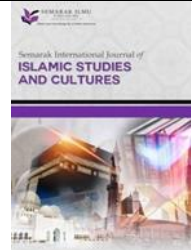




Semarak International Journal of Islamic Studies and Culture

Journal homepage:
<https://semarakilmu.my/index.php/sijisc/index>
ISSN: 3036-020X



Islamic Legislation Enforced by Kelantan Local Council

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ARTICLE INFO

Article history:

Received 10 August 2023

Received in revised form 23 November 2023

Accepted 12 December 2023

Available online 26 January 2024

Keywords:

Local council; Islamic By-laws; local residents; jurisdiction; attitude

ABSTRACT

Local council, also known as local government (worldwide) and local authority (Malaysia). Local Government Act 1976 is the main reference and regulates the operation of local councils in Malaysia, and all are placed under the jurisdiction of the state government. The legislation created by the local council is named by-laws, and each has its autonomy in legislating its law according to their needs. As such, some local councils, especially in eastern peninsular Malaysia, executed Islamic by-laws in performing their duties and functions at the designated administration area. The focus of the study was to analyse the issue of the ban on unisex salons, enforcement of board guidelines advertisement that compulsory to cover the *aurat*, and the enforcement of proper clothing covering the *aurat* among the Muslim community and dressing politely for non-Muslims by the Kelantan local council. The enforcement is due to non-compliance among residents towards the local order. The main purpose of this study is to get viewpoints from residents on the Islamic by-law's enforcement together with the impact. Purposive sampling was utilized by the study and managed to gather 80 respondents through the Google form distributed. The result shows that the residents are aware of the Islamic by-laws authorized by the local council and respond well to the impact in influencing and shaping the resident's attitudes. Kota Bharu Municipal Council of Islamic City (MPKB-BRI) started the first step in applying Islamic by-laws. It became a good example of Islamic value teaching in their daily life operation being emulated by other local councils in Kelantan.

1. Introduction

The local council in Malaysia started with the British inheritance system and upon independence, the role of the local council was restructured according to the concept of federalism [1]. Based on the federalism system, the local council is no longer sovereign or known as infra sovereign (no sovereignty) which means the body is created by the Local Government Act 171 [2]. Local council can be amalgamated or abolished according to the current needs. The act also listed the roles and functions of the local council limited and regulated to the ultra vires principle which means the body needs to follow the listed duties and cannot act beyond the act. Kelantan state government renamed the Kota Bharu Municipal Council to Kota Bharu Municipal Council Islamic City (MPKB-BRI) on October 1st, 2005 as declared by the state government and the official declaration as an "Islamic City" in

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continuing their effort to adhere to and promote Islamic values [3]. The study conducted by Yusof [4] stated that the rebranding effort done by the Kelantan state government by announcing of Kota Bharu as an Islamic city has important implications for the residents, in supporting Islamic image development and changing the economic and social environment accordingly on Islamic values and philosophy.

Following the Islamic name that they convey, the local councils started the initiative to implement the by-laws with an Islamic approach in their districts.

According to Ahmad *et al.*, [5], in 1994 the Kelantan government started the concept of 'Developing with Islam' and it has been continuously promoted as an important factor to support the Islamic image of this state. Alongside the sustainable development of Islamic Education in Kelantan nowadays, the state government would become the leading force in enhancing the right understanding of Islam with a moderate approach to the people in this world as stated by Nor *et al.*, [6]. The implementation of Islamic by-laws is one of the ways to introduce a good image and shape the local resident's behavior. A concerted effort between the government, private sector, and local residents is essential in ensuring the sustainability of Kota Bharu town as an Islamic city for its legacy as cited in the study by Ismail [7]. The Parti Islam Se-Malaysia (PAS) lead government idealism in establishing an Islamic State in the Kelantan undoubtedly has been realized through local council Islamic By-laws. However, looking from PAS' own definition of Islamic State, a comprehensive realization of an Islamic State has yet to happen [8]. All of this effort is to realize Islam as the right practice of local communities and being implemented through by-laws that focus on the Islamic approach.

By-laws are defined as the subsidiary legislation of the principal law and enacted for the local council's jurisdiction. This subsidiary legislation is also known as Orders, Rules, and so on [3] and is authorized as the jurisdiction for the local councils regulated by the Local Government Act 171 (1976) [2]. This means that the local council has the power to enact appropriate by-laws to ensure the smooth operation running for their administration area. The local council has jurisdiction to enforce a rule known as by-laws based on an emphasis on three major aspects namely public health, community safety, and the well-being of the local community [9]. In this case, the local council in Kelantan chose to implement by-laws that focused on the Islamic approach to educating local communities. The local government has outlined clearly and distinctly the interpretation of *aurat* [10]. MPKB by-laws (Amendment 2004) explained the interpretation of *aurat* which means the whole body of a woman apart from the face and both hands as cited by Nurudin *et al.*, [11]. This is what has been enforced by MPKB-BRI to shape good behavior among the local residents, especially the traders.

Efforts to strengthen Islamic values in this administration are not only concentrated at the federal level but also implemented at the state level in Malaysia. This is meant to brighten up the further application of Islamic values to guide the direction of administration and government at the state level. In realizing the effort, the Kelantan government for example has introduced the slogan 'developing with Islam to further rebrand the council from Kota Bharu Municipal Council (MPKB) to the Kota Bharu Municipal Council-Islamic City (MPKB-BRI). In addition to the administrative aspect, the application of Islamic values is also implemented in the aspect of enforcement in particular through allocated jurisdiction to the local authorities in the state. Local councils have been empowered to enforce the rules and implement actions deemed necessary for controlling moral values in society [12]. The by-laws introduced by local council in Kelantan such as MPKB-BRI are slightly different from the local council by-laws in other states in Peninsular Malaysia. This is because the MPKB-BRI by-law was introduced by incorporating Islamic values in its implementation which aims to ensure that the local residents practice the teachings of Islam in their daily lives [3].

Therefore, appropriate evaluation needs to be done to ensure the true position of this issue according to the Islamic perspective and local legal policy. The study problems refer to the perception of the covering *aurat* practice. According to Wekke *et al.*, [13] In social life, an individual is required to dress as that desired by their social unit and a study by Mohd Fadhil [4] stated that some of the communities in Kota Bharu do not comply with the image as a Muslim community. Murtopo [14] stated that many women in show casting tend not to cover the *aurat* properly by using mini hijab and thigh outfits. This practice is a symptom that cannot be avoided by modern society today.

With the gazettement of the Islamic by-laws, MPKB-BRI has made it obligatory for Muslim traders to wear clothes that cover their *aurat* and for non-Muslims, to dress politely and appropriately. It is the main condition for the approval of their business licenses and to extend the license for the coming year, even MPKB-BRI enforcement officers will always conduct patrols to ensure that traders comply with the by-laws. According to Musa *et al.*, [15], the by-law was also purposely meant for the local traders in Kelantan whereby they needed to cover the *aurat* while conducting business, and non-Muslims, they should wear appropriate clothing. Although the above by-laws are more geared towards traders at the same time, it also includes customers who deal with the business, such as the customers in the barbershop who can only enter the appropriate premises. This is because there is a ban on haircuts by different genders in the Kota Bharu district.

Following the steps of, Ketereh District Council (MDK) also has implemented by-laws with an Islamic approach in the Undang-undang Kecil Pelesenan Tred, Perniagaan dan Perindustrian as listed by Majlis Daerah Ketereh Perbandaran Islam [16]. Kelantan has taken the appropriate steps by making the right decision based on the framework Amar Makruf Nahi Munkar, such as covering the *aurat* [10,17]. The implementation of Islamic by-laws has also been enforced by another local council at Kelantan as the best example displayed by MPKB-BRI. The special feature of Islamic by-laws that distinguishes the state of Kelantan from other states is that it requires women to cover their *aurat*, use of *Jawi* writing, and use of Kelantan batik which is the economic symbol of the Kelantan state.

2. Application of Shariah In the Specified Countries and Other Local Authorities in Malaysia

Shariah is based on the unqualified submission to the will of God (Allah) [18]. In countries where Islam is the predominant religion, the practice of Shariah and the practice of Fiqh vary depending on the degree to which each respective state allows Islam to impact the function of the state and its courts [19]. One example of an Islamic state is the Kingdom of Saudi Arabia (KSA), established in 1932, which is ruled by the House of Saud. Before the rise of the House of Saud, Saudi Arabia was part of the Ottoman Empire, with its millet system, as a means to accommodate the personal law of its different regions and religious denominations [20]. The practice of Islamic laws is practiced widely in Saudi Arabia.

Besides that, the Shariah law is also practiced in Australia even though the country is a Muslim-minority state and there is no formal Islamic law yet is practiced well [21]. Aceh, as a state in Indonesia, is also one of the examples of the Shariah application in a modern setting, from the secular state of Indonesia, where Muslims predominate; and Singapore is an example of a secular state where, despite being a previously a Muslim majority, Muslims are now in the minority but the common law co-exists with Islamic law [22]. However, there exists the application of Islamic law in the contemporary setting. In Indonesia, after the fall of Suharto regime, some local governments in Indonesia have adopted Sharia by-laws [23]. Several studies conducted suggest that this adoption of Sharia by-laws was influenced mostly by the political motives of the local elites that used an Islamic by-law as a strategy to gain political support from Muslim voters. In doing so, they also used the

Islamic by-laws to facilitate bribery and electoral corruption using social and religious instruments and at the same time to distract people's attention from ongoing corruption.

In Malaysia, besides Kelantan, Kedah state also emphasizes the Islamic by-laws for their local government practices [24], the municipal council at Kulim is well aware towards on what to be done to shape the community at its finest by using Islamic by laws. Different from the focus of Islamic by-laws by local authorities in Kelantan, other local authorities are focused on other part as the study conducted by Aziz and Sulaiman [25], critically look into the role of the local authority in ensuring the compliance of halal certified status while issuing permit to the restaurant and food manufacturing premise in Shah Alam and suggested an appropriate reformation to the current practice of the local authority's power in issuing license for food establishment. Currently, the Department of Islamic Development Malaysia (JAKIM) and local authorities in Malaysia are carrying out their monitoring activities unless there is a call for integrated enforcement. The necessity to have a combined task force between the local authorities and JAKIM was due to the issue of insufficient human resources in the enforcement team, overlapping jurisdiction between multiple administrative bodies, and the scattered legislation in this area. This study proposes a combined task force between (JAKIM) and Local authorities to control and monitor halal food premises in Malaysia [26].

For the novelty of the study, the good practice established by the local authorities in Kelantan has been followed by some other local authorities in other states such as Terengganu, Kedah, and Melaka. By-laws implemented by the local government in Kelantan are very different compared to local governments in other states in Malaysia as the provisions of the by-laws focus on an Islamic approach and exert a positive influence on the local community's behaviour [27].

3. Methodology

The main focus of the study is to identify the implementation and the impact of Islamic by-laws implemented by the Kelantan local council on the local residents. The study is quantitatively conducted using purposive sampling of respondents identifying. The online survey was opted for and distributed to get the local resident's feedback on the implementation of Islamic by-laws. By identifying the targeted respondents, the study managed to gather valid 80 respondents to represent the result of the study.

4. Results

The survey was conducted to obtain an awareness and the impacts on the implementation of Islamic by-laws among Kelantan local residents. Respondents were asked about their residential area, years of living in Kelantan, the implementation of Islamic by-laws, and its influence in shaping local residents' behaviour. The online survey questionnaires were distributed to local residents in Kelantan. A total of 80 respondents had given their feedback. Regarding the awareness of the Islamic by-law's implementation, 77 responded that they were aware of the implementation while 3 of them responded that they were not aware of it. Based on the questionnaire's result analysis, the study found the following feedback on the Islamic by-laws implementation by local councils in Kelantan.

Table 1

Respondents' year of residence in Kelantan

Years of residence in Kelantan	Respondents (%)
More than 21 years	61 (76.25)
16 years to 20 years	5 (6.25)
11 years to 15 years	3 (3.75)
6 years to 10 years	5 (6.25)
3 years to 5 years	4 (5)
1 month to 2 years	2 (2.5)

From the findings, the majority of 61 respondents have lived in Kelantan for more than 21 years. Another 5 of the respondents live between 16 years to 20 years in the state. Besides that, 3 of them have lived here between 11 years to 15 years. On the other hand, 5 other respondents have lived here between 6 years to 10 years. 4 respondents have lived between 3 years to 5 years and only 2 respondents have lived in this state for less than 2 years. It shows that the majority are well exposed to the Kelantan rules since they have lived more than 20 years in the area.

Table 2

The influence of Islamic by-laws in shaping the local resident's attitude

Islamic by-laws	Yes (%)	No (%)	Not sure (%)
Ban of unisex salons	50 (62.5)	15 (18.75)	15 (18.75)
Enforcement of proper clothing to cover the <i>aurat</i> among the Muslim community and dressing politely for non-Muslims	49 (61.25)	26 (32.5)	5 (6.25)
Enforcement of board advertisement guidelines that prohibit any <i>aurat</i> -exposed advertisements	61 (76.25)	13 (16.25)	6 (7.5)
Prohibition of non-mahram couples being too close together in public places	29 (36.25)	35 (43.75)	16 (20)
Prohibition of motorcycle riding between non mahram couples	24 (30)	39 (48.75)	17 (21.25)

Regarding the influence of Islamic by-laws in shaping the local resident's behaviour, respondents gave a different opinion on the influence of the ban on unisex salons, 50 of them said it was effective, while 15 respondents responded that it was ineffective and the rest were not sure on the influence. For the enforcement of proper clothing to cover the *aurat* among the Muslim community and dressing politely for non-Muslims, 49 respondents agreed it is giving the influence while 26 respondents said no influence, and the rest of 5 respondents were unsure about the influence. 61 respondents were influenced by the enforcement of board advertisement guidelines that prohibit any *aurat*-exposed advertisements, 13 respondents said that it had no influence, and 6 respondents were not sure. For the prohibition on non-mahram couples being too close together in public places, 29 responded that it had the influence, while 35 of the respondents stated they were not influenced and 16 respondents were not sure of the influence. The final Islamic by-laws introduced are the prohibition of motorcycle riding between non-mahram couples. 24 of the respondents were influenced whereas 39 others were not influenced; however, 17 of the respondents stated that they were unsure.

Table 3

The suitability of Islamic By-laws implemented in Kelantan

Islamic by-laws	Suitable (%)	Not suitable (%)
Ban of unisex salons	47 (58.75)	14 (17.5)
Enforcement of proper clothing to cover the <i>aurat</i> among the Muslim community and dressing politely for non-Muslims	47 (58.75)	24 (30)
Enforcement of board advertisement guidelines that prohibit any <i>aurat</i> -exposed advertisements	58 (72.5)	12 (15)
Prohibition of non-mahram couples being too close together in public places	27 (33.75)	33 (41.25)
Prohibition of motorcycle riding between non mahram couples	23 (28.75)	37 (46.25)

The final item in the survey is the suitability of Islamic by-laws implemented in Kelantan. 58.75% of the respondents agreed with the idea of the ban on unisex salons, while only 17.5% responded that is not suitable. For the enforcement of proper clothing to cover the *aurat* among the Muslim community and dressing politely for non-Muslims, the majority responded it is suitable (58.75%) while the remainder said not suitable (30%). In addition, 72.5% of the respondents said it is suitable to enforce board advertisement guidelines that prohibit any *aurat*-exposed advertisement while only 15% of respondents stated it is not suitable to do so. On the other hand, 27 respondents stated that it is suitable to prohibit non-mahram couples from being too close in public spaces, contrary to the other 33 respondents who stated not suitable. 37 respondents expressed that it is not suitable to prohibit motorcycle riding between non-mahram couples whereas the other 23 respondents stated it is suitable to do so.

5. Pictures Related to the Implementation of Islamic By-laws in Kelantan

The study conducted has compiled some of the Islamic by-law's pictures. All of the advertisement and poster needs to cover *aurat* & must have *Jawi* language translation. Figure 1 depicts enforcement of board advertisement guidelines that prohibit any *aurat*-exposed advertisements and enforcement of proper clothing to cover the *aurat* among the Muslim community and dressing politely for non-Muslims. Figure 2 shows posters reminding the public of Islamic by-laws.

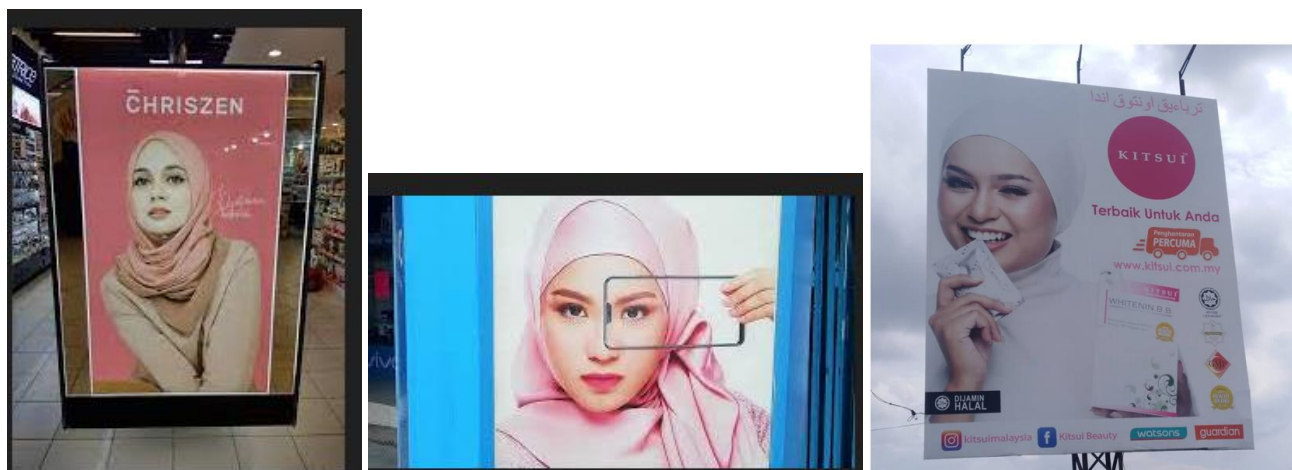


Fig. 1. Enforcement of board advertisement guidelines



Fig. 2. Reminder of Islamic by-laws

6. Recommendations and Limitations

Large administrative areas have become one of the limitations as well as the increasing number of business premises other constraint faced by Kelantan local councils are lack of enforcement staff which hardens them to have comprehensive enforcement. For future study recommendation, it is suggested that the local councils should cooperate with other government agencies such as the state

Islamic department and private associations related to realizing the implementation to enjoy a more positive impact of the Islamic by-law.

From the survey conducted, there are also recommendations by the respondents on the future Islamic by-laws should be considered by the local authorities at Kelantan as listed below:

- i) more stringent on the existing by-law's enforcement,
- ii) the local government should take an action against parties/individuals who do not comply with the prohibitions that have been set,
- iii) such as imposing fines/summons appropriate to the offense committed and conducting regular personality campaigns according to Islam for public reminders.
- iv) The campaign should be started from the initial stage such as at the kindergarten and primary school.
- v) The existing by-laws should also cover the traders on social media.
- vi) Providing suitable training to expose the traders to the by-laws.

7. Conclusions

The Kelantan state government has taken the right action by suggesting the Islamic by-laws implementation by their local council purposely to shape societal behaviour. The enforcement of Islamic by-laws by the Kelantan local council has exerted some impact on local residents, especially in the socio-economic aspects as some of them are traders and deal with Islamic by-laws. The viewpoints from local residents have given impressive feedback towards the implementation of Islamic by-laws. The implementation of Islamic by-laws gives a good image to the result of efforts carried out by the Kelantan local council. The beneficial impacts enjoyed are not only it shapes the local resident's behaviour but also illustrates a good example for visitors who visit Kelantan with the Islamic image displayed by the billboard advertisement.

Acknowledgement

This study was supported by the FSPPP Internal Research Grant (FIRG), Faculty of Administrative Science and Policy Studies, Universiti Teknologi Mara (UiTM), Malaysia with the collaboration of Licensing Department, Ketereh District Council (project code:600-icaen/firg-01/2021). The study also has been granted with the approval from UiTM Research Ethics Committee (REC).

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