

## Sharia and Islamic Law in the State Of Pahang: Development and Historical Experience

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### Abstract

This study traces the historical development of Shari'ah and the Islamic legal system in the state of Pahang, beginning from the era of the classical Malay Sultanate to modern administration. It examines the evolution of the Islamic judicial structure, the roles of the ulama and religious institutions, as well as the impact of British colonial rule on Sharia administration. Employing a historical and documentary analytical approach, the study investigates primary sources such as the Hukum Kanun Pahang, colonial administrative records and earlier fatwas alongside secondary sources that include works by local and international scholars. The findings indicate that Pahang possesses a strong Islamic legal heritage grounded in Sharia principles and Malay-Islamic traditions which continues to shape the contemporary legal system. Although British intervention introduced legal dualism and curtailed the jurisdiction of the Sharia courts, Islamic legal values remain embedded within the state's social, political and administrative structures. The study argues that understanding the historical experience of Islamic law in Pahang is essential for strengthening contemporary Islamic legal reform and for developing a contextualized model of Fiqh al-Waṭan that aligns with the realities of modern Malaysia.

**Keywords:** Sharia, Islamic Legal System, Pahang, History Of Islamic Law, Malay Sultanate

### Introduction

The history of Islamic legislation in Malaysia cannot be separated from the legal systems of the traditional Malay states, which were grounded in Sharia and local customary practices. Among the states with a long-standing tradition of Islamic law is Pahang, a state that has played a significant role in preserving the continuity of Islamic legal practices since the sixteenth century. The distinctiveness of Pahang lies in the combination of influences from

the Malacca Sultanate, the dissemination of Islamic teachings by scholars and the adoption of an Islamic administrative system implemented through the institution of the sultanate (Muslim, Mohamed & Arham, 2024).

Before the arrival of the British, Islamic law served as the primary foundation for the administration of justice in Pahang. Islamic legal principles were applied not only in matters of worship and commercial transactions (*mu'āmalāt*), but also in criminal affairs, family matters, inheritance and governance (Hasan, 2008). Modern studies also show that the Pahang Code of Laws exhibits the characteristics of a sovereign state constitution with Islamic foundations and Malay customs (Wan Ahmad Fauzi & Wan Husain, 2023). The Islamic judicial institution at the time operated under the supervision of *qāḍīs* appointed by the Sultan and the Council of Ulama (Rosele, 2018). However, following the colonial period, the role of Islamic law underwent a major transformation when the colonial administration introduced a civil judicial system based on English law (Na'im, 2023).

Although the formal structure of Islamic law was constrained, the spirit of Sharia remained deeply embedded in the lives of the Malay community in Pahang. This continuity is evident through institutions such as mosques, traditional *pondok* learning centers, the Pahang Islamic Religious and Malay Customs Council (MUIP) and the increasingly systematic enforcement of Islamic family law since the twentieth century. A 2024 study showed that local customs (*'urf*) have influenced the formation and application of law in Malaysia (Mohd Nasran & Ismail, 2024). Studies on Islamic legislation in the Malay states have often focused on Melaka, Terengganu and Kelantan, while Pahang has been relatively overlooked in mainstream scholarly discourse. This situation has created a knowledge gap concerning how the Islamic legal heritage of Pahang was formed, developed and adapted to socio-political change (Muslim et al., 2024).

In addition, there is a lack of studies that thoroughly examine the relationship between Pahang Malay customs and the Sharia principles practiced by its community. There is also a need to understand the impact of British colonization on the state's Islamic legal identity and how colonial intervention shaped the dual legal system that continues to be felt today (Ibrahim, 1985). This scholarly gap underscores the need for a historical study that investigates the experience of Islamic law in Pahang as an important model for understanding the evolution of Islamic legislation in Malaysia. Therefore, this article was written to describe the form of Islamic law in Pahang during the Malacca Sultanate, the Era of Pahang Sovereignty, the British Colonial Period, and the Modern Era.

This study holds significant academic and practical importance. From an academic perspective, it contributes valuable insight to the field of local Islamic legal history, which is often overlooked in national legal discourse. Pahang may be regarded as a microcosm of the dynamic relationship between Sharia, customary practices, and Malay-Islamic political authority in the Peninsula. Without writings this article, today's younger generation is increasingly unaware of the history of Islamic law in Malaysia, especially in the state of Pahang.

From a practical point, this study contributes to contemporary efforts to reform Islamic law, particularly in strengthening the role of the Sharia Courts and improving the integration

between Islamic law and civil legislation. A deeper understanding of Pahang's legal history can support the formulation of policies that are more firmly grounded in Islamic and local values, thereby advancing the concept of *Fiqh al-Waṭan*—an approach to Islamic jurisprudence that is national, balanced, and contextually grounded.

### **Methodology**

This article is written based on a study that uses a qualitative approach. Data in this writing were collected using the document analysis method. The data were analyzed using content analysis methods.

#### *The Arrival of Islam in the State of Pahang*

The arrival of Islam in Pahang formed part of the broader Islamisation process in the Malay Archipelago, which unfolded gradually from the thirteenth century onward. Situated between the east coast and the interior routes of the Peninsula, Pahang received Islamic influences through networks of trade, diplomatic ties, political marriages, and the missionary activities of scholars from abroad. This process exhibited multiple layers of development involving Arab–Persian and Gujarati traders, regional Islamic polities, as well as local political institutions.

#### *Influence of Maritime Trade*

Archaeological studies and historical sources indicate that Arab–Persian, Gujarati and Pasai traders played an early role in introducing Islam to the east coast region, including Pahang. Although specific records concerning Pahang in the thirteenth century are limited, the discovery of Middle Eastern ceramic artifacts and accounts from Chinese sailors provide evidence of active trade connections.

According to Al-Attas (2011), the early spread of Islam in the Peninsula occurred through maritime trade networks with Muslim traders often exerting significant social influence as cultural intermediaries. This view is supported by Andaya and Andaya (2001), who note that Islam began to take root in strategic ports along the east coast, including Kelantan, Terengganu and Pahang.

The earliest evidence of Islam in the Peninsula is the *Batu Bersurat Terengganu* dated 1303 CE, which demonstrates the existence of Islamic law in territories neighboring Pahang. The geopolitical and trade connections between Terengganu, Kelantan and Pahang indicate that the Islamisation of one region likely influenced the surrounding areas.

According to Siti Hawa (1997), the network of connections among the east coast states enabled scholars and traders to move freely, facilitating the peaceful and gradual spread of Islam. Thus, although Pahang did not leave behind its own inscription stones, it was situated within a growing Islamic cultural sphere by the fourteenth century.

#### *Islamisation through the Malay Sultanates of Malacca and Johor-Riau*

The more formal introduction of Islam into Pahang is also associated with the influence of the Malacca Sultanate in the fifteenth century. At that time, Pahang, as part of the Malacca Malay Sultanate, adopted a more structured Islamic administrative system.

In 1470, the Sultan of Malacca appointed Raja Muhammad as the first Sultan of Pahang. His reign introduced the sultanate as both the religious and political authority, the *Hukum Kanun Melaka* as Islamic law, and the roles of *qāḍīs* and scholars in governance. Buyong Adil (1972) explains that the Pahang administration during the Malacca period reflected the consolidation of Islam in governance, customary practices and international relations.

Islamic influence continued through Pahang's connections with Johor-Riau following the fall of Malacca in 1511. At that time, Pahang became part of the Johor political network, which was strongly shaped by Malay-Islamic traditions.

#### *The Role of Ulama and Religious Authorities*

The arrival of Islam was further strengthened by the roles played by *ulama* from Patani who had come from Aceh, Pasai and the Middle East. According to Farid Mat Zain (2010), the *ulama* played a crucial role in shaping Shāfi'ī jurisprudential practices, religious education and the formulation of Islamic law in Pahang. They also served as court advisers as well as preachers within rural communities. The *ulama* in Pahang made significant contributions to the dissemination of Islamic knowledge through madrasahs, *pondok* institutions and majlis taklim. They taught the Qur'an, hadith, jurisprudence and *usul* to local communities, thereby sustaining Islamic scholarly traditions in both rural and urban contexts (Rosele, Abd Rahim & Wan Ali, 2018, p. 62). In addition, several prominent *ulama*, such as Haji Uthman Senik were appointed as the mufti of Pahang and were responsible for educating subsequent generations of scholars. This demonstrates that religious education was not exclusive in nature but was instead embedded within the governing institutions (Rosele, Abd Rahim & Wan Ali, 2018, pp. 62–63).

Overall, the *ulama* and religious scholars in Pahang made substantial contributions to the development of Islam in the state through education, legal scholarship, missionary activities and cooperation with the government. They functioned not only as preachers but also as architects of Islamic legal policy and political advisers. Without their contributions, the development of Islam in Pahang would not possess the strong intellectual foundations and religious institutions that can be observed today.

#### *Political Marriages and the Royal Institution*

Marriages between the royal families of Malacca and Pahang further accelerated the development of Islam in Pahang. Through these dynastic ties, Islamic governance norms, Malay-Islamic customs, and sharia institutions were formally integrated into Pahang's administrative system.

Historians such as Linehan (1936) state that Islam became an important identity of the Pahang royal court and that the religion spread to the people through royal administration, court customs and religious activities. For example, the daughter of Maharaja Sura, Puteri Wanang Seri was taken to Malacca, converted to Islam and given a new name, Puteri Lela Wangsa (Hashim, 2023; Rosele, Abd Rahim & Wan Ali, 2018). Linehan (1936) also explains that Maharaja Dewa Sura was the ruler of Pahang when Malacca launched a military expedition to the state. According to Rosele, Abd Rahim and Wan Ali (2018), Dewa Sura was captured and his daughter was married to Sultan Mansur Shah as part of Malacca's political strategy.

Hashim (2023) argues that this marriage became the basis for the formation of the Islamic Sultanate of Pahang.

The marriage between Puteri Lela Wangsa and Sultan Mansur Shah was not only a family alliance but also a political strategy to secure Pahang's loyalty to Malacca. This strategy also helped speed up the Islamisation of the Pahang nobility (Rosele, Abd Rahim & Wan Ali, 2018; Hashim, 2023). From this marriage, two princes were born Raja Ahmad and Raja Muhammad who later played important roles in the Pahang royal institution (Linehan, 1936). Overall, the coming of Islam to Pahang was a long process that involved international trade networks, the expansion of Islamic sultanates, the work of religious scholars and the development of religious institutions. Beginning with the influence of Muslim traders in the 13th century, the Islamisation of Pahang was strengthened by the Malacca Sultanate, supported through its ties with Johor-Riau and eventually became deeply rooted in society through educational institutions, the royal court, and Malay-Islamic customs.

#### *Islamic Law in Pahang During the Malacca Sultanate Period*

Islamic law in Pahang developed and expanded rapidly after the state came under the influence of the Malacca Sultanate in the 15th century. Malacca served not only as a trading center but also as a major center for the development of Islamic law in the Malay world. When Pahang came under the rule of the Malacca royal lineage, elements of Islamic legal structures began to be incorporated into Pahang's administrative system.

According to Buyong Adil (1972), Malacca's influence on Pahang extended beyond politics included laws, customs and an administrative system based on sharia. Pahang became part of Malacca's sphere of influence around 1454 CE, following the decline of Siamese rule in the region. However, the formal process of Islamizing the law became more evident when Raja Muhammad, the son of Sultan Mansur Shah of Melaka, was appointed as the first Sultan of Pahang in 1470.

As a state ruled by the Malacca royal family, Pahang received religious officials sent from Malacca, adopted an administrative system similar to that of Malacca and used the *Hukum Kanun Melaka* as a legal reference. This is emphasized by Winstedt (1935), who states that Malacca's vassal states generally applied Malacca's laws and customs as the basis of governance (Winstedt, 1935).

#### *Sources of Islamic Law in Pahang During the Malacca Sultanate*

There were several primary sources that formed the basis of Islamic law in Pahang:

##### *Hukum Kanun Melaka*

This was the main legal document referenced by states under Malacca's rule, including Pahang. According to Liaw Yock Fang (1976) the *Hukum Kanun Melaka* contains more than 40 chapters, most of which include elements of sharia, and can be categorized into four sections:

- a. Criminal law (*hudud, qisas, ta'zir*)
- b. Civil and commercial law (*muamalat*)
- c. Offences such as adultery (*zina*), false accusation (*qazaf*), apostasy (*murtad*) and alcohol consumption
- d. Rules regarding witnesses, oaths, and evidence

Logically, Pahang being ruled by the Malacca royal family, also adopted it as the main reference for its legal system.

#### *Undang-Undang Laut Melaka*

Although primarily relevant to maritime trade, this law also influenced Pahang, particularly in river trade and the management of ports such as Kuala Pahang.

The law included several principles, such as:

- a. Contract disputes
- b. The captain's trust (*amanah*) regarding the crew
- c. Oaths and evidence
- d. Theft on board ships

According to Andaya & Andaya (2001), Malacca's vassal states generally adapted these trade laws in the administration of their own ports.

#### *Shāfiī School as the Basis of Law*

Both Melaka and subsequently, Pahang adhered to the Shāfiī school of thought. Linehan (1936) explains that this adherence is evident in laws related to marriage, divorce, *wakaf*, zakat and the rules of evidence and testimony. The network of *ulama* between Pahang, Pattani and Aceh was a key factor in the spread of the Shāfiī school in Pahang. Pattani and Aceh were centers of Shāfiī scholarship, producing prominent scholars such as Syeikh Dawud al-Fattani and Nuruddin al-Raniri. This intellectual network contributed to the dissemination of Shāfiī texts to the Malay Peninsula, including Pahang (Azra, 2004). All of these elements became part of the legal practices of the Pahang royal court.

The Shāfiī school not only formed the basis of the legal system and ritual practices of early Islamic society in Pahang but also shaped the state's social, cultural and political identity. The dominance of this school was the result of Malacca's influence, the network of *ulama*, royal institutions and regional connections with Shāfiī centers of learning in the Malay world.

#### *Islamic Law in Pahang During the Era of Pahang Sovereignty*

According to the *Sejarah Melayu* and analyses by modern scholars such as Buyong Adil (1971) and Andaya & Andaya (2016), around 1470 CE Malacca declared Pahang as a state with its own royal administration after sending Raja Muhammad as the first Sultan of Pahang.

During this era, Pahang had its own legal system, known as the *Hukum Kanun Pahang*, conducted its own diplomacy, issued dirham coins, and ruled as a government independent of Johor for a certain period. Many scholars consider the late 16th century as the period of Pahang's full sovereignty, during which it was led by Sultan Abdul Ghafur Muhiyuddin Shah (1592–1614) (Liaw, 1976).

#### *Hukum Kanun Pahang*

The *Hukum Kanun Pahang* (HKP) is a written legal code compiled during the reign of Sultan Abdul Ghafur Muhiyuddin Shah (1592–1614). Manuscript studies indicate that this code is one of the most important Malay-Islamic legal legacies after the *Hukum Kanun Melaka* (HKM) (Hashim, 1992; Liaw, 1976).

The purpose of compiling the *Hukum Kanun Pahang* was to strengthen the state administration, adapt Melaka's laws to the social and economic context of Pahang and institutionalize elements of Shāfiī fiqh in Malay governance (Zaini Nasohah, 2014). The *Hukum Kanun Pahang* is considered to continue the legal tradition of the Melaka Sultanate which collapsed in 1511 (Muhammad Yusoff Hashim, 1992).

#### *Primary Sources for the Compilation of Hukum Kanun Pahang*

The *Hukum Kanun Pahang* was based on three main sources:

(i) Malacca Law

Most of the chapters in the HKP correspond to those in the *Hukum Kanun Melaka* (HKM), including sections on criminal law, royal authority and customs (Liaw, 1976). This adaptation demonstrates Melaka's strong influence on Pahang.

(ii) Shāfiī Fiqh

Several criminal provisions, such as those concerning adultery (*zina*), false accusation (*qazaf*), theft, *hirabah*, alcohol consumption and *qisas* were clearly derived from Shāfiī legal principles (Nasohah, 2014).

(iii) Malay Customs

The HKP also incorporated Malay customs including societal taboos, the hierarchy of nobility, the relationship between the people and the ruler and the system of task allocation (Hashim, 1992).

#### **Contents of *Hukum Kanun Pahang***

Manuscript studies indicate that the HKP contains between 22 and 30 chapters, depending on the manuscript version (Nik Nor Aslili, 2006). Its contents can be divided into four main sections: criminal law, civil and commercial law (*muamalat*), state administration and customs.

##### *A. Criminal Law (Hudud, Qisas and Ta'zir)*

###### *1. Hudud*

The chapters on hudud show a strong influence of fiqh, covering adultery (*zina*) and the conditions for its proof, false accusation of adultery (*qazaf*), theft (*sariqah*) including conditions regarding stolen goods, storage location and minimum value (Liaw, 1976), as well as alcohol consumption.

###### *2. Qisas*

The *Hukum Kanun Pahang* details offences of murder and injury, distinguishing between intentional, unintentional and quasi-intentional acts as explained in Shāfiī fiqh texts (Nasohah, 2014).

###### *3. Ta'zir*

This section addresses offences such as disobedience, slander other than *qazaf*, minor fights, disturbance of public order and violations of customs. *Ta'zir* punishments are largely administrative and left to the discretion of the ruler or the *qadi*.

##### *B. Civil and Commercial Law (Muamalat)*

The *muamalat* section of the *Hukum Kanun Pahang* reflects Pahang's thriving economic activity in the 16th century. Key contents include sales (*bay'*), covering mutual consent, lawful and pure goods and fair measurement (Hashim, 1992). The section also provides guidance on

debts, wages and the division of inheritance according to the Shāfiī school (Nik Nor Aslili, 2006).

### *C. State Administration and Hierarchy of Authority*

This section is one of the most distinctive features of the *Hukum Kanun Pahang* compared to the laws of other states. It outlines the Sultan as the head of religion and the state, the role of the *Bendahara* as the Sultan's representative in administration, the function of the *qadi* as the enforcer of sharia law and the roles of the *penghulu*, *hulubalang*, *shahbandar* and district chiefs (Hashim, 1992). Chapters on disobedience impose severe punishments on those who defy the ruler's command, reflecting the concept of "*daulat*" in Malay political culture (Muhammad Yusoff Hashim, 1992).

### *D. Customs and Family Law*

The *Hukum Kanun Pahang* also contains regulations on marriage and divorce, the responsibilities of husbands and wives, the status of heirs and customs regarding respect for the ruler and nobility. The integration of sharia and local customs represents a unique feature of Malay law (Nasohah, 2014).

The *Hukum Kanun Pahang* is a mature and well-organized legal code that demonstrates the rapid development of sharia in 16th-century Malay governance. It harmoniously integrates Shāfiī fiqh and Malay customs, and it influenced the development of Islamic law in Malay states up to the 19th century.

### *Islamic Law in Pahang During the British Colonial Period*

In the 19th century, Pahang came under British influence through the Pahang-British Agreement of 1887 and officially became a British Protectorate in 1888. The traditional governance system of Pahang, including the royal institutions and Islamic law, continued to operate but was under the supervision and influence of the colonial administration (Andaya & Andaya, 2016).

Although the British introduced Western laws in civil and criminal matters for colonial purposes, Islamic law continued to be applied in family and religious affairs. In the administration of sharia courts, the Sultan and *qadi* retained authority over cases involving marriage, divorce, inheritance (*faraid*), gifts (*hibah*) and *wakaf*. State religious councils, including the mufti and *qadi*, maintained their roles in religious administration. The *Hukum Kanun Pahang* and Malay customs continued to serve as guidelines in sharia court decisions (Hooker, 1986).

The British also introduced aspects of modern administrative management that affected Islamic law. The powers of the *qadi* were restricted by the British, limiting their authority to family, inheritance (*faraid*) and religious matters. Serious criminal cases, land disputes and taxation were handled by British courts (Winstedt, 1935). A two-tier court system was introduced, eventually creating a separation between the Civil/British Courts and the Sharia Courts. The Sharia Courts remained responsible for religious and family cases, while Western law was applied to criminal and commercial matters (Hooker, 1986). Although the British attempted to intervene in Pahang's legal affairs, the Sultan of Pahang remained the Head of

Islam in the state. The mufti and *qadi* continued to serve as advisors to the Sultan on Islamic administration, including matters of *wakaf*, *zakat* and mosques (Andaya & Andaya, 2016).

In conclusion, during the British colonial period, Islamic law in Pahang did not disappear but its authority and scope were reduced under the colonial system. The Sharia Courts continued to operate in matters of family, inheritance and religion. The British introduced a two-tier system that separated civil authority from traditional religious authority, yet Islamic institutions remained relevant and recognized.

#### *Islamic Law in Pahang in the Modern Era*

The modern era refers to the period after British rule and Malaysia's independence in 1957, when the Islamic legal system was reorganized within the framework of the Malaysian Constitution. During this period, the position of the Sultan as the Head of Islamic Religion in the state was formally recognized.

In Pahang, Islamic law developed through three main mechanisms: the reform of the Sharia court institutions, the enactment of state Islamic legislation, and the expansion of formal religious education (Hooker, 2003; Ibrahim, 2004).

#### *Modern Islamic Institutions and the Sharia Courts*

The Sultan of Pahang remains the Head of Islam in the state according to the Federal Constitution of Malaysia (Article 38). The Sultan holds the authority to issue fatwas, supervise religious administration and appoint the Mufti of Pahang (Ahmad, 2011). The Mufti is responsible for advising the Sultan, the public and government institutions on matters of Islamic law. The administration of *zakat*, *waqf*, mosques and Islamic education is placed under the Pahang Islamic Religious Council (Majlis Agama Islam dan Adat Resam Melayu Pahang) (Ahmad, 2011).

The modern Sharia Courts in Pahang have jurisdiction over Islamic family matters such as marriage, divorce and inheritance. The courts also handle issues related to Islamic religious administration and Islamic criminal offences, including *hudud*, *qisas* and *ta'zīr*. However, their jurisdiction is limited by the Federal Constitution (Hooker, 2003).

Since 1980s, Pahang has introduced several Islamic enactments to strengthen the administration of religion. The Islamic Family Law Enactment of Pahang 1984 was enacted to manage matters such as marriage, divorce and maintenance. The Administration of Islamic Law Enactment of Pahang 1995 aimed to reinforce the functions of the State Islamic Religious Council and the management of *waqf*. Meanwhile, the *Hudud* and *Qisas* Enactment of Pahang was drafted in line with the Federal Constitution, although its full implementation remains under state authority with federal limitations (Ibrahim, 2004; Ahmad, 2011). These enactments demonstrate the state's commitment to Sharia principles while adapting them to the modern legal system and the Malaysian Constitution.

#### *Islamic Education and the Dissemination of Legal Knowledge*

The International Islamic University Malaysia (IIUM), the Sultan Ahmad Shah Islamic University College of Pahang and traditional *pondok* institutions play important roles in promoting the study of *Shafi'i fiqh*, Islamic law and the administration of Sharia. These

educational institutions help strengthen public understanding of modern Islamic legal systems and produce professional Sharia court officers (Nasohah, 1999).

In modern times, Islamic law in Pahang is based on the *Shafi'i* school. The Sultan, the Mufti, the State Islamic Religious Council and the Sharia Courts play key roles in carrying out Islamic legislation in the state. This system is strengthened through state enactments that follow modern legal standards and the Malaysian Federal Constitution. The implementation of Islamic law in Pahang helps shape a disciplined Muslim society in terms of legal matters, religious practices and social behavior.

### **Conclusion**

The development of Sharia and Islamic law in Pahang reflects a long historical continuity, beginning with early Islamization through trade networks, the influence of the Malacca Sultanate and the role of scholars and the royal institution. Melaka's influence not only introduced an Islamic administrative structure, but also established the legal foundation through the *Hukum Kanun Melaka*, which was later adapted to suit the context of Pahang. The peak of Islamic legal development in Pahang emerged with the formulation of the *Hukum Kanun Pahang* during the reign of Sultan Abdul Ghafur. This important document harmonized *Shafi'i* jurisprudence, Malacca laws and Malay customs into a well-structured and mature legal system. Although British colonial rule transformed the legal landscape by introducing civil law based on Common Law, Islamic law in Pahang was never abolished. Instead, its jurisdiction was narrowed to matters of religion and family. Nevertheless, institutions such as the Sultan, the *qadi* and the religious council continued to play key roles in preserving the continuity of Sharia in the state.

Entering the modern era, Islamic law in Pahang underwent a more structured process of institutionalization through the establishment of the Sharia Courts, the enactment of state legislation, and the strengthening of Islamic educational institutions. These developments show how Pahang successfully adapted its traditional Islamic legal heritage to contemporary legal realities grounded in the Federal Constitution of Malaysia. Overall, the historical experience of Islamic law in Pahang not only reflects the dynamism of the Malay-Islamic tradition, but also provides an important foundation for understanding and strengthening current Sharia reforms in Malaysia.

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