LEGAL ANALYSIS ON JURISDICTIONAL CONFLICTS RELATING TO WAQF

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The students/authors confirm that the work submitted is their own and that appropriate credit has been given where reference has been made to the work of others.
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ABSTRACT

List II of the Ninth Schedule to the Federal Constitution provides that Islamic law is a state matter. Article 74(2) of the Federal Constitution empowers the legislature of a state to make laws for the whole or any part of the state in respect of any matter enumerated in the State List. *Waqf* is also included in one of the matters governed by states in Malaysia. According to List II of the Ninth Schedule, *waqf* falls under the jurisdiction of Syariah Court in Malaysia. On top of that, each state in Malaysia has enacted *waqf* laws, either in its own *waqf* enactment or in the Administration of Islamic Law Enactments. Although it is clearly provided in the legislation that disputes on *waqf* shall be heard in Syariah Courts, there are still several cases on *waqf* that are being heard and decided in Civil Courts. Follows from this, the people having interest in *waqf* under Islamic law are deprived of their rights. This paper will elaborate on the laws on *waqf* in Malaysia, examine the issues raised and several decided cases on *waqf*, and discuss further on the jurisdiction of Syariah and Civil Courts in hearing disputes of *waqf*. Therefore, this paper is intended to provide an overview on the legislations and jurisdictions of courts concerning *waqf* in Malaysia.
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