

By-Laws and Social Relations: Shaping the Societal Behaviour

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ABSTRACT

Objective - Local governments in Malaysia are regulated under the Local Government Act 1976 and each has its power to enact by-laws under their respective administration area. By-law is a formulation of the law under the jurisdiction of local government in performing its duties and functions covering the administrative area that has been identified by the state government. The objectives of this study are to review the extent and the impact of the by-laws implemented by the local government in Kelantan in influencing and shaping the behavior of the local societies and has been conducted as an empirical study.

Methodology/Technique – Purposive sampling was used in selecting the targeted respondents in gathering their feedback towards the by-laws implementation and managed to get 76 respondents.

Finding – The feedback gathered shows that the local communities are well exposed and giving good responses to the by-laws implementation impact. Kota Bharu Municipal Council of Islamic City (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.

Novelty – Besides that, the good practice also has been followed by some other local governments in other states such as Terengganu, Kedah, and Melaka. By-laws implemented by the local government in Kelantan is very much different compared to local governments in other states in Malaysia which are the provisions of the by-laws that focus on the Islamic approach which somehow do give some impact to the local communities.

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1. Introduction

The local government ranks third after the federal government and the state government. Although its existence is relatively small compared to the other governments, the local government plays 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 impact the local people.

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According to the Malcom W. Norris views as stated in the writings of (Phang, 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. The local government has a legitimate and sovereign position granted from the upper level of government. At the beginning of practice, local government was applied by taking the approach of British government rule. When Malaysia achieves independence, the role of local government is restructured according to the concept of federalism (Abdullah & Abdullah, 2010). Based on the federalism system, local government is no longer sovereign (infra sovereign) which means its existence is based on acts and can be merged or abolished according to the needs. The function of local government is also limited to the ultra vires principle that has been outlined in the Local Government Act 171. Besides that, the local government was placed as the third government with the first level starting with the federal government, followed by the state government in the second level. Local government is under the jurisdiction of the state government that has been outlined in the Federal Constitution of Malaysia. The federal and the state government have control over the local government in ensuring the smooth administration of the local government.

For a start, the city of Kota Bharu was established in 1844 and was declared the governments center of Kelantan by His Majesty the late Sultan Muhammad II. In 1936, the city of Kota Bharu was upgraded to the Kota Bharu Town Council (MBKB). Later, MBKB was changed to the Urban Board in 1971. In 1978, the Kota Bharu Municipal Board was restructured and upgraded to Kota Bharu Municipal Council, and later on 20th February 2005, the council was named as Kota Bharu Municipal Council Islamic City (MPKB-BRI) (mpkbbri.gov.my). Residents of Kota Bahru are very rich and unique in culture. Thus, on July 25, 1991, the capital of Kelantan has been declared as the “city of culture”. While on 1st October 2005, the capital of Kelantan has been declared as an Islamic city with the title of “Kota Bahru Bandaraya Islam” (Ismail, 2016).

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 terms of the municipality, society, the culture of life and so on (Abdullah & Abdullah, 2010). Until now, MPKB continues to be known as the Islamic city (BRI) and also the state of Mecca. Following its name, MPKB-BRI takes an Islamic approach in implementing by-laws in the local government administrative area purposely to implement and strengthen the Islamic lifestyle among the local community, especially to the Muslim population.

This study focuses on three issues, namely the ban on unisex salons, enforcement of board guidelines advertisement that prohibit advertisement that does not covers the aurat and the enforcement of proper clothing covering the aurat among the Muslim community and dressing politely for non-Muslim by the local government in Kelantan. The first issue is focused on the MPKB Barber Shop and Hairdresser (Amendment) By-Laws 2003. In the provision of these by-laws, the term 'barber shop' is referred to as any hairdressing shop and salon as well as the premises under it.

The provision is a gazette because there are complaints by various parties related to the actions of some barbershops and salon operators who also carry out immoral activities such as prostitution and massage services. However, these activities have been uncovered by the entrepreneurs with a salon and barbershop business. Therefore, the state government has taken the approach of closing all the spaces that can lead to this immoral activity, by stating that every barber is only allowed to cut and style the hair of the same gender only. The action is based on the method of sadd al-dhara’I’ which closes any door to activities that can lead to vices and sins (Shukeri, 2015). However, this enforcement measure has turned out to have caused controversy in the community as it has never been implemented in any other state. Various parties have given pros and cons comments on this issue. 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 second issue is related to the prohibition of advertisements that do not cover the aurat. A watch dealer at a shopping mall in Kota Bharu, Kelantan who displayed two advertisements along with a woman dressed improperly was issued a compound of RM150.00. According to the report from the official website of MPKB-BRI, the summons was issued by the MPKB-BRI for violating section 107 (2) of the Local Government Act 1976. The action has violated the by-laws that prohibition of advertisements that do not cover the aurat and thus the advertisement should be changed to the proper one.

The final issue is the enforcement of clothing covering the aurat among the Muslim community and dressing politely for non-Muslims. According to a report by Utusan Malaysia, on 25th September 2017, a young man was given a notice of instruction to attend a counseling session for wearing short pants in the public area. The man was arrested on his way to the futsal court to play futsal with his friends. The man was instructed to attend a counseling session the following week along with 10 other individuals, including four women who were found guilty of not dressing properly in public areas. The purpose of the by-laws is to educate the local communities not directly punish them for their action but if the mistake is repeatedly done by the same person, it will lead to the appropriate summon.

Some of the by-laws play a part in shaping the behavior of the societies, especially in local government areas which have quite different approaches such as MPKB-BRI and other local governments located in Kelantan. By-laws implemented by the local government in Kelantan is very much different compared to local government in other states in Malaysia which is the provisions of by-laws that focused on Islamic approach such as the ban on unisex salons, enforcement of board guidelines advertisement that prohibit an advertisement that does not cover the aurat and the enforcement of proper clothing covering the aurat among the Muslim community and dressing politely for non-Muslims that suggests the aurat covering and wearing appropriate clothing among traders, business premise owners and also societies.

In practice, Islamic law is covered by the federal or the central government depending on the country's religion such as the Middle East countries, Indonesia and Malaysia. It is covered under the Syariah legislation of the country. However, there is no study on the Islamic by-laws, especially in the local government. Instead, most of the local governments in Malaysia practiced the laws derived from and modeled on English laws; therefore, this study wants to focus on the Islamic perspective of law that is implemented in the chosen local government. But the one focused in this study is the by-laws focusing on the Islamic approach implemented at the third level of government purposely to shape the positive social impact of local communities that become the receiver of the by-laws. 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). By referring to the three issues as deliberated above, this study shall explore more on the public awareness and the implementation impact of Islamic by-laws by local government in Kelantan.

2. Literature Review

By-laws mean 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 government, subject to the Local Government Act 171 (1976). This means that the local government has 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 Mat Nurudin 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 (Yusof, 2011). By the Islamic name that they convey, the local government started the initiative to implement the by-laws with an Islamic approach in their districts (Rasyidah, 2017).

2.1 By-laws of MPKB-BRI

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. 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 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 MPKB-BRI are slightly different from the local government by-laws in other states in Peninsular Malaysia. This is because the MPKB-BRI by-laws were introduced by incorporating Islamic values in its implementation which aims to ensure that the local community practiced the teachings of Islam in their daily lives.

Among the MPKB-BRI by-laws are as follows:

- i) MPKB Business, Business and Industrial Trade By-Laws 9 (Amendment) 2002 under section 27A which came into force on 3rd January 2002.
- ii) MPKB Food Establishment Control and Supervision By-Laws (Amendment) 2003 under section 4A effective 25th September 2003
- iii) MPKB Hawker By-Laws (Amendment) 2003 under section 13A which come into force on 25th September 2003
- iv) MPKB Barber Shop and Hairdressers By-laws (Amendment) 2003 under section 3B which come into force on 25th 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 cloth that cover their aurat and for non-Muslim to dress politely and appropriately. It is the main condition for the approval of their business license and to extend the license for the coming year, even MPKB-BRI enforcement officers will always conduct patrols to ensure that the 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 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 that, the by-laws are also imposed on local communities in way of their daily dresses in public as for the Muslim, they need to cover their aurat and for non-Muslim, need to wear appropriate cloth.

Besides MPKB, Ketereh District Council (MDK) located in the Kota Bharu District area also has followed the practice of MPKB and 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.

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: By-laws Majlis Daerah Ketereh Perbandaran Islam (MDK), 2019).

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

2.2 By-laws implementation

The local government in Kelantan has started some initiatives in introducing the by-laws that have an Islamic approach as discussed below:

i) Prohibition of unisex salon

According to a report in *The Star* (2012), starting in 1991, MPKB-BRI introduced a by-law prohibiting the existence of unisex salons for barbershops in the Kota Bharu Area. According to this act, female salon owners are prohibited from cutting the hair of male clients and vice versa. According to Datuk Takiyuddin Hassan, Chairman of the State Local Government, Culture and Tourism Committee, the implementation of this by-law is in line with the Islamic policy launched by the PAS government 10 years ago.

This by-law was first introduced starting in 1991 when all local governments in Kelantan had frozen the issuance of licenses and permits to unisex salons throughout the state especially for the district of Kota Bharu. In realizing the application of Islamic values in local government administration, MPKB has been enforced a ban on unisex salon services since September 2003 (Khairul Azhar Meerangani, 2018). This approach is a good start to provide stability in administrative matters and management of government policy whereby any negative elements that threaten the society harmonies to be completely controlled (Shukeri, 2015).

ii) Enforcement of clothing covering the aurat among the Muslim community and dressing politely for non-Muslims

MPKB-BRI has introduced a by-law where Muslims in the state of Kelantan who dresses without covering their aurat can be fined not more than RM1, 000 or imprisoned for six months. This is in line with Section 5 (1) of the Kelantan State Syariah Criminal Code Enactment 1985. According to the enactment, men who wear knee-length shorts and ladies who wear trousers and tights, short sleeves, without headscarves, is an offense in the dress code. However, the law only applies to Muslims, while non-Muslims should dress properly and not be too eye-catching.

Starting from 1992, every authority on business premises in Kelantan is subject to the condition of dressing to cover the aurat as a rule for the approval of local authority licenses. Among the rules involved, among others, mention that all licensees of premises and Muslim workers must dress to cover their aurat while non-Muslims must dress modestly and not show off. According to (Sepian et al., 2020), Local authorities in Kelantan have implemented the Islamic dress code in stages to safeguard and take care of the general welfare of Muslim women in Kelantan.

According to a report by *Utusan Malaysia*, on 25 September 2017, a young man was given a notice of instruction to attend a counseling session for wearing short pants in the open. The man was arrested while on his way to the futsal court to play futsal with friends. The action taken was to instruct the man to attend a counseling session for the case the following week along with 10 other individuals, including four women who were found to have dressed inappropriately in public.

The ban is not intended to continue to punish the offenders, but instead just want to give awareness and reminders so that they pay more attention to dress appropriately. It will also indirectly warn the local community. Rashidah (2017) has conducted a study on the implementation of covering the aurat in Kelantan. The study found that the implementation of the campaign to cover aurat has not become a problem among Kelantan communities as it seems they are ready with the implementation of the rules.

Such interpretation of the law involves a cover-up of the whole body except the face and both the palm and the clothes should not be tight/thin to reveal the shape of the body. Next, the by-law also purposely

meant for the local traders in Kelantan whereby they need to cover the aurat while conducting the business and for non-Muslims, they should wear appropriate clothing (Nurhafilah Musa, 2018) .

iii) Prohibition of advertisements that do not cover the aurat

A watch dealer at a shopping mall in Kota Bharu, Kelantan who displayed two advertisements along with a woman dressed inappropriately in her premise was charged an RM150.00 compound. According to a report from the official website of MPKB-BRI, the summons was issued by the Kota Bharu Municipal Council (MPKB) for violating Seksyen 107 (2) of the Local Government Act 1976.

According to the trader, this is not the first time he has received a compound, instead, he has received 10 summonses since starting the business in 1990. As a result of the compound, he can only apply for a business license for a new premise after paying all fines amounting to RM2,000 which was eventually given a discount of up to RM400.

The enforcement of advertisements that cover the aurat has received a positive reaction from visitors from outside Kelantan. According to Ujie Othman (2012), she has never found a state that requires all billboards to have Jawi writing and female models must cover their aurat. This is a very good practice because it indirectly educates Muslim women to dress according to Islamic law and non-Muslims to understand Islam better from the perspective of the Islamic dress code. According to her, such billboards also created an Islamic atmosphere, under the title of Mecca Corridor.

The special feature of this by-law that distinguishes the state of Kelantan from other states is that it requires women to cover their aurat, the use of Jawi writing, and the use of Kelantan batik which is the economic symbol of the Kelantan state. Besides Kelantan, Kedah state also emphasized the Islamic by-laws for their local government practices as stated by Muhammad Izzat and Mohd Edmand (2019) municipal council at Kulim are well aware towards on what to be done to shape the community at its finest by using Islamic bylaws.

According to (Ahmad & Hussain, 2012), in many ways, billboards in Kelantan, in general, and in Kota Bharu in particular (for the sheer reason of Kota Bharu having the largest number of billboards in the state) are different from billboards outside of Kelantan. As the case in many advertisements, popular figures (film stars, comedians, television personalities) are used to promote advertised products, most of whom, however, are women. In Kelantan, all the figures are pictured in attires conforming to the Islamic dress codes; in many cases, this involved the headscarf or the Hijab. In other states, similar personalities, promoting similar products, in similar poses, are often pictured without a headscarf. The different practice has shown the different by-laws that focused on the Islamic approach by local government in Kelantan.

3. Research Methodology

The purpose of the study is to identify the implementation and the impact of Islamic by-laws implemented by the local government at Kelantan on the local communities. The quantitative approach was used for this research because it generates knowledge and creates understanding about the social world, and it was used by social scientists to observe phenomena or occurrences affecting individuals which concerned with the study of people suitable for this study who involved the local communities (Allen, 2017). The data collected from the study are both from primary and secondary sources. The primary information was collected using an online survey from key respondents who were the local communities in the area of Kota Bharu. A total of 76 responses were received through purposive sampling. Secondary sources were collected from official publications of government agencies published documents that address the empirical indicators in the study,

including online sources database, reports, and archival materials. For this research, all the information received from the respondents was analyzed using SPSS software by testing the frequency analysis.

4. 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 of 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 1 – 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, 3 respondents stated that they lived there for 11-15 years. Only 2 respondents have lived in Kelantan for less than 2 years.

Table 2 – Awareness of the implementation of Islamic by-laws

Ban of unisex salons	20
Enforcement of proper clothing to cover the aurat among the Muslim community and dressing politely for non-Muslims	48
Enforcement of board advertisement guidelines that prohibit any aurat-exposed advertisements	38
Prohibition of non-mahram couples being too close together in public places	20
Prohibition of motorcycle riding between non-mahram couples	14

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 20 respondents each preferred ban on unisex salons and Prohibition of non-mahram couples being too close together in public places. The prohibition of motorcycle riding between non-mahram couples was chosen by the remaining 14 respondents.

Table 3 – 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	47	24	5

aurat among the Muslim community and dressing politely for non-Muslims			
Enforcement of board advertisement guidelines that prohibit any aurat-exposed advertisements	58	12	6
Prohibition of non-mahram couples being too close together in public places	27	33	16
Prohibition of motorcycle riding between non-mahram couples	23	37	16

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. For the prohibition on non-mahram couples being too close together at public places, 27 responded that it had given the influence, while 33 respondents said no influence and 16 responded not sure on the influence. The final Islamic by-laws on the prohibition of motorcycle riding between non-mahram couples had given the influence to 23 respondents, 37 respondents said no influence, and the remaining 16 respondents were unsure of its influence.

5. Conclusion

The Kelantan state government has proposed the transformation of by-laws at the local authority (PBT) level to be done to control and reduce the problem of social illness among youth. The amendment to the by-law aims to address the problem of youth hanging out at the park, especially during Maghrib time and at late night. This is a preventive effort because for now, social problems in Kelantan are not the main problem. The proposed amendment is in line with the establishment of the Islamic Development Department (JPI) at the local authority level throughout the district council in 2018. Previously, JPI was established in MPKB-BRI only, but starting in 2016, it began to be extended to all local authorities in Kelantan. The state government hopes that the establishment of JPI throughout the state of Kelantan can make a study related to the by-laws to address the symptoms of youth hanging out at Maghrib time in the parks or along the coast. Today, the practice has been applied by other local governments in Kelantan and become good practiced followed by local governments in other states. There are also some recommendations voiced out by the respondents on the future Islamic by-laws which should be considered by the local authorities in Kelantan. Among the recommendations are stricter by-laws enforcement, the action taken against parties or individuals who do not comply with the prohibitions as well imposing fines and summons to those who failed to comply with the prohibitions, and conducting regular personality campaigns following Islamic values as a public reminder. The implementation of by-laws and licensing conditions based on Islam has successfully controlled the morality and shaped the behavior of the Kelantan societies, especially in the socio-economic aspects. 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 and the Kelantan government in general through the enforcement of the implementation of Islam in its legislation. Not only does it shape the behavior of the Kelantan community, but it also gives a good image for visitors or tourists who come to visit Kelantan. However, some of the constraints faced by local authorities are in the terms of lack of enforcement staff which make it difficult for comprehensive enforcement and large administrative areas also become one of the challenges as well as the increasing number of business premises. For the future

study direction, it is suggested that the local government cooperate with other government agencies such as the state Islamic department and private entities in realizing the implementation and the positive impact of the by-law and thus can have the further study on the effectiveness of the effort. It is also suggested that the study in the future should comprehensively focus on the view among the traders that directly deal with by-laws with an Islamic approach that abides their daily activities in identifying the impact of the implementation.

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