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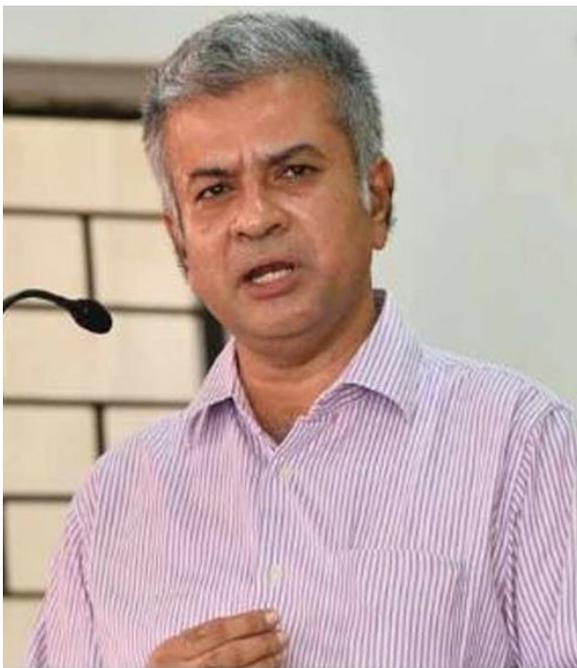
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ABOUT US



WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you



"THE ROLE AND RIGHTS OF WOMEN IN WAKF PROPERTY MANAGEMENT: PERSPECTIVES FROM ISLAMIC AND INDIAN LAW"

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CHAPTER – 1

Abstract

This research studies the pivotal but complex role of women in the management of Wakf properties across Islamic countries and India, emphasizing the interplay between gender, tradition, and socio-economic development. Historically, women have significantly contributed to the establishment and administration of Wakf endowments. However, contemporary practices reveal substantial obstacles to their full participation. Employing a mixed-method approach, the study uses qualitative methods like structured interviews, focus group discussions, and document analysis in order to explore the legal, cultural, and institutional challenges affecting women's involvement in Wakf administration.

Findings emphasize the complexity of women's exclusion. While formal recognition of women's rights in Wakf management is evident in many Islamic jurisdictions through legal frameworks, entrenched socio-cultural norms remain a significant obstacle to their active involvement. A comparative analysis highlights diverse practices, with countries like Turkey adopting progressive policies, whereas more traditional settings impose restrictive measures.

It shows that women's participation in the management of Wakf is essential for the proper socio-economic results. Women direct resources to education, health care, and poverty reduction due to their interest in community welfare. Their participation has challenged traditional gender roles, strengthened economic empowerment, and ensured resilience in the community. The paper suggests that amendments in law and education and other community engagement reforms be targeted so as to make gender-inclusive governance in Wakf administration.

Keywords: Wakf property management, women's Participation, legal and cultural barriers, Socio-economic benefits, Gender inclusive governance

Introduction

Wakf properties are an important endowment deeply rooted in the rich traditions of Islamic philanthropy, where assets are dedicated by donors for charitable, religious, or educational purposes. It is an important mechanism for community development in accessing essential services like education, health, and social welfare while keeping alive a legacy of benevolence that is integral to Islamic values. In the context of India, Wakf properties come with a rather special significance, considering the erstwhile diverse makeup of the society. With endowments over centuries, such as Wakfs, India remains a land characterised by both the socio-political milieu responsible for its management and utilisation over time into the present to create opportunities, but also throw challenges that remain to be researched critically.

The role of women in the administration of Wakf properties has become an important focus in understanding gender dynamics within Islamic philanthropic structures. Despite being significant beneficiaries of Wakf initiatives, women have, through history, faced participation barriers in leadership and decision-making within these institutions. Understanding this phenomenon is necessary for a variety of reasons. First, involving women in the administration of Wakf properties has the potential to create more equitable and inclusive outcomes, as women constitute a significant segment of those who benefit from these assets. Second, as contemporary interpretations of Islamic jurisprudence evolve, the recognition of women's rights to inherit and manage Wakf properties is vital for advancing gender equity.

The participation of women in Wakf administration also reflects broader societal norms and cultural attitudes toward gender roles within Islamic frameworks. Exploring the diverse experiences of women in this context enriches the discourse on their agency, empowerment, and potential to bring about transformative change in their communities. This examination extends beyond theoretical considerations, carrying significant implications for policy development and the establishment of governance frameworks that promote gender-inclusive management of Wakf properties.

By discussing the points of intersection of gender, tradition, and modernity in Wakf administration, this research paper is meant to enlighten the reader about the nuances of the

role of women and the implications of inclusion or exclusion. Such analysis will not only enrich understanding about the properties of Wakf as instruments of socio-economic development but also feed into the more general debates around women's rights, leadership, and empowerment in the Islamic world. Advocating for an integrative approach that centres women's voices in Wakf governance represents a critical step toward harnessing these properties as agents of transformative social change, particularly within India's multifaceted socio-economic landscape.

Objective of the study

The research aims to examine how social, cultural, and legal structures influence women's participation in managing Wakf properties while analysing gender disparities and cultural barriers that limit their roles across Islamic countries and India. It seeks to evaluate the effectiveness of recent policy reforms in empowering women within Wakf administration and assess the social and economic impacts of their involvement on communities and families. Further, this study contributes to the larger body of works in pursuit of deliberations toward gender equity, leadership, and empowerment within the structure of Islamic philanthropy, arguing for inclusive governance frameworks that promote transformative social change.

Research Problems

- Social culture, lack of information, and institutional resistance notwithstanding, legal structures do not provide much leverage for women in accessing Wakf administration. The problem calls for a critical review of possible ways to overcome the challenges outlined above.
- Investigate to what extent gender disparity, legal barriers, and cultural influence limit the participation of women in the management of wakf properties across different Islamic countries and India, while assessing the effectiveness of recent policy reforms designed to strengthen women's empowerment.
- the impact of women's involvement in managing wakf properties on the social and economic dynamics of their communities and families, examining both positive outcomes such as empowerment and challenges like societal resistance and gender-based discrimination

Research Questions

- How do social and legal rules impact the role of women in managing Wakf properties?
- How do the roles and rights of women in wakf property management compare between different Islamic countries and India?
- How does women's involvement in wakf property management affect their communities and families?

Hypothesis

Hypothesis 1: - Social, cultural, and legal obstacles severely restrict women's involvement in operating Wakf properties, thereby generating gender asymmetry in the Islamic philanthropic framework across the Islamic world and India.

Hypothesis 2: - Women's involvement into managing Wakf properties has a positive impact on the socio-economic dynamics of their communities and families and helps to bolster empowerment and inclusive community development, despite the challenges of social defensiveness and institutional bias.

Research Methodology

The mixed-method approach to the study focuses on qualitative research methods for the comprehensive understanding of women's participation in the Wakf property management. Primary data will be gathered through structured interviews and focus group discussions among the participating and excluded women in the administration of Wakf, although knowledge will be sought from legal experts, policymakers, and community leaders regarding barriers and opportunities. Secondary data sources will include reviewing scholarly articles, legal texts, case studies, government reports, and historical records to trace the evolution of the role of women in Wakf administration. A comparative analysis will identify gender dynamics regarding legal frameworks and cultural practices for the management of Wakf institutions across Islamic countries and India. Case studies will be conducted for institutions managed by women to investigate the outcomes of their participation for community welfare and economic development. The research process will be governed by ethical considerations such as obtaining informed consent, maintaining confidentiality, and adopting a culturally sensitive stance. The study aims to provide insight into barriers and enablers of women's participation in

Wakf administration, propose policy recommendations for gender-inclusive governance, and understand how women's involvement can spark socio-economic transformation.

CHAPTER – 2

Literature Review

1. “Women and Waqt: Towards a Reconsideration of women’s place in the Mamluk household”

[Author: - Mary Ann Fay] [date: - Feb 1997]

The article examines the role of women in the Mamluk household through involvement within the waqf system, challenging the idea of women being marginalized in Mamluk society. It highlights how women established and managed a waqf, giving them highly valued control over economic resources and decision making. This system of waqf allowed women to remain financially independent, support their families, and participate in good works and religion, which augmented their social position. The authors claim that waqf really gave women more control and power, helping them to fully engage in Mamluk economic, social, and religious life. This study reconsiders traditional views of gender dynamics, providing a nuanced understanding of women's influence and power relations within the household and broader community during the Mamluk period.

2. Women’s right in Islamic law: the immutable and the mutable

[Author: - Asma t. Uddin] [dated: - June 1, 2017]

The article looks at the relation of Islamic law with women's rights. Here the author argues against the stereotype that the Islamic law necessarily contradicts the rights of women by dividing between immutable, i.e., that which does not change, and mutable, which is capable of being interpreted into different directions, aspects of law. Using Islamic divorce and inheritance practices as examples, author points to traditional restrictive interpretations, contrasting it with the 2004 family law reforms in Morocco as a major change. The author believes this model can be replicated within other countries, arguing that the progressive interpretation of Islamic law can serve as a vehicle for advancing the rights of women. The article focuses on reinterpretation within Islamic law as a means of promoting gender equality, improving women's rights.

3. The Waft (amendment) bill 2024

[author: - ministry]

The Waqf (Amendment) Bill, 2024, is the most important piece of legislation related to Waqf Act, 1995, governing waqf properties in India. The amendment ensures that the formation of waqf can only be declared by practicing Muslims owning the property; thus, it does not negate the right to inheritance for waqf-alal-aulad to the womenfolk. The government property cannot be defined as a waqf under this bill and the Collector can settle disputes about ownership. It amends the composition of the Waqf Board. It allows state-nominated members and requires women and non-Muslims to be represented. It mandates representation from Shias, Sun-nis, and backward classes. The tribunals will not require experts in Muslim law but will have judicial and administrative members. The central government acquires more powers for waqf governance, registration, and auditing.

4. Accumulate but Distribute: Islamic Emphasis on the Establishment of Waqf (Pious Endowment)

[Author: - Minlib Dallh] [dated: - 20 September 2023]

The paper is a discussion of the institution of waqf, a charitable trust in Islamic jurisprudence, which developed historically, especially with women in significant roles as founders and managers, and the relevance of waqf in modern contexts. Waqf served as a framework for fulfilling Quranic charity obligations, funding public services, and fostering urban development. Historically, women were actively involved in waqf, using it to manage wealth, ensure gender equality, and bypass inheritance restrictions. However, the rise of modernity and colonialism disrupted traditional practices, and reforms and critiques weakened the influence of waqf. In the modern era, waqf is regarded as a means of promoting social welfare, ecological preservation, and women's economic agency, and successful models have shown its potential for revival amid globalization and ecological challenges.

5. Women, Property Right and Islam

[Author: - Bishin and Benjamin G and Cherif Feryal M]

It studies gender inequality within Muslim-majority countries with specific reference to the rights of women over property. Though Islamic law provides for a woman's ownership, management, and disposal rights over property, in reality, patriarchal values undermine such provisions. It emphasizes that the causative factor here is not religion but culture. The institutional structure of patriarchal institutions enshrines the ideology of gender inequality.

Findings indicate that Muslim-majority states often restrict inheritance rights but respect general property rights in ways that are in line with global norms. Investments in women's education and advocacy groups promote equality, pointing to the need to address core rights and patriarchal systems. The article calls for nuanced strategies combining religious engagement and advocacy to enhance women's property rights in these regions.

CHAPTER – 3

Discussion and Analysis

→ The role of women in the administration of the Wakf properties

The role of women in the administration of Wakf properties is an extremely complex, multi-faceted subject interlinking history, law, and culture. Women have greatly contributed to Wakf properties as founders, beneficiaries, and managers. It speaks of the massive but not too prominent role that women played in the Islamic societies. This participation, though historically circumscribed by patriarchal customs, has been remarkable in how women have begun to claim their place in Wakf property management and fought for greater equality within modern legal and cultural settings.¹

Historically, women have been integral to the administration of Wakf properties, showing agency and influence within male-dominated societal structures. From the inception of Awqāf, women have played pivotal roles in establishing and managing endowments. During the Mamluk era, for instance, women often administered domestic Wakf properties, utilizing these assets to support their communities and assert their presence in social and religious domains. This participation signifies women's proactive roles in social welfare and points to their capabilities to handle political and legal provisions related to Wakf properties. Their role, therefore, was not a passive one; instead, they played an active role with calculated decision-making to become essential actors in community development.²

Legal frameworks that regulate Wakf properties shape the extent to which women participate in the administration of their own Wakfs. Women have entitlements based on family-

¹ Abdul Azim Islahi, *The Role of Women in the Creation and Management of Awqāf: A Historical Perspective*, INTELLECTUAL DISCOURSE 1025 (2018).

² Mary Ann Fay, *Women and Waqf: Toward a Reconsideration of Women's Place in the Mamluk Household*, 29 INTERNATIONAL JOURNAL OF MIDDLE EAST STUDIES 33 (1997).

established Wakfs under Islamic legal traditions, although some rights can also involve their management. However, the exercise of these rights is often constrained by socio-political dynamics and cultural practices. Some jurisdictions have traditionally allowed women to administer Wakf properties, while others are more restrictive, limiting their role to that of beneficiaries and preventing them from taking up active administrative positions. The restrictions underscore the importance of considering the interaction between legal regimes and social culture in the governance of Wakf.³

The modern legal law reforms further provide more avenues for enhancing women's roles in Wakf management. Activists and scholars pointed to the amendment of the law, which recognizes the rights of women, both as beneficiaries and as administrators, for modifications in traditional legal interpretations toward enlarging women's agency and authority in managing Wakf properties. Educational initiatives that target women will equip them with the skills and knowledge required to manoeuvre through legal structures and to discharge administrative functions efficiently. This would ensure a bridging of the gap between the theoretical rights enshrined in the law and actual practice, and, hence, create an all-inclusive governance structure for Wakf.

Other recent debates about the participation of women in Wakf management call for greater community involvement. Involving women's voices in deliberations on the policies of Wakf will likely yield governance models responsive to the general needs of the society and also more gender-equal. Engaging women in decision-making activities will enable the institutions of Wakf to utilize diverse perspectives for better administration and utilization of resources within the community. Such practices are consistent with the broader aims of gender equality, social justice, and rational resource use.

Recommendations for reform focus on legal, educational, and community-based approaches in advancing women's roles in Wakf administration. The dismantling of structural barriers, coupled with providing women with equal opportunities to manage Wakf properties, is critical in legal reforms. Training programs and awareness campaigns can then empower women with the tools necessary to understand and exercise their rights. Encouraging community

³ Abdul Azim Islahi, *The Role of Women in the Creation and Management of Awqāf: A Historical Perspective*, INTELLECTUAL DISCOURSE 1025 (2018).

participation and fostering dialogue on gender inclusivity in Wakf management further cements these efforts.

→ **The role and rights of women in wakf property management in different Islamic countries and India.**

Wakf properties, charitable endowments under Islamic law, have historically played a crucial role in promoting social welfare, education, and healthcare in Muslim communities. Women's involvement in the establishment and management of Wakfs is a significant yet often overlooked aspect of Islamic philanthropy. Historically, women have actively contributed to Wakf creation and administration, using these endowments as instruments of community welfare and personal empowerment. During the Ottoman Empire, women founded and administered important Wakfs that financed mosques, schools, and hospitals, thus securing their social status and meeting the needs of the community. This empowered role enabled women to make a lasting impact, underscoring the significance of their efforts toward societal development.⁴

Even though these historical precedents exist, contemporary practices in various Islamic jurisdictions vary with regard to the involvement of women in Wakf management. For instance, while countries like Turkey have enacted legislation explicitly encouraging women's participation in Wakf governance, more traditional interpretations of Islamic law in regions such as Afghanistan and parts of North Africa limit women's roles to peripheral functions. In India, the Wakf Act of 1995 and Muslim Personal Law recognize women's rights to own and manage Wakfs. However, patriarchal norms and societal resistance often truncate the effective exercise of such rights.⁵

Islamic jurisprudence grants women rights to create and administer wakfs, thereby creating an avenue where they can contribute to social development and economic independence. Women may create wakfs and determine how the assets should be utilized, directing them toward education, healthcare, or community development projects. Women inherit Wakf properties; however, the share they receive is usually half the share of a male heir, in accord with the

⁴ Kausar Jahan, *Waqf Bill 2024 a Reform That Will Help Muslim Women Become Part of India Development Story*, THEPRINT (2024), <https://theprint.in/opinion/waqf-bill-2024-a-reform-that-will-help-muslim-women-become-part-of-india-development-story/2313646/> (last visited Jan 24, 2025).

⁵ Women and Waqf: Toward a Reconsideration of Women's Place in the Mamluk Household on JSTOR, <https://www.jstor.org/stable/163850> (last visited Jan 24, 2025).

principle attributed to the financial obligations that men have in society. Enforcing this principle into practice is mostly found to be difficult because of cultural biases in Favor of men controlling family wealth.

Understanding these legal provisions correspondingly places women's rights within the larger discourse on gender equity and future legal reforms geared towards enhancing women's participation in Wakf management without infringing Islamic principles.

Women's case studies from different parts of the world give different forms to their roles in Wakf management. Legal reforms in Saudi Arabia and Jordan have opened up spaces for women's strategic involvement in managing Wakf estates. While Saudi Arabia has gone ahead with progressive policies to incorporate women into social and economic sectors, Jordan has organized job training to prepare women for responsible and active roles in Wakf boards, supporting a shift towards gender-sensitive management.⁶

In India, women's participation in Wakf administration has been helped by establishing women-specific Wakf boards. Society still perceives women in leadership roles as unfit, further exacerbated by cultural structures favouring male relatives. Women's NGOs and advocacy groups are breaking down these hurdles by educating about women's rights and enabling women to claim a greater agency within the Wakf structure.

Some of the most significant problems for women who would like to participate in managing Wakf are cultural barriers, issues with traditional gender roles, and the nonuniform application of legal provisions. Legal reforms guaranteeing women's rights and roles in the management of Wakf would aid in improving such discrepancies. Public service announcements, such that these women could become acquainted with their rights under Islamic law, would build an understanding and confidence among women in active partaking in Wakf governance. Furthermore, partnerships with individuals from communities and building cooperative linkages can significantly contribute towards the eradication of gender discrimination through inclusive governance practices. Through workshops and dialogue, cultural impediments could be overcome in integrating the voice of women in the administration of the endowments,

⁶ Beshara Doumani, *Endowing Family: Waqf, Property Devolution, and Gender in Greater Syria, 1800 to 1860*, 40 *COMPARATIVE STUDIES IN SOCIETY AND HISTORY* 3 (1998).

bringing about changes through participation and social empowerment within their communities.

→ Impact of women's involvement in wakf property management on the social and economic dynamics of their communities and families.

Wakf property management is the management of charitable assets like real estate, cash, and other wealth. The income generated from this asset is typically utilized for community development, social services, and charitable activities. Women are engaged in various Wakf management functions, such as the establishment of new Wakfs, property maintenance, and fund management from these assets. Women's participation in this area is crucial because it can be a source of economic and social benefits for individuals and communities.

The economic contributions of women in Wakf management are substantial. One significant area is resource allocation and social investment. Women in management roles tend to prioritize the needs of their communities, directing funds toward local education, healthcare, and poverty alleviation. For instance, in Bangladesh, women managing Wakf assets have invested in community health programs and educational scholarships, specifically targeting challenges such as access to education for girls and healthcare services for families.

Leadership and management, including finance and financial management of Wakf are enhanced with active participation from the women involved in governance. For example, through budgeting, accounting, and strategic planning, they grow into personally empowered individuals which build economic stability. More often, their families end up improving the families' economic stability as studies point out the relationship between financial well-being and improvement through women-managed affairs.

At the socio-economic level, with women involved in the management of Wakf, gender equality can be achieved by breaking down existing norms and stereotypes. In Turkey, for example, initiatives that have encouraged female involvement in Wakf boards have led to an increase in women's leadership across sectors. This visibility gives rise to larger social acceptance of women's leadership, helping break down stereotypes and bolster women's social

status.⁷

Women leaders provide healthy community cohesion. Their ability to be mediators and responsible supporters in their communities by enhancing social networks contributes to inclusivity and cooperation. Women's intervention in taking care of community-related problems strengthen the communities into more formidable and resilient systems during times of social or economic crisis.

Women managing Wakf properties have created immense benefits in healthcare-in particular, women's and children's healthcare-in Bangladesh. Such resources directed to the healthcare facilities have definitely improved the health indicators in these communities. Likewise, the involvement of women in Wakf boards has funded education for girls in Turkey, allowing a necessary launch in attaining socioeconomic mobility, which has long-term benefits to families.

In spite of the benefits associated with women leadership, hurdles remain. Oftentimes, cultural barriers driven by traditional gender roles limit women's chances of reaching decision-making positions. Legal hurdles exist too, since the implementation of laws regulating women's involvement in Wakf management can be uneven; when this happens, it can result in a curtailed ability of women to express their rights.

Reforms concerning Wakf governance must encourage the participation of women. Capacity-building and training initiatives would give women the skills to lead, while community programs might also help change attitudes within the society to further accept women in leadership roles and thus ensure gender inclusion in Wakf governance.⁸

⁷ Accumulate but Distribute: Islamic Emphasis on the Establishment of Waqf (Pious Endowment), 2 RELIGION AND DEVELOPMENT 21 (2023).

⁸ 2 The Current State of Islamic Waqf Law: Highlighting and Discussing the Criticisms of the Waqf System in: Toward the Reform of Private Waqfs, https://brill.com/display/book/9789004306967/B9789004306967_004.xml (last visited Jan 24, 2025).

CHAPTER – 4

Cases

P.V. Nidhish vs Kerala State Wakf Board⁹

an important landmark considering wakf property management, and its enforcement has involved several models conceivable under the wakf law. This judgment in the Supreme Court underlines the limitations and boundaries of all the newly introduced legal frameworks that would affect the protection of an individual already in possession of Wakf. Moreover, by accentuating due process, the judgment envisions open, equitable, and fair management of wakf property-especially for the best use it can make and against waste, but above all to the very purpose of the administration and conservation of such valuable assets.

Currently, this is what the study does not cover for women's rights however, provides important implications on the matter of gender status in governance and management of wakf. The ongoing amendments to the act have possibly sought at bringing in more women representation with an aim to increase their numbers in the management and governance of wakf boards. Through these reforms in a broader context of legal reform, a revision of historical gender inequities can be addressed better by the development of new opportunities for women to serve and enjoy services related to wakf property management.

Legal reforms always empower women in the context of their activities to ensure a positive development towards gender equality because of the lack of respect paid to women in the past. Therefore, a review of the Amended Wakf Act will give women a better place in the Wakf boards among other things and good leadership positions to other things under dreams. Misplaced rights and resources closely related to rights of property in wakf could be achieved by this legal framework through encouraging women in being participants to boards and other leadership positions in management. Socioeconomic influences of this movement could be enhancing gender equality; because of it, community assets could well be managed inclusively with positive socio-economic outcomes for women and their communities.

⁹ 383-pv-nidhish-v-kerala-state-waqf-board-28-apr-2023-471603.pdf, https://www.livelaw.in/pdf_upload/383-pv-nidhish-v-kerala-state-waqf-board-28-apr-2023-471603.pdf last visited Jan 24, 2025).

Conclusion

This is a complex domain, combining legal with cultural and socio-economic dynamics into one against the background of Islamic society, especially in the context of India and across various Islamic countries. Historically, women have largely contributed in establishing and managing Wakfs; however, this has not happened without restrictions, given the patriarchy and socio-culture. Some recent legal reforms such as amendments to the Wakf Act and inclusion of women in governance are signs of hope for greater gender inclusivity in Wakf management. While legal frameworks of many Islamic countries-including India-recognize women's claims of rights to ownership and management of Wakf properties, resistance from social settings lifestyle and cultural prejudices often undermine those rights. Women's empowerment in the Wakf administration shall not only address the historical balance in gender, it will also serve a great socio-economic return for the community. Women can contribute to the administration of Wakfs with a healthier scope of resource utilization, better quality of social welfare, and enhanced resilience of community. Additionally, women's involvement in Wakf governance can challenge traditional gender roles and promote greater gender equality that enhances women's socio-economic status in their communities.

In delivering the true promise of Wakf properties as instruments for social change, it will be a fundamental requirement to bring down the cultural barriers and institutional barriers that limit women's participation. Priority should be given to defending women's roles from legal barriers, making educational interventions, and ensuring the existence of community programs so that women are given equal opportunities to participate in Wakf management. By adopting inclusive approaches, accountability, and transparency will be the mainstay traits of these properties.

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CASE

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