



Review Article

Encroachment And Mismanagement of Waqf Properties: A Systemic Legal Crisis with Reference to the Haryana Waqf Board

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Abstract

This study critically examines the widespread encroachment and administrative failures affecting Waqf properties under the Haryana Waqf Board. Despite constitutional safeguards and statutory frameworks under the Waqf Act, 1995, persistent political interference, corruption, and prolonged administrator control have undermined transparency and accountability. Using data from official reports, judicial pronouncements, and policy documents, the paper highlights how arbitrary leasing, ineffective enforcement, and administrative loopholes have transformed a sacred trust into a governance crisis. Comparative insights from other Indian states contextualize Haryana's challenges within a national framework. The study concludes with reform recommendations, emphasizing digitization, independent audits, anti-encroachment mechanisms, and the restoration of democratic governance to protect Waqf assets and uphold minority rights.

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The authors affirm that the contents of this paper are based on verifiable information and that there is no intention to defame, misrepresent, or harm the reputation of any entity or individual.

1. INTRODUCTION

The institution of waqf has historically served as one of the most important instruments of social welfare and religious endowment within Islamic law.¹ By definition, waqf refers to the permanent dedication of movable or immovable property for purposes recognized as religious, pious, or charitable.² In India, waqf properties have played a pivotal role in supporting mosques, dargahs, madrasas, orphanages, schools, and other charitable institutions serving the Muslim community. To safeguard these assets, the Waqf Act, 1995 was enacted, providing for the establishment of State Waqf Boards as statutory custodians of waqf properties.

The composite Punjab Waqf Board, which earlier managed waqf properties for Punjab, Haryana, Himachal Pradesh, and the Union Territory of Chandigarh, was formally dissolved by a notification issued by the Government of India, Ministry of Social Justice and Empowerment, on 29 July 2003, with effect from 1 August 2003. Following this dissolution, each state, Punjab, Haryana, Himachal Pradesh, and the Union Territory of Chandigarh up its own independent Waqf Board to manage and administer waqf properties within its respective jurisdiction. In Haryana, the Waqf Board was constituted in 2003 following bifurcation from Punjab and has since been tasked with the management of thousands of properties across the state.³

Despite this legal framework, the functioning of the Haryana Waqf Board has come under judicial, academic, and community scrutiny due to widespread allegations of encroachment, unauthorized leasing, corruption, and arbitrary administration. These problems illustrate a systemic governance failure that undermines both the fiduciary nature of waqf and the constitutional guarantee of minority rights under Articles 25, 26, and 30.

This paper critically examines the crisis of waqf management in Haryana, situating it within the broader Indian context, analyzing judicial interventions, and suggesting reforms to restore accountability and community trust.

2. Historical and Constitutional Context

The waqf system was introduced in India during the medieval period and gradually evolved into a significant institution for charitable and religious endowments. Over the centuries, state intervention became necessary to regulate mismanagement and safeguard these assets from diversion. Constitutionally, waqf properties are protected under several provisions, including Article 25⁴, which guarantees freedom of conscience and the right to freely profess, practice, and propagate religion; Article 26, which secures the right of religious denominations to manage their own affairs and to own and acquire property; and Article 30, which grants minorities the right to establish and

administer educational institutions. Additionally, the Directive Principles of State Policy, particularly Articles 38, 39, and 46, obligate the State to promote social justice and protect the interests of minorities. Consequently, the mismanagement or diversion of waqf assets not only reflects administrative negligence but also risks violating the constitutional rights of the Muslim community.

3. Encroachment of Waqf Properties in Haryana

Encroachment has emerged as the most serious challenge to the integrity of waqf properties in India. The Sachar Committee Report (2006) observed that nearly 70% of India's waqf properties are encroached upon, with a total estimated area of 4.9 lakh properties spread across the country.⁵

According to official records, Haryana has 12,524 registered waqf properties covering a total area of approximately 20,855 acres. A majority of these, nearly two-thirds (about 8,200 properties), are situated in rural regions, while the remainder are located in urban centers. District-wise, Nuh, which has a predominantly Muslim population, contains the largest share with over 2,200 properties. It is followed by Ambala with 1,080 properties and Kurukshetra with 985 properties. Other districts with significant holdings include Panipat (972 properties) and Hisar (904 properties). By contrast, Haryana's more urbanized and industrialized regions reflect a comparatively smaller waqf presence. For example, Gurugram has only 246 registered waqf properties, while Rewari has 253. Together, Faridabad and Palwal account for 557 properties, whereas Panchkula has the lowest figure in the state with just 104 properties.

In Haryana, RTI data suggests over 12,000 acres of waqf land are under encroachment, particularly in urbanizing districts such as Gurugram, Nuh, Ambala, and Panipat.⁶

In comparison, the neighboring state of Punjab, which was historically part of a unified administrative region with Haryana before reorganization, also faces a grave crisis in the management of waqf assets. Reports indicate that nearly 70 percent of Punjab's waqf properties are under encroachment, reflecting systemic weaknesses in protection and governance. Moreover, there are over 19,700 tenants and lessees who continue to occupy waqf properties without paying any rent, causing significant financial losses and undermining the welfare objectives for which these properties were originally endowed.⁷ Waqf properties are frequently subjected to private occupation by influential individuals, commercial exploitation through unauthorized construction, and allotment on nominal rents to preferred beneficiaries. In many instances, valuable parcels of land have been converted for non-religious purposes, undermining the spirit of the endowment. Although the Waqf Act, 1995 (Sections 52–55) empowers the Boards to classify defaulting lessees as encroachers and initiate eviction

¹ Ethis.co. (n.d.). The development of waqf throughout the history of Islam. Retrieved [08.10.2024], from <https://ethis.co/blog/the-development-of-waqf-throughout-the-history-of-islam/>

² The Waqf Act, 1995 (Act 43 of 1995).

³ Notification No. 18/2/96-3JJ (I), dated 1.8.2003 Government of Haryana

⁴ Constitution of India, 1950

⁵ Sachar Committee Report

⁶ <https://timesofindia.indiatimes.com/city/gurgaon/nuh-leads-with-2-2k-waqf-properties-in-haryana-state-total-exceeds-12-5k/articleshow/119955355.cms>

⁷ <https://www.tribuneindia.com/news/punjab/waqf-board-to-put-encroachers-on-notice/>

proceedings, enforcement remains largely ineffective. Political interference, administrative delays, and lack of adequate police support have all contributed to a culture of impunity, allowing such encroachments and misappropriation to persist unchecked.

4. Mismanagement and Governance Failures

Beyond encroachment, waqf properties in Haryana suffer from deep-rooted governance failures that have been repeatedly highlighted by audit and judicial bodies. Reports of the Comptroller and Auditor General (CAG) in 2013 and 2019⁸ Pointed to ineffective monitoring of revenue, unauthorized leasing without competitive bidding, minimal revenue collection despite ownership of prime urban properties, and the lack of digitization and GIS mapping of waqf assets. A major policy controversy also arose from the letter dated 29.12.2020 (Memo No. 18/25/2020-3JJ (I)) issued by the State Government,⁹ which permitted the Haryana Waqf Board to lease or renew properties at market rates without adhering to the transparent and competitive bidding process mandated under Section 56 of the Waqf Act, 1995, and the Waqf Properties Lease Rules, 2014.¹⁰ Although the stated intent was to enhance revenue collection, the directive effectively bypassed statutory safeguards designed to ensure fairness, accountability, and protection against arbitrary allotments, thereby facilitating selective leasing to preferred parties and undermining the fiduciary character of waqf administration. Similarly, the introduction of Rule 61 of the Haryana Waqf Rules, 2021¹¹ replacing the earlier Haryana Wakf Rules of 2012¹² Sparked significant controversy. While Section 99 of the Waqf Act, 1995 permits the appointment of an Administrator only for six months, extendable up to one year, the new rule authorized the Administrator to continue indefinitely until the Board's reconstitution and further conferred upon the Administrator the powers of a Chairman authority not envisaged under the parent Act. This provision has been widely criticized for diluting democratic representation, concentrating power, and circumventing statutory safeguards. In addition to these audit findings and statutory violations, multiple complaints and representations submitted to the Government of Haryana have alleged misuse of official position, diversion of Board resources, irregular use of vehicles, and fraudulent entries in official records, resulting in financial loss to the Waqf Board. Compounding these governance gaps is the weak judicial enforcement structure, since under the Waqf Act, each division is required to have a dedicated tribunal for adjudicating waqf-related matters, but in Haryana, only one or two tribunals are functioning effectively, while several divisions have not constituted tribunals at all. Apart from it, several key posts

remain vacant permanently. The Board does not have a dedicated Law Officer, Accountant, or Administrative Officer, and these posts are either left unfilled or managed on an ad-hoc basis. This administrative vacuum severely hampers legal representation, financial accountability, and day-to-day governance of waqf properties.

In Haryana, the mandate of the Waqf (Amendment) Act, 2013¹³ Appointing a full-time Chief Executive Officer has never been implemented. The absence of a dedicated CEO has weakened administrative efficiency and accountability within the Haryana Waqf Board.

Collectively, these issues underscore the urgent need for independent inquiries and strict accountability mechanisms to restore transparency and public trust in the management of waqf properties.

5. Judicial and Statutory Framework

The Waqf Act, 1995 (UMEED)¹⁴ establishes a comprehensive legal framework for the protection and management of waqf assets, empowering Waqf Boards to identify and register waqf properties under Sections 36 to 40, evict encroachers under Sections 52 to 55, lease properties under the strict conditions prescribed in Section 56, and resolve disputes through Waqf Tribunals constituted under Section 83. Judicial pronouncements have repeatedly emphasized the fiduciary nature of waqf, as seen in *Syed Md. SalieLabbai v. Mohd. Hanifa* (1976)¹⁵, which held that trustees must act in good faith and safeguard waqf assets, and in *Mohammed Ismail Saheb Bahadur v. Board of Waqf* (2006)¹⁶, where the duty of Waqf Boards to prevent encroachment was underlined. Similarly, in *Central Waqf Council v. Anjuman-E-Haidari* (2011)¹⁷, the Supreme Court reaffirmed that waqf property is inalienable and cannot be diverted for any purpose. In *Mohammad Arshad Versus State of Haryana, the Hon'ble Punjab and Haryana High Court* has also intervened repeatedly in Haryana to address irregularities, including striking down a notification¹⁸ for illegal nominations in 2020, staying the functioning of improperly constituted Boards in 2021, and restricting violations of Section 14 during Board reconstitution in 2024. However, the

⁸CAG Audit Reports on Haryana Waqf Board (2013, 2019).

⁹The letter dated 29.12.2020 (Memo No. 18/25/2020-3JJ (I))

¹⁰Waqf Properties Lease Rules, 2014

¹¹ Haryana Waqf Rules, 2021

¹²Haryana Wakf Rules of 2012

¹³ the Waqf (Amendment) Act, 2013

¹⁴ The Waqf Act, 1995 (Act No. 43 of 1995), The Waqf Act, 1995, which after the 2025 amendment has been renamed as the Unified Waqf Management, Empowerment, Efficiency, and Development (UMEED) Act, 1995

¹⁵(1976) 4 SCC 780.

¹⁶AIR 2006 SC 663.

¹⁷2011) 8 SCC 753.

¹⁸ Notification dated 06.03.2020 by Government of Haryana, nominated waqf board members.

prolonged operation of the Administrator¹⁹ under Rule 61 has frequently diluted the effect of these judicial directions, enabling governance gaps to persist despite the statutory safeguards.

6. Comparative Perspective

The crisis of waqf management is not unique to Haryana but reflects a wider national concern. In Uttar Pradesh, large-scale encroachments on waqf lands in cities such as Lucknow and Varanasi have been repeatedly documented, with audit bodies pointing to serious irregularities. Karnataka witnessed the infamous Wakf Board Land Scam of 2012, which revealed misappropriation of property worth thousands of crores, while in Delhi, numerous disputes over encroached waqf land continue to remain pending in litigation, with enforcement remaining weak. These examples show that the challenges of encroachment, mismanagement, political interference, and lack of transparency are systemic across states, and the Haryana experience is part of a recurring national pattern that demands structural reform and stronger accountability mechanisms.

7. Suggested Reforms

To address the systemic crisis in waqf management, urgent reforms are necessary at both legislative and administrative levels. Inspired by services like the Indian Revenue Service (IRS), India needs a dedicated National Waqf Services Cadre to manage waqf affairs professionally. Similarly, at the state level, Haryana could introduce a specialized cadre within the

Haryana Civil Services (HCS) or allied services are dedicated to waqf administration.

A first step is the digitization and GIS mapping of all waqf properties, with online public access to ensure transparency and prevent manipulation of records. An anti-encroachment cell with dedicated police support should be established to enforce eviction orders effectively, while waqf tribunals must be strengthened to ensure time-bound disposal of encroachment and lease-related disputes. Transparent leasing policies need to be enforced, with public auction as the norm and safeguards to prevent conflicts of interest. At the community level, oversight committees with local representation could play a significant role in monitoring the use and protection of waqf assets. Annual audits by the Comptroller and Auditor General, with mandatory public disclosure of findings, would enhance accountability.

Most critically, the practice of vesting control of the Haryana Waqf Board in politically appointed Administrators must be curtailed. Rule 61 of the Haryana Waqf Rules, 2021, which allows Administrators to function indefinitely, should be struck down as inconsistent with Section 99 of the Waqf Act, 1995. Administrators should be appointed only for a strictly limited period of six months (extendable to one year), and timely elections/nominations under Section 14 must be made

mandatory to restore democratic representation. This would ensure that the management of waqf properties does not become a tool of political patronage and remains aligned with its fiduciary and charitable purpose.

Finally, allegations of corruption and misuse of power require independent investigations, either by vigilance bodies or the CBI, to restore trust in the system and ensure that waqf resources serve their intended charitable and religious purposes.

CONCLUSION

The case of the Haryana Waqf Board reveals a systemic legal and governance crisis where, despite constitutional protections and a detailed statutory framework, waqf properties remain highly vulnerable to encroachment, arbitrary administration, and political manipulation. Encroachers and vested interests continue to influence the functioning of waqf administration, while manipulative rule-making, such as the introduction of Rule 61, has bypassed statutory limits and diluted the democratic framework of governance.

A major aggravating factor is the appointment of politically aligned Administrators who continue to run the Haryana Waqf Board for prolonged periods in violation of the statutory mandate. Instead of functioning as neutral custodians, these Administrators often operate with political considerations, facilitating arbitrary leasing, diversion of resources, and selective enforcement of law. This politicization of waqf administration undermines democratic representation envisaged under Section 14 of the Waqf Act and erodes community trust in the institution.

Judicial interventions, though frequent, have often been undermined by executive inaction and by the continued dominance of political Administrators, leaving community resources at risk of diversion from their intended religious and charitable purposes. For meaningful reform, it is imperative to strike down inconsistent rules such as Rule 61, disqualify encroachers under Section 3(ee) of the Waqf Act, ensure timely elections/nominations for the reconstitution of the Board under Section 14, and restore accountability through independent investigations and transparent audits.

Unless these urgent reforms are implemented, Haryana risks setting a dangerous precedent where waqf properties meant for mosques, schools, orphans, and broader community welfare are reduced to instruments of private and political gain. Protecting these assets is not only a question of governance but also one of constitutional justice and the preservation of minority rights.

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