and differences among the four jurisdictions before integrating the findings through theoretical and source triangulation.

The analysis is interpreted using perspectives from legal pluralism, institutional governance, and *Institutional Logics*, producing a comprehensive understanding of how constitutional arrangements and governance structures influence contemporary *waqf* administration. The final validation stage enhances analytical credibility through methodological triangulation and peer debriefing, ensuring the robustness and reliability of the study's conclusions. The study is theoretically informed by legal pluralism, institutional governance, and state–religion relations (Hamoudi, 2020; Li, 2020; Newbigin, 2009; Turner & Arslan, 2014). To strengthen validity, source triangulation was employed by comparing evidence across multiple academic and institutional publications, while theoretical triangulation integrated insights from constitutional law, governance studies, and Islamic social finance. Nevertheless, this study acknowledges certain limitations arising from its reliance on secondary data and the contextual diversity of the four jurisdictions examined. Future research should incorporate primary empirical evidence through expert interviews, institutional case studies, and comparative fieldwork to validate and extend these findings. Overall, this methodological framework provides a rigorous and systematic basis for understanding contemporary *waqf* governance models while generating policy-relevant recommendations for the implementation and future development of India's *UMEED Act 2025*.

The Transformation of Waqf Governance under the UMEED Act 2025: Legislative Reform and Institutional Change

The governance of waqf in India has experienced a long process of institutional transformation, evolving from a decentralized system rooted in community stewardship into a highly regulated administrative framework supervised by the state. This evolution reflects broader historical changes in the relationship between religion and the state, the expansion of bureaucratic governance, and the modernization of Islamic philanthropic institutions across South Asia. Historically, waqf administration relied largely on local religious authorities, family custodians (*mutawallis*), and customary practices that enabled Muslim communities to manage charitable endowments with considerable autonomy. However, successive legislative reforms throughout the twentieth century progressively incorporated waqf administration into the formal apparatus of public governance, culminating in the establishment of statutory State Waqf Boards responsible for registration, supervision, and institutional oversight (M.K. & Santhosh, 2021). These reforms were introduced to improve accountability, prevent mismanagement, and ensure compliance with the legal objectives of waqf, yet they simultaneously altered the traditional balance between community self-governance and governmental regulation.

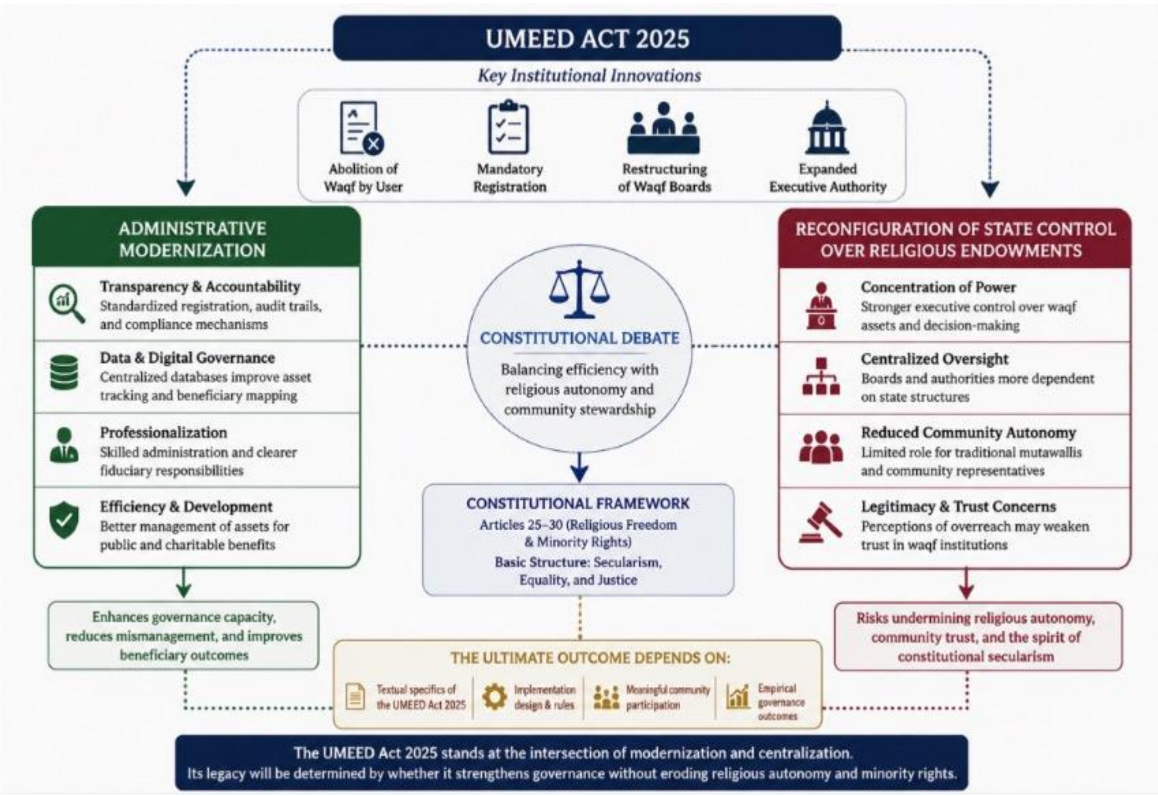
The institutionalization of waqf governance produced significant administrative benefits, including standardized registration procedures, greater financial accountability, and more professional management of endowment assets. Nevertheless, the expansion of statutory oversight also generated persistent debates concerning the legitimacy of state intervention in religious institutions. Scholars have argued that while the statutory framework enhanced bureaucratic efficiency, it also concentrated executive authority within governmental institutions, reducing the discretionary role traditionally exercised by Muslim communities in managing religious endowments (Owais & Manaf, 2023). Consequently, the evolution of waqf governance in India has been characterized by an enduring tension between administrative modernization and religious autonomy. Rather than representing a linear process of institutional improvement, the development of waqf legislation illustrates the continuing negotiation between the objectives of public administration and the constitutional principle of community self-governance over religious property.

Against this historical background, the reform agenda that culminated in the Unified Waqf Management, Empowerment, Efficiency and Development (UMEED) Act 2025 emerged from widespread concerns regarding the effectiveness of India's waqf administration. Numerous policy reports and governance studies have documented chronic institutional weaknesses, including fragmented land records, inconsistent registration systems, illegal occupation of waqf properties, weak fiduciary oversight, and the limited professional capacity of waqf administrators. These deficiencies have substantially constrained the economic and social contribution of waqf assets despite their enormous potential for supporting education, healthcare, poverty alleviation, and community development. Consequently, proponents of reform argued that comprehensive institutional restructuring was essential to improve transparency, accountability, and administrative efficiency through standardized registration systems, centralized digital databases, and more effective supervision of *mutawallis* (Cordery, 2019; Dallh, 2023). Such reforms reflect broader trends in public-sector governance, where professional administration, digitalization, and standardized accountability mechanisms are increasingly regarded as prerequisites for institutional legitimacy and sustainable resource management.

However, governance reform has never been understood solely as a technical exercise in administrative improvement. The literature consistently demonstrates that debates surrounding waqf reform are equally concerned with questions of institutional legitimacy, community participation, and the constitutional limits of state intervention in religious affairs. Critics have argued that previous legislative frameworks gradually expanded executive discretion while reducing the autonomy historically enjoyed by Muslim communities in administering religious endowments (M.K. & Santhosh, 2021; Moumtaz, 2021). From this perspective, reforms that emphasize centralized administration may inadvertently weaken religious stewardship by replacing locally embedded governance structures with bureaucratic mechanisms primarily accountable to state institutions. Recent scholarship argues that effective waqf reform should strengthen governance while preserving public trust, institutional legitimacy, and the constitutional autonomy of religious organizations. The UMEED Act 2025 seeks to achieve this through mandatory waqf registration, restructuring State Waqf Boards, and expanding executive authority. While these reforms aim to improve transparency and administrative efficiency, they also reshape the balance between state regulation and religious autonomy. Figure 1 presents a conceptual synthesis of the reform by mapping its principal institutional innovations and the competing governance trajectories they generate.

Figure 1

The UMEED Act 2025: Between Administrative Modernization and the Reconfiguration of State Control over Religious Endowments



Source: Develop by author, 2026.

As illustrated in Figure 1, the institutional architecture introduced by the UMEED Act 2025 operates through two interconnected governance trajectories. The first emphasizes administrative modernization, reflected in the introduction of standardized registration systems, digital governance, institutional professionalization, and enhanced accountability mechanisms designed to improve the management and socio-economic utilization of waqf assets. These reforms are broadly consistent with internationally recognized principles of good governance, which associate transparency, standardized information systems, and professional administration with improved institutional performance and public accountability (Cordery, 2019; Dallh, 2023; Gamon & Tagoranao, 2017).

The second trajectory, however, highlights the simultaneous expansion of state authority over religious endowments. The abolition of the doctrine of *waqf by user*, the restructuring of State Waqf Boards, and the strengthening of executive powers collectively redistribute decision-making authority from traditional community-based custodianship toward centralized governmental institutions. Although these measures may improve administrative coordination and legal certainty, they also raise fundamental constitutional questions concerning the autonomy of Muslim religious institutions, the protection of minority rights, and the permissible scope of state intervention in religious affairs (M.K. & Santhosh, 2021; Moumtaz, 2021; Owais & Manaf, 2023). Figure 1 The UMEED Act 2025 reflects a dual institutional trajectory by improving waqf governance through standardization, transparency, and stronger oversight while expanding state authority over religious endowments. This raises constitutional questions about balancing administrative efficiency with religious autonomy, minority self-governance, and secular principles. The following section examines these tensions within India's constitutional framework.

Constitutional Secularism, Judicial Review, and Minority Rights: Assessing the Constitutional Implications of the UMEED Act

The constitutional implications of the UMEED Act 2025 must be assessed against the backdrop of India's unique model of constitutional secularism, which contemplates equal respect for all religions while enabling state regulation of religious institutions to ensure public interest objectives and governance transparency. The judiciary has historically played a pivotal role in delineating the permissible scope of state intervention in religious endowments, navigating the tension between religious claims and secular governance through a framework of equal respect and state oversight to preserve communal harmony

(Edge & Rajan, 2020; Srikantan, 2017). The Ayodhya litigation era exemplifies how courts have balanced competing claims, establishing that Indian secularism is not absolute separation but rather a principled distance that allows state intervention for reform while protecting religious freedom (Srikantan, 2012). This constitutional framework provides the analytical lens through which the UMEED Act's provisions on abolition of waqf by user, mandatory registration, restructuring of waqf boards, and expanded executive authority must be examined (Abdullah, 2020; Chakrabarti et al., 2022).

The Supreme Court's review of the UMEED Act raises several critical questions for judicial scrutiny. First, whether the Act tilts power toward centralized state control in a manner that undermines the autonomous character of waqf boards, potentially violating the constitutional protection of minority religious institutions under Articles 25–30. Second, whether the Act provides adequate protections for minority religious institutions that align with the essential practices of Islam without privileging the majority. Third, whether due process and transparency mechanisms are embedded to safeguard the rights of waqf owners, Mutawallis (trustees), and beneficiaries. Fourth, whether the Act provides for independent adjudication of waqf disputes through tribunals analogous to India's existing Waqf Act architecture (Kamarubahrin & Ayedh, 2018; Rashid, 2018). The comparative governance literature underscores the variety of models across jurisdictions, from centralized boards to distributed state oversight, and highlights the operational implications for transparency, accountability, and minority rights protection in waqf administration (Hughes & Siddiqui, 2024; Sano & Kassim, 2021). The Indonesian experience with bureaucratization of Sharia illustrates how formal governance can secure consistency yet risks politicization of religious institutions if not carefully bounded by due process and minority protections (Jahar, 2019).

The expansion of executive authority over religious endowments raises significant concerns about the erosion of minority rights if not checked by robust oversight, transparency, and independent adjudication. Historical evidence from Kerala's Malabar region demonstrates how authority shifts under colonial and post-colonial reforms to supervisory bodies can redefine control without necessarily enhancing welfare (M.K. & Santhosh, 2021). Comparative studies from Guinea and Indonesia emphasize the economic and governance benefits of formalized structures such as tribunals and dedicated supervisory bodies, while warning of politicization risks and the need for clear delineation of secular regulatory powers (Jahar, 2019; Sano & Kassim, 2021). Indian jurisprudence on secularism stresses that equal treatment of religions does not entail no state regulation; rather, it requires careful balancing to avoid privileging or penalizing any faith, including Islam, in waqf-related governance (Edge & Rajan, 2020; Kiliyamannil, 2024; Srikantan, 2017). If the Act creates or enlarges waqf tribunals with quasi-judicial powers, this could align with best practices observed in Indian waqf governance reforms and potentially reduce litigation costs and delay, provided due process protections and the independence of tribunals are guaranteed (Kamarubahrin & Ayedh, 2018; Rashid, 2018). The risk of executive capture or uneven application across waqf properties, especially those with sensitive religious significance, necessitates explicit non-discrimination clauses and transparent criteria for administrative actions (Kamarubahrin & Ayedh, 2018; Sano & Kassim, 2021).

A core test for the constitutionality of waqf reforms in a secular-democratic framework is the protection of minority religious institutions and religious freedom within the broader equality regime. The Ayodhya dispute and its aftermath illustrate how religious claims interact with statutory regulation and property rights, underscoring the need for careful doctrinal and property-law alignment to avoid undermining minority rights (Edge & Rajan, 2020; Srikantan, 2012, 2017). Waqf properties often include mosques and cemeteries and are central to Muslim religious life; reforms that undermine their governance or reduce their religious character risk triggering constitutional scrutiny. The waqf governance literature emphasizes ensuring that secular regulatory aims do not erode the religious endowments' religious purposes and that tribunals recognize the dual nature of waqf as both religious asset and economic instrument (Chakrabarti et al., 2022; Kamarubahrin & Ayedh, 2018; M.K. & Santhosh, 2021). The Sachar Committee and subsequent scholarship stress leveraging waqf resources for socio-economic development while maintaining religious endowment purposes, a policy stance that requires careful separation of secular administration from religious authority, to prevent secular governance from displacing religious prerogatives (Hughes & Siddiqui, 2024; Kiliyamannil, 2024).

The literature supports a calibrated approach to waqf governance reform: securing social welfare aims and financial sustainability of waqf assets while protecting the religious and institutional autonomy of mosques and other waqf properties. This requires procedural safeguards, meaningful minority representation, and robust adjudicatory mechanisms (Kamarubahrin & Ayedh, 2018; M.K. & Santhosh, 2021; Sano & Kassim, 2021). Courts will scrutinize whether state powers over waqf were expanded in a manner that undermines waqf autonomy or discriminates against Muslims or other minorities (Abdullah, 2020; Edge & Rajan, 2020; Srikantan, 2017). The preferred governance model aligns with creating independent tribunals and clear public oversight while safeguarding religious purposes and ensuring transparent governance of waqf assets (Kamarubahrin & Ayedh, 2018; M.K. & Santhosh, 2021; Rashid, 2018; Sano & Kassim, 2021). Policy-relevant recommendations for the UMEED Act include embedding explicit protections for religious endowments' religious functions, creating independent waqf tribunals with specialist knowledge, establishing transparent appointment procedures for Mutawallis and Board members, and providing for secular governance of secular waqf assets while preserving religious endowments' primary purposes (Jahar, 2019; Kamarubahrin & Ayedh, 2018; Rashid, 2018; Sano & Kassim, 2021). The constitutional scrutiny of the UMEED Act reveals that judicial review will play a decisive role in determining whether the reform constitutes legitimate administrative modernization or an unconstitutional intrusion into minority religious autonomy. The Supreme Court's assessment of the Act's compatibility with Articles 25–30 will establish important precedents for the permissible scope of state intervention in religious endowments.

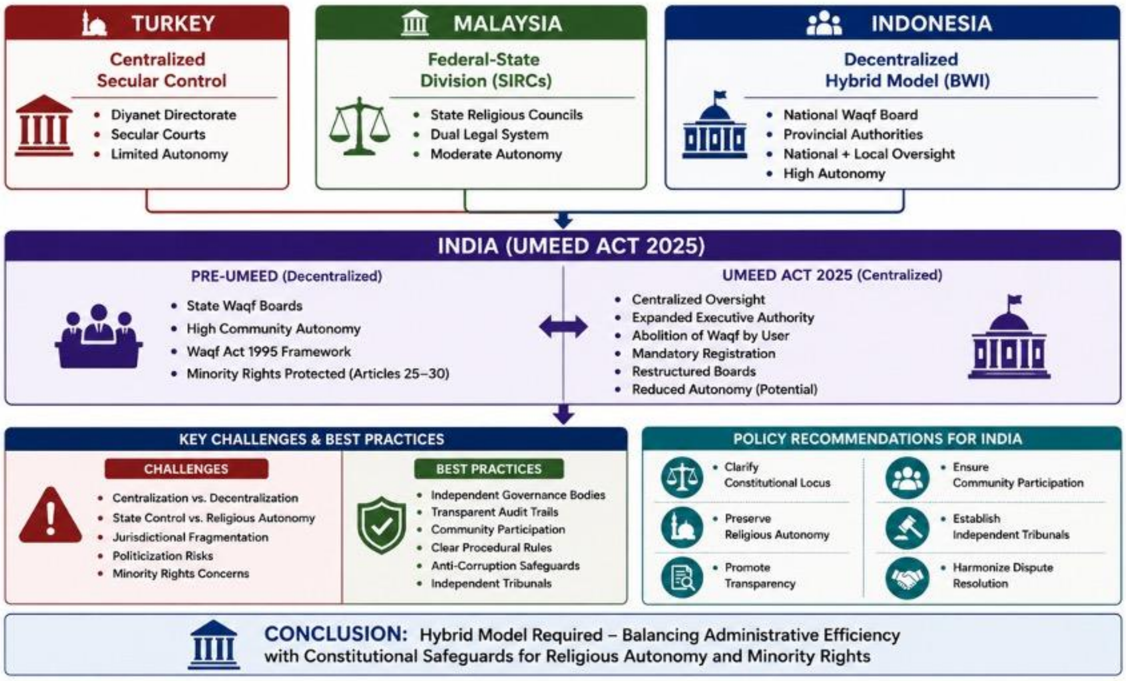
Comparative Waqf Governance and Constitutional Lessons: Evidence from Turkey, Malaysia, and Indonesia

Waqf governance occupies a critical intersection between religious endowments and statutory regulation, particularly in plural legal orders where constitutional arrangements must reconcile religious autonomy with public accountability. India's UMEED Act 2025 represents a significant shift in waqf governance, introducing centralized oversight, expanded executive authority, and new regulatory mechanisms that raise fundamental questions about minority rights and religious autonomy. To assess the implications of this reform, this comparative analysis examines the constitutional arrangements, legal frameworks, governance structures, and state-religion relations in Turkey, Malaysia, and Indonesia, three jurisdictions that offer distinct models for managing the tension between state oversight and religious community autonomy. Across these cases, a common tension persists between administrative efficiency and religious freedom, with variability in judicial accountability mechanisms and protections for religious endowments (Hamoudi, 2020; Yang et al., 2020). The synthesis identifies best practices for India, including clear constitutional locus for waqf administration, robust governance structures with independent oversight, transparent jurisprudence, and stakeholder engagement to improve service delivery (Li, 2020; Newbigin, 2009).

To provide a comprehensive visual overview of the comparative governance frameworks, Figure 1 synthesizes the constitutional arrangements, governance structures, and state-religion relationships across Turkey, Malaysia, and Indonesia, highlighting the key features and implications for India's waqf reform.

Figure 2

Comparative Waqf Governance Models: Turkey, Malaysia, and Indonesia



Source: Author's conceptualization based on literature synthesis, 2026.

Figure 2 presents a simplified comparative framework of waqf governance across Turkey, Malaysia, Indonesia, and India (UMEED Act 2025). The figure illustrates three distinct governance models: Turkey's centralized secular control through the Diyanet Directorate, characterized by limited religious autonomy but effective asset protection; Malaysia's federal-state division through State Islamic Religious Councils (SIRCs), offering moderate autonomy with jurisdictional fragmentation; and Indonesia's decentralized hybrid model through the National Waqf Board (BWI), providing high community autonomy but coordination challenges (Hamoudi, 2020; Yang et al., 2020; Jahar, 2019). The figure then contrasts India's pre-UMEED decentralized model with the centralized approach introduced by the UMEED Act 2025, highlighting the shift from state waqf boards with high community autonomy to centralized oversight, expanded executive authority, abolition of waqf by user, mandatory registration, and restructured boards, changes that may reduce community autonomy and trigger constitutional scrutiny under Articles 25–30 (Owais & Manaf, 2023; M.K. & Santhosh, 2021). Key challenges include centralization versus decentralization, state control versus religious autonomy, jurisdictional fragmentation, politicization risks, and minority rights concerns. Best practices emerging from comparative experience include independent governance bodies, transparent audit trails, community participation, clear procedural rules, anti-corruption safeguards, and independent tribunals. The framework concludes with policy recommendations for India: clarifying constitutional locus, preserving religious autonomy, promoting transparency, establishing independent tribunals, ensuring community participation, and harmonizing dispute resolution, all aimed at achieving a hybrid model that balances administrative efficiency with constitutional safeguards for religious autonomy and minority rights.

Turkey's constitutional model presents a unique approach to waqf governance, characterized by a secular state architecture that separates religious affairs from direct state control while maintaining public oversight of religious endowments. The Turkish system operates under a combination of secular administrative rules and religious oversight, with judicial bodies overseeing waqf disputes and state-supported administrative infrastructure ensuring continuity of asset management. The constitutional separation of mosque and state creates a governance dynamic that emphasizes institutional accountability while preserving religious liberty (Yang et al., 2020). Administrative efficiency is pursued through secular state structures, with religious endowments integrated into formal regulatory systems. However, this model must navigate persistent tensions with religious communities' aspirations for self-governance and spiritual leadership. Judicial oversight ensures rule-of-law compliance while safeguarding religious freedoms, though the centralized nature of the system can limit community participation. The Turkish experience demonstrates that secular accountability mechanisms can effectively govern religious endowments without entirely eroding religious autonomy, provided that robust institutional checks are maintained within a secular framework (Hamoudi, 2020).

Malaysia's federal-constitutional arrangement embeds distinct state-level religious authorities for Muslims within a uniform civil legal framework. Waqf governance pivots on state religious councils (SIRCs), which administer waqf laws and regulations through state-level boards supported by central statutory frameworks. This creates a structured yet fragmented governance landscape, where jurisdictional overlap and harmonization efforts influence dispute adjudication and asset management practices (Yang et al., 2020). Administrative efficiency benefits from centralized processes but can be constrained by inter-state variation and competing jurisdictional claims. Disputes over waqf are resolved through state religious boards and competent civil courts, with a mix of religious-law-based and civil-law-based adjudication paths. The state-maintained religious authority structure centralizes control over Muslim waqf assets while preserving a degree of autonomy for local Muslim communities, though asymmetries among states with different resources and legal cultures persist. Malaysia's experience highlights the potential for harmonizing centralized standards with decentralized implementation, though coordination challenges remain significant.

Indonesia's democratic, decentralized constitutional framework includes civil-based and religious-administration channels for waqf, with national and local authorities sharing oversight. The Indonesian Waqf Board (BWI) coordinates waqf development while provincial and district authorities enable decentralized administration (Yang et al., 2020). This approach enhances local responsiveness and development alignment but creates coordination challenges and variable administrative performance across regions. The judicial pathway for waqf matters includes adjudication in national courts with customary and religious law interactions, emphasizing transparency and accountability while coherence across regions remains a work in progress (Jahar, 2019). Indonesia's decentralized governance allows local religious authorities and community actors to influence waqf management, supporting religious autonomy in practice while requiring overarching national policy to prevent fragmentation. The Indonesian model demonstrates that decentralized governance can enhance community participation and responsiveness, though it demands significant coordination efforts to ensure uniform standards and judicial recourse.

Across these three jurisdictions, the literature reveals consensus that governance architecture profoundly shapes waqf outcomes regarding efficiency, accountability, and religious autonomy. However, disagreements persist on the optimal balance between centralization and decentralization, and the degree to which secular accountability should govern religious endowments without compromising religious freedom (Hamoudi, 2020; Yang et al., 2020). Reform efforts benefit from incorporating coproduction and stakeholder engagement to enhance legitimacy and service delivery, while guarding against excessive state control that could erode religious trust and community buy-in (Li, 2020). Key challenges include jurisdictional fragmentation, variable administrative capacity, and tensions between religious authority and state oversight. Best practices emerging from these comparative experiences include establishing independent, accountable governance bodies with transparent audit trails and citizen-facing disclosure; creating independent waqf tribunals with streamlined procedures; preserving religious autonomy through explicit protections for customary waqf practices and community participation; promoting transparency through robust asset registries and conflict-of-interest policies; and harmonizing dispute resolution with clear procedural rules and appellate review pathways (Hamoudi, 2020; Li, 2020; Yang et al., 2020).

For India, the comparative evidence suggests that the UMEED Act 2025 should be designed to balance administrative modernization with constitutional safeguards for minority rights and religious autonomy. Policy recommendations include clarifying the constitutional locus and legislative alignment for waqf administration, establishing independent governance bodies with transparent processes, preserving religious autonomy through community participation and customary practice protections, leveraging coproduction and stakeholder engagement to align policy with local practices, promoting transparency and anti-corruption safeguards through robust asset registries and independent audits, and harmonizing dispute resolution through clear procedural rules and appellate pathways. The best-practice synthesis emphasizes constitutional alignment and clarity of locus, independent but proportionate governance institutions, protection of religious autonomy, inclusive coproduction with stakeholders, transparent and auditable processes, and coherent dispute-resolution mechanisms that ensure accountability without eroding religious freedoms. This combination supports an administrative regime that is efficient, publicly trustworthy, and respectful of religious endowments' autonomy (Hamoudi, 2020; Li, 2020; Yang et al., 2020; Newbigin, 2009). The comparative analysis demonstrates that successful waqf governance requires careful attention to constitutional design, institutional arrangements, and stakeholder engagement, with the ultimate goal of balancing administrative efficiency with religious freedom and minority rights protection. The comparative evidence from Turkey, Malaysia, and Indonesia demonstrates that successful waqf governance requires careful balancing between administrative efficiency and religious autonomy. The hybrid model, combining state oversight, community participation, and independent judicial review, offers the most promising pathway for India's waqf reform. The following section applies Institutional Logics theory to analyze how competing religious, market, and state logics shape the governance of waqf-linked sukuk.

Institutional Logics and the Financialization of Waqf: Productive Sukuk and Islamic Social Finance

The integration of waqf with modern financial instruments, particularly productive sukuk, represents a significant convergence between Islamic philanthropy and contemporary financial markets, raising fundamental questions about how religious endowments can be mobilized for socio-economic development while maintaining their spiritual and ethical foundations. This transformation reflects broader processes of financialization, the increasing dominance of financial logic, instruments, and actors in shaping economic and social life, that have reshaped Islamic social finance over the past two decades (Krippner, 2005; Epstein, 2005). As waqf evolves from a traditional charitable institution into a productive asset capable of generating sustainable returns through sukuk-linked instruments, it becomes embedded within institutional arrangements that simultaneously pursue social welfare objectives and financial returns. This dual orientation creates productive tensions between competing institutional logics, religious, market, and state, that shape the governance, legitimacy, and effectiveness of waqf-linked sukuk. The Institutional Logics perspective, as developed by Thornton, Ocasio, and Lounsbury, provides a powerful analytical framework for understanding how these competing logics interact, producing hybrid governance models that negotiate between religious authenticity, financial efficiency, and public accountability (Thornton et al., 2012; Friedland & Alford, 1991).

The religious logic underlying waqf is rooted in the principles of *maqāṣid al-sharīʿah*, emphasizing social justice, wealth redistribution, intergenerational equity, and the preservation of religious endowment purposes. Waqf, as an instrument of *sadaqah jāriyah* (continuous charity), is fundamentally oriented toward public welfare and the perpetuation of charitable benefits across generations (Dallh, 2023; Koehler, 2015). This logic prioritizes the preservation of endowment assets, the fulfillment of founder intentions, and the protection of religious character. When waqf is integrated with productive sukuk, the religious logic requires that financial instruments comply with Shariah principles, prohibiting *riba* (interest), *gharar* (excessive uncertainty), and investment in prohibited sectors, while ensuring that returns are channeled toward socially beneficial purposes (Musari, 2022; Rusydiana et al., 2024). The religious logic also emphasizes the perpetuity and irrevocability of waqf assets, creating tensions with the flexibility and liquidity demanded by financial markets. Sukuk structures must therefore be carefully designed to preserve the religious integrity of waqf while generating productive returns (Siswantoro, 2023). The dominance of religious logic ensures that waqf-linked sukuk remain accountable to Islamic ethical principles, but it also creates challenges for financial innovation and market integration.

The market logic, by contrast, emphasizes efficiency, profitability, risk management, and financial sustainability. Productive sukuk are designed to mobilize capital for infrastructure, education, healthcare, and other development projects, generating returns that can be reinvested in social programs (Kamarubahrin & Ayedh, 2018; Sano & Kassim, 2021). The market logic requires transparent governance, professional management, and performance measurement to attract investors and ensure financial viability. However, the market logic also introduces pressures that may conflict with the religious logic of waqf: the pursuit of returns may prioritize profit over social impact, the demand for liquidity may challenge the principle of perpetuity, and the need for standardization may reduce the flexibility needed to accommodate diverse founder intentions and community needs (Moumtaz, 2021). The tension between these logics is evident in debates over cash waqf, waqf-linked sukuk, and blended finance models, where scholars and practitioners negotiate the boundaries between religious authenticity and financial innovation (Jahar, 2019; Li, 2020). The market logic also raises concerns about the commodification of religious assets and the potential dilution of waqf's spiritual character as it becomes integrated into financial markets (Hughes & Siddiqui, 2024).

The state logic introduces an additional layer of complexity, reflecting the regulatory, legal, and policy frameworks within which waqf-linked sukuk operate. Governments seek to integrate waqf into national development strategies, enhance transparency and accountability, and ensure compliance with legal and regulatory standards (Cordery, 2019; Gamon & Tagoranao, 2018). The state logic emphasizes bureaucratic efficiency, standardized reporting, and oversight mechanisms that enable public accountability and reduce mismanagement (Owais & Manaf, 2023; Rosli, 2022). However, state intervention can also generate tensions with both religious and market logics: excessive regulation may stifle innovation and community participation, while insufficient oversight may enable corruption and mismanagement (Srikantan, 2017; Edge & Rajan, 2020). The Indian UMEED Act 2025 exemplifies the tensions generated by state logic, centralized oversight and expanded executive authority seek to enhance administrative efficiency but also raise concerns about religious autonomy and minority rights (M.K. & Santhosh, 2021). The interaction of these three logics produces hybrid governance models that require continuous negotiation among religious authorities, state institutions, market actors, and community stakeholders. Successful integration of waqf with productive sukuk depends on governance arrangements that balance financial efficiency with religious legitimacy and public accountability (Hamoudi, 2020; Newbigin, 2009).

The financialization of waqf through productive sukuk also raises important questions about the distribution of risk, the allocation of returns, and the social impact of financialized philanthropy. While productive sukuk can generate substantial resources for social welfare, they also expose waqf assets to market risks and financial volatility, potentially undermining the principle of asset preservation (Turner & Arslan, 2014; Yang et al., 2020). Moreover, the involvement of financial intermediaries, performance metrics, and investor expectations may shift governance from community-led stewardship toward professional management, potentially reducing community participation and accountability (Li, 2020). The challenge, therefore, lies in designing institutional arrangements that harness the efficiencies of market mechanisms while preserving the religious and communal character of waqf. This requires transparent governance structures, participatory decision-making processes, and mechanisms for accountability that respect both religious values and financial standards (Sano & Kassim, 2021; Rosli, 2022). The comparative experiences of Turkey, Malaysia, and Indonesia demonstrate that successful integration of waqf with financial markets requires a hybrid model that combines state oversight, community participation, and market mechanisms within a constitutional framework that protects religious autonomy (Jahar, 2019; Rosli, 2022; Yang et al., 2020). For India, the UMEED Act 2025 represents an opportunity to develop such a hybrid model, but its success depends on careful attention to constitutional safeguards, institutional design, and stakeholder engagement. Ultimately, the integration of waqf with productive sukuk reflects a broader transformation in Islamic social finance, where religious philanthropy, financial innovation, and state governance converge to shape new models of socio-economic development. By applying the Institutional Logics framework, this analysis demonstrates that the governance of waqf-linked sukuk is shaped by the continuous negotiation among religious, market, and state logics, requiring institutional arrangements that balance efficiency, legitimacy, and autonomy in the pursuit of sustainable and inclusive development.

Conclusion

This study has examined the constitutional and institutional transformation of waqf governance in India under the UMEED Act 2025, revealing how the reform fundamentally reshapes the relationship between state authority, religious institutions, and minority rights. The analysis demonstrates that the UMEED Act's provisions, abolition of waqf by user, mandatory registration, restructuring of waqf boards, and expanded executive authority, represent not merely administrative modernization but a significant reconfiguration of state control over religious endowments. While these reforms may enhance transparency, accountability, and administrative efficiency, they also raise profound constitutional questions concerning the autonomy of Muslim religious institutions, the protection of minority rights under Articles 25–30, and the permissible scope of state intervention in religious affairs. The comparative examination of governance models in Turkey, Malaysia, and Indonesia reveals that successful waqf reform requires careful balancing between administrative efficiency and religious autonomy, with best practices including independent oversight, transparent governance, community participation, and robust judicial accountability mechanisms.

Through the lens of Institutional Logics theory, this study has demonstrated that waqf governance is shaped by the continuous negotiation among religious, market, and state logics, producing hybrid institutional arrangements that must reconcile competing demands for religious legitimacy, financial efficiency, and public accountability. The integration of waqf with productive sukuk exemplifies this tension, as Islamic philanthropy becomes increasingly embedded within financial markets while striving to preserve its spiritual and ethical foundations. The future of waqf governance in India will depend on how these tensions are negotiated in the implementation of the UMEED Act and in the judicial review currently underway before the Supreme Court. A balanced approach, one that respects constitutional guarantees of religious freedom and minority self-governance while pursuing administrative modernization, is essential for ensuring that waqf remains an effective instrument for Muslim philanthropy and community development. The comparative evidence suggests that a hybrid model combining state oversight, community participation, and independent judicial review offers the most promising pathway for achieving this balance, ensuring that waqf institutions contribute meaningfully to socio-economic development while preserving their religious character and institutional autonomy.

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No potential conflict of interest was reported by the author(s).

Ethical Approval

This study is a qualitative comparative research based exclusively on secondary data from published academic journals, official reports, and policy documents. It does not involve primary data collection from human subjects, animals, or any form of direct intervention. Therefore, ethical approval was not required for this research

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