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1. The proposed changes to Waqf law

Why in News?

The government referred the Waqf (Amendment) Bill, 2024, to a Joint Committee of Parliament. The tabling of the Bill by Union Minister of Minority Affairs Kiren Rijju was met with strong criticism from the Opposition parties who said the proposed law was "unconstitutional", "anti-minority", and "divisive".



The Bill seeks to amend the 1995 Waqf Act, and proposes sweeping changes to how Waqfs are governed and regulated. What is the law on Waqf? What amendments has the Bill proposed, and why are these changes significant?

First, what is a Waqf property?

A Waqf is personal property given by Muslims for a specific purpose — religious, charitable, or for private

purposes. While the beneficiaries of the property can be different, the ownership of the property is implied to be with God.

A Waqf can be formed through a deed or instrument or orally, or a property can be deemed to be Waqf if it has been used for religious or charitable purposes for a long period of time. Once a property is declared as Waqf, its character changes forever, and cannot be reversed.

How is a Waqf governed?

Waqf properties in India are governed by the Waqf Act, 1995. However, India has had a legal regime for the governance of Waqfs since 1913, when the Muslim Waqf Validating Act came into force. The Mussalman Wakf Act, 1923 followed. After Independence, the Central Waqf Act, 1954, was enacted, which was ultimately replaced by the Waqf Act, 1995.

In 2013, the law was amended to prescribe imprisonment of up to two years for encroachment on Waqf property, and to explicitly prohibit the sale, gift, exchange, mortgage, or transfer of Waqf property.

The Waqf law provides for the appointment of a survey commissioner who maintains a list of all Waqf properties by making local investigations, summoning witnesses, and requisitioning public documents.

A Waqf property is managed by a mutawalli (caretaker), who acts as a supervisor. Waqf properties are managed in a way that is similar to how properties under Trusts are managed under the Indian Trusts Act, 1882.

The Waqf Act states that any dispute related to Waqf properties will be decided by a Waqf Tribunal. The Tribunal is constituted by the state government, and comprises three members — a chairperson who is a state judicial officer not below the rank of a District, Sessions or Civil Judge, Class I; an officer from the state civil services; and a person with knowledge of Muslim law and jurisprudence.

The law also has provisions for the constitution and appointment of Waqf Boards, Waqf Councils, Chief Executive Officers for Waqf Boards in the states. The CEOs and parliamentarians who are part of the Waqf Boards must be from the Muslim community.

What are the functions of the Waqf Boards?

A Waqf Board is a body under the state government, which works as a custodian for Waqf properties across the state. In most states, there are separate Waqf Boards for the Shia and Sunni communities. Almost all prominent mosques in the country are Waqf properties and are under the Waqf Board of the state.

A Waqf Board is headed by a chairperson, and has one or two nominees from the state government, Muslim legislators and parliamentarians, Muslim members of the state Bar Council, recognised scholars of Islamic theology, and mutawallis of Waqfs with an annual income of Rs 1 lakh and above.

A Waqf Board has powers under the law to administer the property and take measures for the recovery of lost properties of any Waqf, and to sanction any transfer of immovable property of a Waqf by way of sale, gift, mortgage, exchange, or lease. However, the sanction shall not be given unless at least two thirds of the members of the Waqf Board vote in favour of such a transaction.

What major changes have been proposed to the Waqf Act?

The Bill seeks to substantially alter the existing framework of Waqf law. The proposed amendment shifts the power of governing Waqfs from the Boards and Tribunals, which are largely run by the Muslim community, to the state governments.

Among the key changes in the Bill:

- * The Bill seeks to change the name of the parent Act from the Waqf Act, 1995, to the Unified Waqf Management, Empowerment, Efficiency and Development Act, 1995.

- * It seeks to introduce three new provisions in the Act:

First, Section 3A, which states that no person shall create a Waqf unless he is the lawful owner of the property and competent to transfer or dedicate such property. This provision appears to address the assumption that land that does not belong to an individual is not given as Waqf.

Second, Section 3C(1), which states that “government property identified or declared as Waqf property, before or after the commencement of this Act, shall not be deemed to be a Waqf property”.

Third, Section 3C(2), which empowers the government to decide if a property given as Waqf is government land. “If any question arises as to whether any such property is a Government property, the same shall be referred to the Collector having jurisdiction who shall make such inquiry as he deems fit, and determine whether such property is a Government property or not and submit his report to the State Government,” says the Bill.

This provision essentially means that the Collector — and not the Waqf Tribunal — will make this determination in case of a dispute.

The proposed clause also states that such property “shall not be treated as Waqf property till the Collector submits his report”. This means that until the government decides the issue, Waqf cannot be in control of the disputed land.

The proposed Bill would also give the central government the power to “direct the audit of any Waqf at any time by an auditor appointed by the Comptroller and Auditor-General of India, or by any officer designated by the Central Government for that purpose”.

These provisions, when read together, indicate that the Bill carries a presumption that government land is incorrectly deemed Waqf property in some cases, and that the issue needs intervention by the government.

* The Bill also redefines how a property is deemed to be in the possession of Waqf. as it seeks to remove the concept of “Waqf by use”. Under the 1995 law, a property by continuous and uninterrupted use by Muslims for religious purposes is “deemed” to be a Waqf property. This means that a property can be deemed to be a Waqf through use even if the original declaration is suspect. Several mosques and graveyards could fall in this category.

The proposed Bill, by omitting the provisions relating to “Waqf by user,” makes a Waqf property suspect in the absence of a valid Waqfnama.

* The Bill proposes to change the composition of Waqf Boards in states. It proposes to allow even a non-Muslim CEO, and gives the power to the state government to have at least two non-Muslim members to the state Waqf Boards.

Relevance: GS Prelims & Mains Paper II; Governance

Source: Indian Express

2. Sheikh Hasina is currently staying in India. What is India's refugee policy?

Why in News?

Former Bangladesh Prime Minister Sheikh Hasina will likely remain in India for some time, as her plans to travel to the United Kingdom faced a “technical roadblock”. Hasina came to India

on Monday (August 5) after violent protests against her government forced her to flee Bangladesh.



Along with her sister, the ex-PM had reportedly planned to seek asylum in the UK, where members of their family live. However, according to the country's immigration rules, asylum requests can only be processed once a person is in the UK and Hasina does not hold a visa for travelling there.

On the other hand, India has decided to let her stay in the country despite the lack of an official policy on refugees. The question of how refugees should be treated has come up again in the past, most recently and prominently with the entry of Rohingya refugees from Myanmar.

Who is a refugee?

Under the 1951 UN Convention on the Status of Refugees and the subsequent 1967 Protocol, the word refugee pertains to any person who is outside their country of origin and unable or unwilling to return owing to well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion.

Stateless persons may also be refugees in this sense, where the country of origin (citizenship) is understood as 'country of former habitual residence'.

The UN has said the flight of the Rohingya following the Myanmar military crackdown in Rakhine state in 2017 had created the world's biggest refugee crisis. Cox's Bazaar in Bangladesh is the biggest refugee camp in the world today. Myanmar maintains that the Rohingya, who are predominantly Muslim, are illegal immigrants from Bangladesh.

When it comes to dealing with some 40,000 Rohingya who fled to India, the government's response has been ambiguous. The government had allowed the UN High Commissioner for Refugees (UNHCR) to carry out verification and provide some of them with identity cards.

In the Supreme Court, however, Solicitor General Tushar Mehta referred to them as illegal immigrants. Combined with public and political rhetoric about terrorism and communal slurs, there is a demand that they be "deported" immediately.

India & UN convention

India has welcomed refugees in the past, with nearly 300,000 people categorised as refugees. This includes the Tibetans, Chakmas from Bangladesh, and refugees from Afghanistan, Sri Lanka, etc. But India is not a signatory to the 1951 UN Convention or the 1967 Protocol. Nor does India have a refugee policy or a refugee law.

This has allowed India to keep its options open on the question of refugees. The government can declare any set of refugees as illegal immigrants — as has happened with Rohingya despite the UNHCR verification — and decide to deal with them as trespassers under the Foreigners Act or the Indian Passport Act.

The closest India has come to a refugee policy in recent years is the Citizenship Amendment Act, 2019, which discriminates between refugees based on religion in offering them Indian citizenship.

Deportation

In 2021, the Supreme Court appeared to accept the Centre's contention that the Rohingya people in India were illegal immigrants when it refused to order the release of 300 members of the community, most of whom were in a detention camp in Jammu, and others in Delhi. It said they should be deported according to "all procedures" under the Foreigners Act, 1946.

However, this is a complex process. This is evident from a failed attempt by the Assam government in 2021 to send back a 14-year-old Rohingya girl, separated from her parents in a Bangladesh refugee camp. The girl was detained while entering Assam at Silchar in 2019. She had no family left in Myanmar, but Assam officials took her to the Moreh border at Manipur to be deported. Myanmar did not accept her.

The bottom line to legal deportation — as opposed to just pushing people back over the border — is that the other country must accept the deportee as its national. Over the years, all efforts by Bangladesh to persuade Myanmar to take back the Rohingya at Cox's Bazaar have been unsuccessful. India managed to send back a handful with much difficulty.

Non-refoulement

But in terming Rohingya in India as "illegal" (in contrast to calling them refugees in Bangladesh) and pledging to send them back to Myanmar, India is going against the principle of "non-refoulement", to which it is bound as a signatory to other international treaties such as the International Covenant on Civil and Political Rights.

Non-refoulement means no refugee shall be returned in any manner to any country where he or she would be at risk of persecution. India made the case at the UN in 2018 that this principle must be guarded against dilution, and also argued against raising the bar for granting refugee status, saying this leaves out a lot of people "pushing them into greater vulnerability".

How India deals with refugees from different countries differently is also evident in the case of Sri Lankan Tamil refugees, many of them in camps in Tamil Nadu. The state government provides them an allowance and allows them to seek jobs, and their children to attend school. After the end of the Sri Lanka civil war in 2009, India has encouraged return through the method of voluntary repatriation — they decide for themselves in consultation with an agency like the UNHCR, if the situation back home is safe. This method adheres to the principle of non-refoulement.

UNHCR says it is its priority “to create an enabling environment for voluntary repatriation... and to mobilize support for returnees.” Which means it requires the “full commitment of the country of origin to help reintegrate its own people”.

Relevance: GS Prelims & Mains Paper II; International Relations

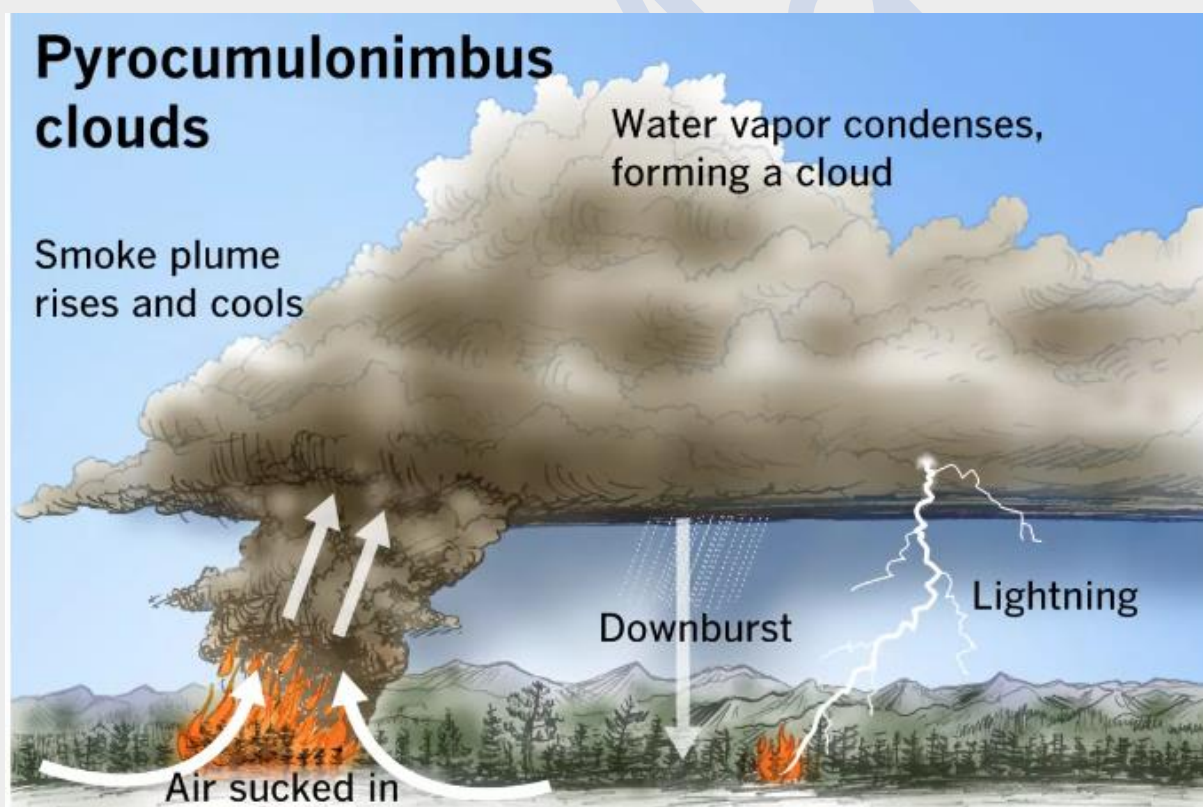
Source: Indian Express

3. How Pyrocumulonimbus clouds are formed when wildfires spit storms, lightning

Why in News?

The wildfires currently raging in the United States and Canada are so intense that they have created ‘pyrocumulonimbus’ clouds, which have the potential to spit out thunder and spark more fires.

The development of these clouds has become more frequent in recent years. Before 2023, 102 pyrocumulonimbus were recorded globally in a single year on average — 50 of them were seen in Canada, according to a report published in the journal Nature. However, during last year’s extreme wildfire season, 140 pyrocumulonimbus clouds were recorded in Canada alone.



How are Pyrocumulonimbus clouds formed?

Not every wildfire leads to the creation of pyrocumulonimbus clouds. They occur only when there is an extremely hot wildfire — volcanic eruptions can also lead to the formation of pyrocumulonimbus clouds. For instance, these clouds were formed during the Australian bushfires of 2019-2020 when temperatures crossed 800 degrees Celsius.

The intense heat from the fire warms the surrounding air which moves upward into the atmosphere. As this hot and very buoyant air — carrying water vapour, smoke, and ash — rises, it expands and cools down. Once it is cool enough, water vapour condenses on ash, forming a grey or brown cloud. At this stage, the cloud is known as a pyrocumulus cloud, also known as 'fire cloud'. But if there is sufficient water vapour available and the upward movement of hot air intensifies, pyrocumulus clouds can evolve into a pyrocumulonimbus cloud. These clouds can reach heights of 50,000 feet and generate their own systems of thunderstorms.

Although pyrocumulonimbus clouds can produce lighting, they do not generate much rain. As a result, they can spark new wildfires many kilometres away from the main blaze. These clouds can also trigger strong winds that can make the spread of the wildfire faster and unpredictable.

Why are pyrocumulonimbus cloud events occurring more often?

The exact reason remains unclear as unlike in the case of other extreme weather events, the study of these clouds is relatively new. However, scientists believe that climate change could have a role to play in the increase of their frequency.

Studies have shown that with temperatures soaring across the world, wildfires are becoming more common and intense. This could be spiking the occurrence of pyrocumulonimbus clouds.

For the second time in two years, a record-breaking heatwave is sweeping through Antarctica at the height of its winter season. Ground temperatures have been 10 degrees Celsius higher than normal on average since mid-July, and up to 28 degrees higher on certain days.

Relevance: GS Prelims; Environment

Source: Indian Express