



# HARMONISATION OF THE SHARĪ'AH AND CIVIL LAWS

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**HARMONISATION OF THE  
*SHARĪ'AH* AND CIVIL LAWS  
(PERSPECTIVE AND PRACTICE)**

**EDITORS**

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**CONTRACTUAL AGENCY: AN APPRAISAL OF SECTION 175-191 OF THE CONTRACTS ACT 1950 (THE CIVIL LAW AND SHAR'AH PERSPECTIVES)**

**Zuhairah Ariff Abd Ghadas  
Wan Rumaizi Wan Husin**

## **1. Introduction**

Sections 137- 191 of the Contracts Act 1950 are continuation of sections 135- 174 which regulate agency issues. All these provisions are included in Part X of the Contracts Act 1950, which is the final part of the Act. Previously, Chapter X of the Contract Ordinance (Malay States) 1950 regulates partnership matters. Hence, when reference is made to the case law in this chapter, attention should carefully be made to the year the case was decided. Agency is a contractual or quasi-contractual tripartite relationships where a person (the agent) is authorized to act on behalf of another (called the Principal) to create a legal relationship with a Third Party. Fridman describes agency as<sup>1</sup>:

A relationship exists between two persons. One, called the agent, is legally considered to represent the other, called the principal, in a way which affects the principal's legal position in relation to the third parties. Agency law separates and regulates the relationships between:

Agents and Principals;

Agents and the Third Parties with whom they deal on their Principals' behalf; and Principals and the Third Parties when the Agents purport to deal on behalf of the former.