

# EVOLUTION IN WAQF JURISPRUDENCE AND ISLAMIC FINANCIAL INNOVATION

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## Abstract

This paper aims to analyse the evolutionary process in the jurisprudential structure of modern *waqf* (Islamic endowment) and underlines the scope of Islamic financial innovation through the mechanism of *waqf*. The paper proposes the innovative models of parallel *waqf*, *waqf*-based social and financial instruments, *waqf*-based *şukūk*, micro-*takāful*, and *waqf*-based commodity bank. The research adopts the qualitative approach and employs socio-legal research methodology for the analysis. The paper relies on desk-based research. Compared to the classical structure of *waqf* which was confined within the domain of a perpetual charitable institution, this paper finds that modern *waqf* has ushered in several new dimensions into its fold. Modern *waqf* is in the process of re-evolution. *Waqf*, in the current scenario, has evolved into a financial product, a property-conveyance tool, an instrument of contract, an investment tool, a risk mitigation mechanism and an incorporated entity. The scope of this paper is limited to analysing the jurisprudential evolution of *waqf* and its impact on the Islamic finance industry. It does not seek to discuss the overall role or impact of *waqf* on the society as a whole. This paper also does not endeavor to compare and contrast the mechanism and modalities of other philanthropic institutions vis-à-vis *waqf*. This paper examines the jurisprudential underpinnings of *waqf* and their implications and applicability to the Islamic finance industry. The paper draws on the process of how the mechanism of *waqf* has already been employed to develop various innovative Islamic financial products and how this process can be a catalyst for further innovation in the Islamic finance industry. The main

contribution of the paper is encapsulated in the analysis of how the jurisprudential structure of the modern *waqf* has been evolving in the last few decades to accommodate the modern needs of Islamic finance. It further enumerates a few innovative Islamic financial products which can be developed by exploiting the available flexibility in the evolved version of modern *waqf*.

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