

VOLUME 2

MARCH 2022

arte

Art and Expression

arts
&
local
culture



ARTE: Art and Expression
Presents

arts & local culture

Volume 2
Published: 1 March 2022

Published by:
©UiTM Perak Press

eISSN 2805-5071

Editors

• Dr. Syed Alwi Syed Abu Bakar • Dr. Aznan Omar • Dr. Hamidi Hadi • Dr. Azian Tahir • Mahizan Hijaz Mohamad •
• Noor A'yunni Muhamad • Noor Enfendi Desa • Nur Adibah Nadiah Mohd Aripin • Anwar Fikri Abdullah •
• Muhammad Salehuddin Zakaria • Hairulnisak Merman • Nur Muhammad Amin Hashim Amir •



Cawangan Perak



JABATAN SENI HALUS
FAKULTI SENI LUKIS & SENI REKA
UiTM CAWANGAN PERAK



Art and Expression

INTRODUCTION

ARTE: Art and Expression is a biannual book chapter, published under collaboration of Department of Fine Arts, Faculty of Art & Design, UiTM Perak Branch with Galeri Al-Biruni under the supervision of Universiti Teknologi MARA, Malaysia. 'ARTE' is an amalgamation of english word 'Art', and malay word, specifically Perak slang 'Ate' which translate as conversation starter. 'ARTE' uses the concept of book chapter that platform art enthusiasts to express their inner-creativity in the form of literacy conjecture

VISION

Art and expression as aspiration towards stylistic and artistic practices

MISSION

- To enhance the culture of research and academic publication among academician and artist for international recognition
- To promote intellectual, cultural and knowledge sharing through artistic expression
- To celebrate the diversity and differences in arts practices thus creating and intellectual platform for artist to express their interest in art

PUBLICATION FREQUENCY

Biannual Frequency: Two (2) books per year (March and September)

e-ISSN No.

2805-5071

COPYRIGHT NOTICE

Copyright © 2021 ARTE: Art and Expression. All rights reserved.

No portion of this book may be reproduced in any form without permission from the Publisher, except as permitted by the publisher themselves. For permission purpose contact:
arte@uitm.edu.my



© The Editor(s) (if applicable) and The Author(s) 2022
This book is an open access publication

Open Access: this book is licensed under the terms of the Creative Commons Attribution 4.0 International License (<http://creativecommons.org/licenses/by/4.0/>), which permits use, sharing, adaptation, distribution and reproduction in any medium or format, as long as appropriate credit is given to the original author(s) and the source, provide a link to the Creative Commons licence and indicate if changes were made.

DISCLAIMER

The authors, editors, and publisher will not accept any legal responsibility for any errors or omissions that may have been made in this publication. The publisher makes no warranty, express or implied, with respect to the material contained herein.



Editorial Board

PATRON OF HONOR

Professor Sr Dr Md Yusof Hamid AMP
(Rector, Universiti Teknologi MARA, Perak Branch, Malaysia)

ADVISOR

Dr Zainudin Md Nor
(Head of the Faculty, Universiti Teknologi MARA, Perak Branch, Malaysia)

CHAIRMAN

Dr Hamidi Hadi
(Program Coordinator, Department of Fine Art, Universiti Teknologi MARA, Perak Branch, Malaysia)

CHIEF EDITOR

Dr Syed Alwi Syed Abu Bakar¹
(Department of Fine Art, Universiti Teknologi MARA, Perak Branch, Malaysia)

Dr Aznan Omar²
(Curator, Al-Biruni Galeri, Universiti Teknologi MARA, Perak Branch, Malaysia)

EDITORS

Dr Hamidi Hadi
(Universiti Teknologi MARA, Perak Branch, Malaysia)

En Mahizan Hijaz Mohamad
(Universiti Teknologi MARA, Perak Branch, Malaysia)

Dr Azian Tahir
(Universiti Teknologi MARA, Perak Branch, Malaysia)

Pn Nur Adibah Nadiyah Mohd Aripin
(Universiti Teknologi MARA, Perak Branch, Malaysia)

Pn Noor A'yunni Muhamad
(Universiti Teknologi MARA, Perak Branch, Malaysia)

En Muhammad Salehuddin Zakaria
(Universiti Teknologi MARA, Perak Branch, Malaysia)

En Noor Enfendi Desa
(Universiti Teknologi MARA, Perak Branch, Malaysia)

Pn Hairulnisak Merman
(Universiti Teknologi MARA, Perak Branch, Malaysia)

En Anwar Fikri Abdullah
(Universiti Teknologi MARA, Perak Branch, Malaysia)

En Nur Muhammad Amin Hashim Amir
(Universiti Teknologi MARA, Perak Branch, Malaysia)

SECRETARY

Pn Noor A'yunni Muhamad
(Universiti Teknologi MARA, Perak Branch, Malaysia)

CHIEF OF DOCUMENTATION

Pn Nur Adibah Nadiyah Mohd Aripin
(Universiti Teknologi MARA, Perak Branch, Malaysia)

ASSISTANT SECRETARY

Pn Nor Syahirah Ibrahim
(Universiti Teknologi MARA, Perak Branch, Malaysia)

LEAD PROMOTER

En Muhammad Salehuddin Zakaria
(Universiti Teknologi MARA, Perak Branch, Malaysia)

TREASURER

En Noor Enfendi Desa
(Universiti Teknologi MARA, Perak Branch, Malaysia)

CHIEF OF TECHNICAL

Pn Hairulnisak Merman¹
(Universiti Teknologi MARA, Perak Branch, Malaysia)

CHIEF PANEL REVIEW

Dr Azian Tahir
(Universiti Teknologi MARA, Perak Branch, Malaysia)

En Anwar Fikri Abdullah²
(Universiti Teknologi MARA, Perak Branch, Malaysia)

CHIEF TRANSLATOR

En Mahizan Hijaz Mohamad
(Universiti Teknologi MARA, Perak Branch, Malaysia)

LEAD DESIGNER
En Nur Muhammad Amin Hashim Amir
(Universiti Teknologi MARA, Perak Branch, Malaysia)

COMMITTEE MEMBER

Cik Afina Zalifah Zat Azeni
(Universiti Teknologi MARA, Perak Branch, Malaysia)

CHAPTER 10

IMPLEMENTATION OF BY-LAWS WITH ISLAMIC APPROACH IN SHAPING THE ISLAMIC WAY OF LIFE AND CULTURE BY LOCAL AUTHORITIES IN KELANTAN

Suzei Mat Nurudin

Zarina Mohd Zain

Rasukhan Safin

Abstract

Local governments or known as local authorities are placed at the third tier after the federal and the state government administration. Local authorities are created and regulated under the Local Government Act 1976 and each has the power to enact suitable by-laws needed under their respective administration area. By-laws are defined as a formulation of the law under the jurisdiction of local authorities in performing its duties and functions covering the administrative area that has been identified by the state government. Since local authorities are the third tier, there are some controls imposed by the upper level of government in ensuring the effectiveness and efficiencies of services delivered. The by-laws were created to play an important part in affecting the daily lives of societies; especially in local authority areas which have quite different approaches such as Kota Bharu Municipal Council of Islamic Cities (MPKB-BRI) and other local authorities in Kelantan. This is because the by-laws implemented by the local authorities in Kelantan are very much different compared to local governments in other states in Malaysia as the by-law's provisions are focusing on the Islamic approach that has been implemented. The implementation of the by-laws somehow does give some impact on the local communities and also the visitors to the state. The objectives of this study are to explore the implementation of the by-laws that focused on the Islamic approach implemented by the local government in Kelantan and gather feedback from the local communities on the impact especially in shaping their societal behaviour.

Keywords: Jurisdiction, Local authorities, By-law, Local communities, Societal behaviour

10.0 Introduction

Before the independence of Tanah Melayu, the local authorities adopted the approach of British government rule. When Malaysia achieves independence, the role of local authorities is restructured according to the concept of federalism (Azhar & Raihanah, 2010). Based on the federalism system, local government has no sovereignty over the federal and state government (infra sovereign) which means its existence is based on acts (Local Government Act 171) and can be merged or abolished according to the needs. The function of local authorities is also limited to the ultra vires principles that have been outlined in the local government act 171.

According to Malcom W. Norris views as stated in the writings of Phang Siew Nooi (1989), local government in the context of Peninsular Malaysia means government in urban, rural areas or a combination of these two areas under the authority of state government respectively. There are three types of local authorities in Malaysia which are City, Municipal, and District Council based on their location. Local authorities have a legitimate and sovereign position granted from the upper level of government. The structure of government is started with the federal government, followed by the state government and the local authorities rank third. Although its existence is relatively small compared to the upper level of governments, the local authorities play an important role in the local community development. This is because it is the closest government to the local community and provides essential services that impactful the local people.

The study focused on local authorities at Kelantan since their by-laws are different compared to other practices of local authorities in Malaysia. It is started in 1936, the city of Kota Bharu was upgraded to the Kota Bharu Town Council (MBKB) and later was changed to the Urban Board in 1971. While in 1978, the Kota Bharu Municipal Board was restructured and upgraded to Kota Bharu Municipal Council, and later on, on 20th February 2005, the council was named as Kota Bharu Municipal Council Islamic City (MPKB-BRI) (mpkbbri.gov.my).

According to Azhar & Rihanah (2010), the late Tuan Guru Dato' Haji Nik Abdul Aziz Bin Haji Nik Mat, Menteri Besar Kelantan at that time explained that the main purpose of the Kelantan state government declaring MPKB as an Islamic city is a way to realize Islam as a whole, in term of the municipality, society, culture of life and so on. Up to the practise today, MPKB-BRI focused on the Islamic approach in implementing by-laws in the local authority's administrative area purposely to implement and strengthen the Islamic lifestyle among the local community, especially to the Muslim population.

10.1 Research Methodology

The purpose of the study is to identify the implementation and the impact of Islamic by-laws implemented by the local authorities in Kelantan on the local communities. The online survey was conducted to get the feedback of local communities towards the implementation of by-laws that focused on the Islamic approach. With the result of the study, the public should gain a good impact as it may shape their good behavior and at the same time, local authorities may expand

their implementation to the other areas of local authorities in Kelantan as for the beginning, the implementation is focused on big cities such as Kota Bharu and Pasir Mas. Besides that, the practice also can be a good reference to other state local authorities.

10.2 Literature Review

By-laws are defined as the subsidiary legislation of the principal law. It was enacted for the local authority jurisdiction. This subsidiary legislation is also known as Orders, Rules, and so on (mpkbbri.gov.my). By-laws are the jurisdiction given to the local authorities, subject to the Local Government Act 171 (1976). This means that the local authorities have the power to enact appropriate by-laws to ensure the smooth running of their administration area. 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 (Suzei et al., 2018). This is what has been enforced by MPKB-BRI in the effort of shaping good behavior among the local societies, especially the traders.

The local authority 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 (Khairul Azhar Meerangani, 2018). In this case, the local government in Kelantan chose to implement by-laws that focused on the Islamic approach to educating local communities. According to Suhana & Marsitah (2015), the local government has outlined clearly and distinctly the interpretation of *aurat*. The branding of Kota Bharu as an Islamic city has important implications for the local community, in terms of image development and changing the economic and social environment to be more conducive and competitive based on Islamic values and philosophy (Mohd Fadil, 2011). Following the Islamic name that they convey, the local government started the initiative to implement the by-laws with an Islamic approach in their districts.

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 realising 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 enforcement in particular through allocated jurisdiction to the local authorities in the state. Local authorities have been empowered to enforce the rules and implement actions deemed necessary for controlling moral values in society (Zainuddin & Dinsman, 2000).

The by-laws introduced by local authorities in Kelantan such as MPKB-BRI are slightly different from the local government 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 community practices the teachings of Islam in their daily lives.

Among the MPKB-BRI by-laws that focused on the Islamic approach are as follows:

- i) MPKB Business, Business and Industrial Trade By-Laws (Amendment) 2002 under section 27A which came into force on 3 January 2002
- ii) MPKB Food Establishment Control and Supervision By-Laws (Amendment) 2003 under section 4A effective 25 September 2003
- iii) MPKB Hawker By-Laws (Amendment) 2003 under section 13A which came into force on 25 September 2003
- iv) MPKB Barber Shop and Hairdressers By-Laws (Amendment) 2003 under section 3B which came into force on 25 September 2003

(Source: mpkbbri.gov.my)

With the gazetting of the above 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. 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. It is because there is a ban on haircuts by different genders in the Kota Bharu district.

Besides MPKB, Ketereh District Council (MDK) located in the Kota Bharu District area also has implemented by-laws with an Islamic approach as below:

- i. Clothes
 - (1) A licensee shall ensure that he and his employees are dressed decently, cleanly, and neatly while carrying on trade, business or industrial activities.
 - (2) Subject to paragraph (1), the licensee shall -
 - (a) for a Muslim, ensure that he and all his Muslim employees wear clothes covering the *aurat* and if his employees are not Muslims, he shall wear decent clothes; or
 - (b) for non -Muslims, ensure that he and his non -Muslim employees wear decent clothes and if his employees are Muslims, he must wear clothes that cover the *aurat*.

Interpretation in these By-Laws, unless the context otherwise requires—
“*Aurat*” means the whole body of a woman except the face and both hands and for men, it is between the navel to both knees;

“Clothing covering the *aurat*” means the clothing of a Muslim woman that covers the whole body except the face and both hands and the clothing must not be tight or narrow or thin so as to reveal the shape of the body and the clothing of a Muslim man is between the center to both knees;

“Modest dress” means a woman’s or man’s dress that is not tight or narrow or thin so as to show or expose the body and is not conspicuous to the eye in public view.

- ii. Examination of women

No woman shall be examined except by any authorized female officer of the Council and such examination shall be carried out with careful attention to decency.

(Source: Undang-undang kecil pelesenan tred, perniagaan dan perindustrian (Majlis Daerah Ketereh Perbandaran Islam) 2019).

iii. Use of Jawi writing

(1) An advertisement displayed shall also use Jawi writing and the Jawi letters shall-

(a) is larger than or equal to the letters of the words in the National Language or any other language used;

(b) placed at the top of the National Language and other writing at the bottom; and

(c) spelled correctly.

(2) If the licensing authority is of the opinion that Jawi writing is not properly used in any advertisement, the licensing authority may, by written notice, direct the person displaying or erecting the advertisement or causing or permitting the advertisement to be displayed or erected, to amend the advertisement to correct the error in any manner and within any period specified in the notice.

(3) Any person who fails to comply with paragraph (1) or (2) shall be guilty of an offense and shall on conviction be liable to a fine not exceeding two thousand ringgit or to imprisonment not exceeding one year or to both.

iv. The following advertisements are prohibited from being erected or displayed unless approved by the licensing authority– advertisements featuring pictures of women or men over the age of twelve who do not cover their genitals or do not wear clothing covering their genitals or do not wear modest clothing.

(Source: Undang-undang kecil iklan (Majlis Daerah Ketereh Perbandaran Islam) 2019).

The by-laws implemented by the MDK follow the practice of MPKB since Ketereh is under the Kota Bharu district.

10.3 Results and discussion

The online survey questionnaires were distributed to local communities in Kelantan. A total of 76 respondents had given their feedback. Regarding the awareness of the Islamic by-law's implementation, 73 of them responded that they are aware of the implementation while 3 of them responded that they are not aware about it. Based on the questionnaire's result analysis, the study found the following feedback on the influence of the Islamic by-laws in shaping societal behavior in Kelantan.

Table 11: Years of Residence in Kelantan

More than 21 years	58
16 years to 20 years	5
3 years to 5 years & 6 years to 10 years	4
11 years to 15 years	3
1 month to 2 years	2

From the findings, the majority, or 58 of the respondents have lived in Kelantan for more than 21 years. On the other hand, 5 of them live between 16-20 years in the state while the 4 other respondents live between 3-5 years and 6-10 years. Besides that, there were 3 respondents who stated that they lived there for 11-15 years. Only 2 respondents have lived in Kelantan for less than 2 years. It shows that the majority of the respondents have been exposed to the implementation of by-laws that focused on the Islamic approach since they have been in Kelantan for more than 20 years.

Table 12: Awareness of the Implementation of Islamic By-Laws

Ban of unisex salons	20
Enforcement of proper clothing to cover the <i>aurat</i> among the Muslim community and dressing politely for non-Muslims	48
Enforcement of board advertisement guidelines that prohibit any <i>aurat</i> -exposed advertisements	38

Regarding the awareness of the implementation of Islamic by-laws, the highest number of respondents opted for the enforcement of proper clothing to cover the *aurat* among the Muslim community and dressing politely for non-Muslims (48). While 38 of respondents chose enforcement of board advertisement guidelines that prohibit any *aurat*-exposed advertisements and the rest 20 respondents each preferred ban on unisex salons.

Table 13: The Influence of Islamic By-Laws in Shaping the Societal Behavior

Islamic by-laws	Yes	No	Not sure
Ban of unisex salons	47	14	15
Enforcement of proper clothing to cover the <i>aurat</i> among the Muslim community and dressing politely for non-Muslims	47	24	5
Enforcement of board advertisement guidelines that prohibit any <i>aurat</i> -exposed advertisements	58	12	6

The final survey is on the influence of Islamic by-laws in shaping societal behavior. The respondents gave different opinions on the influence as for the ban of unisex salons, 47 respondents said it is effective, while 14 respondents respond it is not that effective and the rest are 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, 47 respondents responded that it is giving them the influence while 24 respondents said no influence, and the rest of 5 respondents were not sure about the influence. 58 respondents chose yes for the influence of enforcement of board advertisement guidelines that prohibit any *aurat*-exposed advertisements, 12 respondents said that it had no influence and 6 respondents were not sure.

10.4 Conclusion and Recommendation

The implementation of by-laws that focused on the Islamic approach by the local authorities in Kelantan has managed to control the morality and shaped the behavior of the local communities, especially in the socio-economic aspects. Kelantan has taken the appropriate steps by making the right decision based on the framework Amar Makruf Nahi Munkar, such as covering the *aurat* (Mohamed et al., 2015 & Suhana & Marsitah, 2015). Dressing to cover the *aurat* among the Muslim community and dressing politely for the non-Muslim community gives a good image to the effort that has been carried out by local authorities with the cooperation with the Kelantan state government in general through the enforcement of the implementation of Islam in its legislation. Not only it helps to shape the behavior of the Kelantan community, but it also gives a good image for visitors or tourists who come to visit Kelantan. MPKB-BRI has succeeded in becoming the pioneer in the implementation and enforcement of by-laws that emphasized the teachings of Islamic values and were followed and emulated by other local governments in Kelantan. However, some of the constraints faced by local authorities in Kelantan are lacking enforcement staff which makes it difficult for comprehensive enforcement, large administrative areas also become one of the challenges as well as the increasing number of business premises. For the recommendation, in the future the local authorities might want to get cooperation with the social community's organization in ensuring the implementation of Islamic by-laws approaching the target identified.

10.5 References

- <http://www.mpkbbri.gov.my/ms/mpk/profil/latar-belakang> accessed on 23 February 2021.
- Khairul Azhar Meerangani, Isu Penerapan Nilai Islam Dalam Penguatkuasaan Pihak Berkuasa Tempatan di Malaysia, JCIS 1, Vol 41, Issue 2, 2018.
- Local government Act 1976.
- Mohamed, H. A – B, Ab Mumin, A. G, & Siti Arni, B. (2015), Nilai- Nilai Sistem Pengurusan Kualiti Islam Berasaskan Al-Quran dan Integrasi Ilmu Saintifik, Jurnal Syariah, 23 (1).
- Mohd Azhar Abdullah & Raihanah Abdullah (2010), Peruntukan Undang-Undang aurat dan Pakaian Sopan Menurut Bidang Kuasa Majlis Perbandaran Kota Bharu – Bandaraya Islam: Satu Huraian, Jurnal Syariah, Jil. 18, Bil 2, 361-400.
- Mohd Fadil Mohd Yusof (2011), Persepsi Komuniti Setempat Terhadap Penjenamaan Kota Bharu Sebagai Bandar Raya Islam. Persidangan Kebangsaan Masyarakat Ruang dan Alam Sekitar

- (pp. 1–8).
- Phang Siew Nooi (1989) *Sistem Kerajaan Tempatan di Malaysia*, Kuala Lumpur: Dewan Bahasa dan Pustaka.
- Suhana, S., Marsitah, M. R. (2015), *Urus Tadbir Sebuah Bandaraya Islam Malaysia: Kajian Kes di Kota Bharu, Kelantan*, *The Governance of a Malaysian Islamic City: A Case Study of Kota Bharu, Kelantan*, *Malaysian Journal of Society and Space*, 3(3), 8-25.
- Suzei Mat Nurudin, Nor Suhaiza Md. Khalid, Zarina Mohd Zain (2018), *Peranan Undang-Undang Kecil dalam Membentuk Keperibadian Masyarakat*, *Malaysian Journal of Social Sciences and Humanities (MJSSH)*, Volume 3, Issues 3, (page117-121).
- Undang-undang kecil iklan (Majlis Daerah Ketereh Perbandaran Islam) 2019
- Undang-undang kecil pelesenan tred, perniagaan dan perindustrian (Majlis Daerah Ketereh Perbandaran Islam) 2019
- Zainuddin Awang Hamat & Dinsman (2000), *Kepimpinan dan Pentadbiran Mmembangun Besrsama Islam, Kota Bharu: Pusat Kajian Strategik*.