

**THE ROLE OF TRUSTEE IN MALAYSIA: A COMPARATIVE STUDY  
BETWEEN COMMON LAW AND ISLAMIC LAW**

By

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

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## ABSTRACT

This research elucidates the concept of trustee comprehensively in both common law and Islamic law which comprises the appointment and removal of the trustee, delegation and remuneration of trustee, as well as the duty of the trustee towards the beneficiary. Furthermore, this research deals with the constitutional conflict with regards to the jurisdictional issues between common law and Islamic law in matters pertaining to trust and trustee in Malaysia. The legal position on Muslims trust and trustee in Malaysia has become a matter of controversy following the civil judicial scrutiny in matter concerning Islamic trust, inheritance, gift, and *wakaf* in spite of the express provision declaring that those matters fall within the state and *Syariah* court jurisdiction. Thus, this research is designed to ascertain the inconsistency of the existing Trustee Act 1949 with *Hukum Syara'* by comparing and contrasting the role of trustee under common law and Islamic law in Malaysia along with emphasizing the *lacunae* and the ambiguity of the statutory provisions that may adversely affect the process of Muslims trusteeship and the purpose of Muslims trust with a view to recommend possible solutions to the current legal conflict in Malaysia.

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