

BAITUL MAL AS A SOLUTION OF DISPUTES OVER INHERITANCES OF HEIRS WITHOUT HEIR

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ABSTRACT

This article aims to explore the process of economic development through Baitul Mal as a solution for resolving property disputes inherited from deceased individuals who have no heirs in Indonesia. The methodology of this article employs doctrinal or normative legal research, utilizing statutory, conceptual, and comparative approaches. The discussion results indicate that Baitul Mal can serve as a solution in inheritance cases where the deceased does not leave behind any heirs, as well as the allocation of the Baitul Mal portion, which needs to be supported by additional rules. These rules will function as a legal umbrella and a basis for implementation at the national level. Furthermore, positive regulations must always incorporate relevant legal provisions, considering the importance of the principle of legality in decision-making. In conclusion, with a clear legal framework in place, Baitul Mal can significantly contribute to the economic development of the community and the effective management of inherited property.

INTRODUCTION

In the time of the Prophet Muhammad SAW, there was already a Baitul Mal. In the time of the Prophet Muhammad SAW. Baitul Mal had more of an understanding as a party that handled every property of the Muslims, both in the form of income and expenditure. (Masrifah, 2020). At that time, Baitul Mal did not have a special place to store wealth, because the wealth obtained was not too much, even though there was wealth obtained, it was almost always distributed to the Muslims and spent on maintaining their affairs. Every wealth, whether in the form of mining goods, money, trade commodities, land, buildings or other assets, was managed

by Baitul Mal, which Muslims have the right to own according to the provisions of the sharia (Mustaring, 2016).

At this time, Baitul Mal should function as a financial department, social department, etc. However, Baitul Mal in the context of Baitul Mal Wat Tamwil (BMT) has experienced a narrowing of meaning where it only carries out social functions that are free from state politics. Muslims in Indonesia currently have institutions to manage Muslim assets such as zakat, waqf, etc. These institutions are such as the Zakat, Infaq and Shadaqah Management Agency (BAZIS), there are also the Zakat Management Foundation, Dompet Dhu'afa, Baitul Mal and others, both organized by the

government or the private sector, which are adjusted to the local wisdom of each region. However, regarding institutions that can specifically handle inheritances without heirs, there are none nationally. The existence of inheritances without heirs is certainly very possible, especially in several areas with a Muslim majority population. Many inheritance disputes are submitted to the Religious Court to demand legal certainty and justice for the Muslim community, among inheritance disputes between heirs, it is also very possible that there will be inheritance disputes where the heirs who are entitled to receive them no longer exist, in other words, the heir leaves an inheritance but does not have heirs or descendants.

Indonesia is de facto a country with a Muslim majority population, there should be an institution that specifically handles and manages the inheritance of Muslims who do not have heirs, which of course is very useful for advancing the welfare of Muslims, especially in economic development. Baitul Mal, which does not have a strong legal basis as a solution to inheritance and economic development nationally, is a problem and a separate discussion for judges in the Religious Court who play a role in resolving inheritance problems, especially in deciding cases related to inheritance left by the testator but does not have heirs (Sari & Santoso, 2023).

Handling of cases in which there are inheritances of the testator but do not leave heirs who are entitled to receive them so far, in addition to the absence of a clear legal umbrella on this issue in general affects whether or not the examination of the assets without heirs will be accepted. And if the case can be accepted, then to whom the assets are given, whether to the party who controls the assets or to the Baitul Mal. If to the Baitul Mal, which institution represents the Baitul Mal. In this study, the author will discuss the extent of the role of the state in enforcing the provisions of Islamic law regarding the management of inheritances that do not have heirs in Indonesia.

BAZNAS as an institution is not legally authorized to manage inheritances without

heirs, from a positive legal perspective there has never been a determination or decision that has permanent legal force that hands over the management of inheritances that do not have heirs to the Baitul Mal except in the scope of the Aceh region which has special regulations, even though the inheritance clearly does not have heirs from the testator.

Religious courts as judicial institutions that handle and resolve disputes between Muslims, although in terms of procedural law they must comply with applicable regulations, but in terms of material they must still be based on values based on Islam. In Indonesia, Baitul Mal has not been accommodated by law, only in the province of Nangroe Aceh Darussalam (NAD) is Baitul Mal an official institution that has the authority to carry out the task of managing zakat and other religious assets (MA & Muhyayatsyah, 2020). Baitul Mal in Aceh is an institution that is authorized to manage and develop zakat, waqf, religious assets to benefit the community and become a guardian for orphans and/or their assets and managing inheritances that have no guardians based on Islamic law.

Several problems arise, namely the absence of national regulations governing the management of inheritances without heirs, the absence of Baitul Mal that is officially appointed by the government to manage inheritances without heirs, the potential for inheritance disputes between heirs in which there are inheritances without heirs, the problems of judges in the Religious Court in deciding inheritances that have no heirs and the potential for inheritances without heirs that can be used for the development of the economy of the Muslim community.

This study only discusses the scope related to Baitul Mal being part of the Solution to resolving inheritance disputes, in which some inheritances do not leave heirs for the development of the community's economy. Based on the description of the background, some problems are the objectives of the research, namely to find out how Baitul Mal can be an alternative resolution of inheritance disputes for heirs who do not have heirs to be used for developing the people's economy.

As for previous research references, among others: 1) "Inheritance Property Distribution System in Islamic Law (Case Study in Sungai Lueng Village, East Langsa District, Langsa City)" by Muhammad Alwin Abdillah & M. Anzaikhan (Abdillah & Anzaikhan, 2022). This paper discusses the implementation of the inheritance distribution system in Sungai Lueng Village. The study shows that the distribution of inheritance in the village is carried out evenly regardless of gender or kinship, with the process carried out through deliberation and mutual agreement. However, there are often delays in the inheritance distribution process, which sometimes causes some heirs to die before the distribution is carried out. This article uses a qualitative approach with a phenomenological study methodology to analyze inheritance distribution practices in the village. The results of the study emphasize the importance of deliberation in achieving justice in the distribution of inheritance. 2) "The Law on Postponement of Distribution of Productive Inheritance from the Perspective of Al-Mashlahah Al-Mursalah", by: Zainal Muttaqin (Zainal Muttaqin, 2024). This paper discusses the law of postponing the distribution of productive inheritance in the context of Islamic law, focusing on the principle of al-mashlahah al-mursalah. This study shows that postponing the distribution of inheritance can be considered valid as long as it is agreed by all heirs and does not conflict with the nash (text) or ijma' (consensus). This postponement can provide benefits for the heirs, such as protecting the descendants of the testator from economic weakness and keeping the assets productive. The results of the study also emphasize that the benefits of managing productive inheritance must be distributed by the provisions of fiqh al-mawaris. In this case, postponing the distribution of inheritance carried out based on deliberation can reduce conflict and strengthen family relationships. This study has important implications for economic development and inheritance management in Muslim communities. 3) "The Position of Substitute Heirs in Islamic Inheritance Law",

by: Sarah Humaira, Mustamam, Zulkifli AR (Sarah Humaira, Mustamam, 2021). This journal discusses the position of substitute heirs in Islamic inheritance law. The author explains that Islamic inheritance law, also known as Faraidz Law, is derived from the Qur'an and Hadith. Every Muslim, both male and female, is required to understand Islamic inheritance law and teach it to others. Furthermore, it highlights a case where a woman died before her parents' inheritance was divided. Her daughter filed a lawsuit with the Religious Court to claim her mother's rights. According to the Compilation of Islamic Law, substitute heirs are limited to blood relations in a straight line to the degree of grandchildren, and can be filled by both male and female children. This study uses a normative legal approach by analyzing court decisions related to substitute heirs. The conclusion of this study shows that granting rights to substitute heirs is important to ensure justice and economic protection for entitled descendants. 4) "Wajibah Wills for Non-Muslim Heirs in Indonesia from Najmuddin At-Thufi's Perspective", by: Abdul Aziz, Ghufron Maksum, Nadzif Ali Asyari, Nurul Huda (Aziz et al., 2023). This paper discusses the issue of wajibah wills for non-Muslim heirs in the context of Islamic law in Indonesia. The author explains that although Islamic inheritance law does not explicitly regulate wajibah wills for non-Muslims, the application of the concept of maslahah mursalah can provide a fair legal solution. This study uses a literature study method and descriptive analysis to explore the application of wajibah wills. The results of the study indicate that wajibah wills for non-Muslim heirs have a positive and fair impact and help fill the legal gap in the inheritance system in Indonesia. With the Supreme Court's decision regarding wajibah wills, the rights of non-Muslim heirs can be recognized, providing a sense of justice and avoiding conflict in the family.

THEORETICAL BASIS

The theoretical foundation of this study is anchored in an interdisciplinary

framework that integrates Islamic law, economic development, and inheritance dispute resolution. This approach aims to provide a holistic analysis of how Baitul Mal can function as an institutional mechanism for managing unclaimed inheritance while simultaneously contributing to broader economic and social welfare. The following theoretical perspectives form the core analytical lens for this research: (1) Islamic Law (Sharia) and the Principle of Faraid. (Alamsari & Franciska, 2022) (Bahtiar, 2018) Islamic inheritance law, known as faraid, establishes a structured mechanism for wealth distribution among heirs, emphasizing principles of justice, equity, and social responsibility. However, in cases where an estate lacks identifiable heirs, classical Islamic jurisprudence recognizes the role of Baitul Mal as the rightful administrator of unclaimed assets. This aligns with the overarching objectives of *maqasid al-shariah*, which seek to preserve wealth (*hifz al-mal*) and ensure economic justice within society. The study will explore classical and contemporary interpretations of faraid and examine their relevance in modern legal contexts, particularly in Indonesia's pluralistic legal environment. (2) Baitul Mal as a Socio-Economic Institution. (Zahro' & Ghazali, 2020) Historically, Baitul Mal was a central financial institution within Islamic governance, responsible for managing public wealth, zakat, and state revenues. Its role extends beyond mere wealth collection to active redistribution aimed at reducing economic disparity. The institutional theory of Islamic finance suggests that Baitul Mal can be revitalized as an intermediary entity, managing unclaimed inheritance and directing it towards social welfare programs, thus serving as a vital tool for sustainable economic development. (3) Economic Development and Social Capital Theories. (Masmuroh et al., 2023) (Ramdani Harahap & Ghazali, 2020) (Ariani & Minarni, 2023) Economic development theories, particularly those emphasizing social capital and community welfare, provide an essential framework for understanding the broader implications of Baitul Mal in economic

redistribution. The endogenous growth theory posits that institutional structures and policies significantly influence long-term economic development. By leveraging unclaimed inheritance, Baitul Mal can function as a catalyst for community-driven development, funding infrastructure, education, and social programs that benefit marginalized groups. Furthermore, Amartya Sen's capability approach will be utilized to assess how economic empowerment through Islamic financial instruments can enhance human development and social mobility. (4) Legal Pluralism and the Integration of Islamic and National Law. (Widoyo & Islamy, 2022) (Khosyi'ah & Asro, 2021) Indonesia's legal system operates within a pluralistic legal framework, where Islamic law coexists with national civil law. This duality creates a complex landscape for inheritance dispute resolution. The legal pluralism theory provides a critical perspective in examining how Baitul Mal can be integrated into Indonesia's existing legal framework while maintaining compliance with both sharia principles and state regulations. The research will analyze historical precedents, legislative frameworks, and case studies that illustrate the intersection of Islamic and national inheritance laws. (5) Principle of Legality and Regulatory Framework. (Meranti & Yazid, 2021) The principle of legality underscores the necessity of legal clarity and institutional legitimacy in the operationalization of Baitul Mal. Ensuring that its role in managing unclaimed inheritance is supported by well-defined statutory regulations is crucial for its effective implementation. This research will examine existing legal provisions related to inheritance, Islamic finance, and waqf, identifying gaps and proposing policy recommendations for strengthening the institutional role of Baitul Mal within Indonesia's legal system.

By synthesizing these theoretical perspectives, this study aims to construct a robust analytical framework that highlights the viability of Baitul Mal as a mechanism for resolving inheritance disputes and promoting equitable economic development in Indonesia.

The research will contribute to the discourse on Islamic economic governance and its practical applications in contemporary legal and financial contexts.

RESEARCH METHODOLOGY

This research is a doctrinal or normative legal study. The approaches employed include the statute approach, the conceptual approach, and the comparative approach. The legal material is analyzed using qualitative descriptive analysis, which involves systematically formulating and explaining key legal issues that constitute the subject of this study. This method provides answers derived from the research objectives through a structured and sequential reasoning process. (Riyani & Huriani, 2017) (Sari & Santoso, 2023)

RESULTS AND DISCUSSION

1. Historicity of Baitul Mal

Baitul Mal is an important thing in the reality of Muslim life. Baitul Mal means a house that contains wealth. Baitul is an institution or party that has a special task regarding all the wealth of the people, both in the form of state income and expenditure. So, every asset, whether in the form of land, buildings, mining goods, money, trade commodities, or other assets, where Muslims have the right to own them according to Islamic law.

Baitul Mal has existed since the time of the Prophet Muhammad SAW. although at that time an independent and separate institution had not yet been formed. Baitul Mal was only established as a separate economic institution during the time of the Caliph Umar bin Khattab at the suggestion of a jurisprudence expert Walid bin Hisham. Since then and the following periods, Baitul Mal has become an important institution for the state. Likewise, every asset that must be issued for those who are entitled to receive it, or to realize the welfare of Muslims, or for the cost of spreading da'wah is an asset that is recorded as an expenditure of Baitul Mal, whether it has been issued in real terms or is still in the storage place of Baitul Mal.

Baitul Mal is clearly defined as a state financial institution tasked with receiving, storing, and distributing state money by sharia provisions. In the current context, Baitul Mal is intended as a financial institution whose main business is receiving and distributing non-commercial funds from Muslims. The sources of funds for Baitul Mal come from zakat, infaq, shodaqah, grants, donations, and so on. The operational characteristics of Baitul Mal are a social vision and mission (non-commercial), it functions as a mediator between zakat payers and zakat recipients, it may not take any profit from its operations, and its operational costs are taken 12.5% of the total zakat received. Baitul Mal was first formulated and established by the Prophet Muhammad SAW. very simply. This is evidenced by the narrations that mention the delegation of Baitul Mal's duties by the Prophet SAW to certain friends, such as the task of recording, collecting zakat from agricultural products, maintaining zakat from livestock, and also distribution. This is a strong foundation that Baitul Mal has existed since the time of the Prophet Muhammad SAW, even though it was not yet in the form of a standard institution. Furthermore, during the caliphate of Abu Bakr, there were not many changes related to Baitul Mal.

A major change occurred during the caliphate of Umar bin Khattab with the operation of the administration system for recording with the Ad-Diwan system. Furthermore, Baitul Mal continued to develop in the following periods until Baitul Mal was formed as an economic institution on the proposal of a fiqh expert Walid bin Hisham. Since then and the following period, Baitul Mal has become an important state institution.

At present, Baitul Mal functions as a finance department, social department, and so on. However, Baitul Mal in the context of Baitul Mal Wat Tamwil (BMT) has experienced a narrowing of meaning where it only carries out social functions that are free from the political ties of the state. Baitul Mal as interpreted by BMT only has narrow activities, namely only receiving and distributing zakat,

infak, shodaqoh (ZIS) which are not commercial.

At the beginning of Islam, Baitul Mal had become an important institution for the State, starting from collecting zakat, taxes, ghanimah, building roads, paying soldiers, officials, and building social facilities. As for the sources of Baitul Mal's funds, namely: fai' ghanimah/anfal, kharja, jizyah, income from public property, income from state property, usyuur, khums from rikaz, mines and assets. However, zakat assets are placed in a special Baitul mal treasury, and are not given other than to the eight ashnaf (groups) mentioned in the Qur'an. Not the slightest amount of zakat assets may be given to other than the eight ashnaf, either for state affairs or for the affairs of the people.

Yusuf Qardhawy divided Baitul Mal into four work sections (divisions) based on their receipts, referring to the application of the classical Islamic era (Yusuf Qardhawy, 1988). Special department for alms (zakat), Special department for storing taxes and tribute, Special department for ghanimah and rikaz, Special department for assets whose heirs are unknown or whose inheritance rights have been severed. The Baitul Mal that currently exists in Indonesia does not occupy a complete function as before, as BAZNAS is only dominant in the management of zakat, infak and shodaqoh which is accommodated by the enactment of Law Number 38 of 1998 concerning the management of zakat which was later born Law Number 23 of 2011 concerning the management of zakat. In the early days of Islam, Baitul Mal in Indonesia did not occupy the function as before, but in its development only in the management of zakat, infak and shodaqoh which was then accommodated by the enactment of Law Number 38 of 1998 concerning the management of zakat. Article 191 of the Compilation of Islamic Law (KHI) states that "If the testator does not leave any heirs at all, or the heirs are unknown whether they exist or not, then the assets are transferred to the Baitul Mal by the decision of the Religious Court for the benefit of Islam and public welfare". While the clear explanation is in

Aceh Qanun number 10 of 2007 and Aceh Qanun number 10 of 2018 concerning Baitul Mal which only applies in the Nangro Aceh Darussalam (NAD) area.

During the time of the Prophet Muhammad SAW and the following periods, it functioned to improve the welfare of Muslims so that in its management it used several principles as in the expenditure or use of Baitul Mal assets determined based on several rules, namely; a). Assets that have a special fund in Baitul Mal, namely zakat assets, b). Assets given by Baitul Mal to overcome deficiencies and to carry out the obligation of jihad, c). The assets given by Baitul Mal as a replacement/compensation (badal/ujrah) are assets that are the rights of people who have provided services, for example, the salaries of soldiers, civil servants, judges, educational staff, and so on. The right to receive this gift is not determined based on the existence of the assets. So, these rights are permanent, whether the assets are in the Baitul Mal or not, d). Assets distributed by the Baitul Mal due to emergency elements, such as famine/starvation, hurricanes, earthquakes, or enemy attacks.

2. Baitul Mal as the Development of the Community's Economy

Baitul Mal Wat Tamwil is a financial institution that combines the functions of Baitul Mal, which has been narrowed down, and Baitul Tamwil. Baitul Mal Wa Tamwil (BMT) is also an integrated independent business center whose core activities are developing several productive businesses and investments in improving the quality of small business economic activities by encouraging savings activities and supporting financing for their economic activities. In addition, BMT can also accept zakat, infaq and shodaqoh deposits and distribute them according to its regulations and mandate. BMT is an informal non-banking Islamic economic institution or financial institution because this institution was founded by the Community Self-Help Group (KSM).

The establishment of BMT aims to improve the quality of economic efforts for the

welfare of members in particular and society in general, so with BMT the community can improve their standard of living through developing their businesses. The operational characteristics of Baitul Mal Wat Tamwil are the existence of an economic vision and mission, run with Islamic economic principles, has a function as a mediator between owners of excess funds and those who lack funds, financing from own assets or profits, and is obligatory zakat.

Related to the development of the Muslim economy, as the majority population is still very far behind, even though Muslims have very great potential both in terms of religion, quantity, and assets, but its management is not yet optimal. Optimization of raising community assets and optimization of management and empowerment of community assets in productive economic activities that are sourced from several Islamic jurisprudential values.

Unlike Baitul Mal, BMT is a sharia-based economic institution which at the implementation level has not been fully able to answer the real problems of the community's economy. BMT is a community self-help financial institution whose future relies on community participation. The development of Islamic financial institutions in Indonesia is also an implication of government policies in the field of finance and banking in 1998 with the issuance of Law Number 10 of 1998 (Muhammad, 2013). Baitul Mal Wat Tamwil can be used as an alternative in building and developing the people's economy by helping weak/small Muslim businesses, especially informal sector traders by obtaining cheap and clean business capital, freeing small entrepreneurs from the grip of interest and usury and helping their standard of living, helping to improve the understanding of Islam of debtors, creditors and investors through meetings and religious studies which are expected to make them understand more about how to utilize their wealth, bringing closer interaction between professional Muslims and conglomerates with the poor, and opening up a wider area of da'wah and social life among Muslims.

3. Baitul Mal as an Alternative for Settlement of Inheritance Disputes

Normally, the regulation of inheritance issues in the Islamic inheritance system is found in the Quran and the hadith of the Prophet Muhammad SAW. In the Quran, which discusses this inheritance issue, is mainly found in the letter an-Nisa' in verses 7,11,12,33, and 176. For more clarity, the words of the verses relating to this inheritance are as follows, namely Surat an-Nisa' (4) verse 7 (Ministry of Religion of the Republic of Indonesia, 2014).

In addition to being found in the Quran, the provisions of Islamic inheritance law are also found in the hadith of the Prophet Muhammad SAW narrated by Abu Hurairah according to the History of Abu Dawud and Ibn Majah which means "Those who kill do not get the right to inherit or a share of the inheritance" (HR. Nasai) (Abu Dawud, 1952). It is also found in the hadith of Ibn Abbas r.a. from the Prophet, peace be upon him, he said which means "Give faraid (the portion that has been determined in the Qur'an) to those who deserve it and give the rest to the male from the nearest male lineage". (H.R. Bukhari and Muslim).

In the Islamic law of inheritance, several principles can be excavated from the verses of the law of inheritance and the Sunnah of Prophet Muhammad SAW. namely Bilateral Basis, Compulsory Basis and Individual Basis. In addition to these principles, several pillars must be met in the division of inheritance, namely, the existence of heirs, heirs, and inherited property from the heirs. As for the reasons for the parties receiving inheritance, among others, there is a kinship relationship. The kinship relationship referred to is in the case of furu' (descendant), ushul (which causes the existence of heirs and hawasyi, that is, families connected to the heir through collateral lines such as siblings, stepfathers or mothers, marriage relationships and relationships due to wala'. Al-wala' is a hukmiah relationship, a relationship established by Islamic law of a person who frees a slave.

4. Baitul Mal as an Alternative to Settlement of Inheritance Disputes of Heirs Who Have No Heirs

Regarding heirs who have no heirs, Syafi'iyah and Malikiyah scholars include criteria for obtaining inheritance with the existence of Islamic principles. This Islamic principle is interpreted as if there is a Muslim who dies but has no heirs at all or has heirs but the assets are not fully divided, then the inheritance must be submitted to the State Treasury based on social interests and interests.

In human life, no one knows when someone will die, what sustenance will be obtained during their life. There are times when someone who has lived has a lot of wealth but is not blessed with offspring, on the other hand, his parents and siblings are unknown, and he has not even had time to get married. In this case, when a Muslim died without leaving any heirs, then his assets are still regulated according to Islamic law.

Several heir property managers do not leave heirs, namely: 1). Servant of the heir, someone who dies and leaves no heirs is a person who has no relatives or in terms of fara'idh science has no heirs or ulul arham. If the heir has a servant who he has freed, then the heir's property is given to that servant. This is based on a hadith narrated by Ibn Abbas r.a. that a man died in the time of the Prophet Muhammad, by leaving no heir except a servant whom he had freed, the Messenger of Allah. give him the relic. (H.R. Ahmad, Abu Daud and Ibnu Majah). On the other hand, if the servant dies without leaving an heir, then the master gets the property. "Indeed, the right to receive inheritance belongs to the person who frees him." (H.R. Bukhari and Muslim), 2). The person who converted the Heir to Islam, Qabishahbin Tamim ad-Dari, once asked the Messenger of Allah. How to divide a polytheist who converted to Islam through a Muslim. Rasulullah SAW. answered "the one who accepts Islam has more rights to him at the time of his life and death." (H.R. Abu Daud and Ibnu Majah), 3). Some of the surrounding community, based on the hadith narrated by Aisyah r.a. "A servant of the

Prophet SAW died. once freed, the Prophet asked, "Does he have any heirs or family?" They answered, nothing, he said, "Give his legacy to some of the experts from his country."⁴ (H.R. Ahmad Abu Daud and Ibnu Majah). What is meant by "half of the members of the country" are poor people or people who will use the property for public affairs in the country which is now called Baitul Mal.

In other words, the heir's property is returned to the head of his clan. The property is not to be owned by the individual leader, but is for the general needs of the community, which at this time is called Baitul Mal. This is by the hadith narrated by Buraidah "A man from the Azd tribe died without leaving an heir, so the Messenger of Allah said, give his inheritance to the head of the khuza'ah." (H.R. Ahmad and Abu Daud). An heir without leaving heirs or ulul arham, but leaving behind several of the groups mentioned above. So, priority distribution should be considered by taking into account several aspects of needs, urgent interests and benefits.

In the Egyptian Inheritance Law, it is stated in Article 4 of the Inheritance Law that if no heirs are found from the deceased's estate, it is determined in the following order: a) The person to whom the lineage was promised. If the deceased promises the lineage to another person, then the person who was promised the lineage is entitled to receive the estate; b) The person to whom the will is given more than a third. If the deceased does not leave heirs and does not leave anyone to whom the lineage was promised, then the will to another person with all or part of the estate is permitted, because the limitation with 1/3 of the estate is for the benefit of the heir, while there is no heir, 3) Baitul Mal, if the deceased does not leave heirs, no one to whom the lineage was promised, and no one to whom the will is given more than 1/3, then the estate is kept in the Baitul Mal of the Muslims to be used for the benefit of the community in general. This is the opinion of the Shafi'i and Maliki Schools of thought, which is the opinion of some of the companions of the Prophet Muhammad. such as Zaid bin Thabit and Abdullah bin Abbas, which means "I am the

heir of those who have no heirs". (H.R. Ahmad and Abu Dawud).

Ash-Shaykh Abdurrahman bin Nashir As-Sa'di when interpreting the letter Al-Anfal verse 75 said "No one inherits the property of the deceased except his close relatives from the companions or the heirs of the furudh, if these heirs are not found then the heir is the one who is closest to the deceased from among the dzawil arham (close relatives who are not included in the furudh and not the companions)". This opinion was a fatwa by the companions of Umar bin Al-Khattab, Ali bin Abi Talib, Abdullah bin Mas'ud, Abdullah bin Abbas, also Abu Hanifah, Ahmad bin Hanbal, and the later generations of the Maliki and Shafi'i schools.

There are two views of Baitul Mal as an alternative to resolving disputes over the property of an heir without heirs for the economic development of the community, namely, Baitul Mal can be used as one of the solutions in the case of inherited property that does not leave heirs by allocating it to Baitul Mal for the benefit of the community such as used for the economic development of the community with the determination of an institution by the government central as well as on a regional scale because in reality there is no Baitul Mal as at the beginning of Islam.

As for the current form of Baitul Mal, there are several social and humanitarian institutions within the scope of Muslims such as Badan Amil Zakat Infak and Shadaqah (BAZIS) which are on a national and regional scale. Currently, Baitul Mal aims to be an institution whose main business is to receive and channel non-commercial Muslim funds. While Baitul Mal funds come from zakat, infaq, sadaqah, grants, donations, and so on (Habib Nazir et al, 2008). if there is an institution that is given the authority to manage and develop zakat, waqf, religious property to benefit the people as well as be guardian guardians for orphans and/or their property and managing inherited property that has no guardian based on Islamic shari'a, even then it only exists and is regulated in a special way such as the special rules that exist in Aceh Nangroe Darussalam

with Qanun Number 10 of 2007 regarding Baitul Mal.

In special regulations in Aceh, for example in the General Provisions Chapter Article 1 paragraph (11) of Aceh Qonun Number 10 of 2007 states that: "Baitul Mal is a Non-Structural Regional Institution that is given the authority to manage and develop zakat, waqf, religious assets, to benefit the community and become a guardian/supervisory guardian for orphans and/or their assets and management of inherited assets that do not have a guardian based on Islamic law". As in Aceh Qonun Number 10 of 2018, Baitul Mal is a special and specific institution in the Aceh Government and Regency/City Government which in carrying out its duties is independent and has the authority to guard, maintain, manage and develop zakat, infak, waqf assets, and other religious assets, and supervise guardianship based on Islamic law. Based on this Qonun, it is very possible that Baitul Mal can be used as a manager of assets without heirs, although only in the Province of Aceh Nangroe Darussalam (NAD) only. With the existence of the Qonun, each region can actually make clear regulations regarding Baitul Mal with Regional Regulations (PERDA).

In the provisions of laws and regulations, the existing regulations should be able to accommodate all the interests and legal problems of the community, but in reality, legal regulations or laws and regulations, made by state institutions do not cover all cases that arise in society so that they still leave problems and make it difficult for law enforcers to resolve these cases.

Article 191 of the Compilation of Islamic Law (KHI) states that, "If the testator does not leave any heirs at all or the heirs are unknown whether they exist or not, then the assets are transferred to Baitul Mal based on the decision of the Religious Court for the benefit of Islam and public welfare".

In the provisions of Article 191 of the KHI, it is indeed mentioned about Baitul Mal as the recipient of the inheritance of the testator who does not leave any heirs at all or whose heirs are unknown or not for the interests of

the Islamic religion and public welfare, but this article is not supported by other regulations as an explanation of how to implement it, what kind of Baitul Mal is meant and how to use it, so that the formal legal principle of its implementation becomes sterile and there is no practice in the field. The principle of legality, which is often considered as a principle that provides legal certainty, is faced with the reality that the sense of justice of society cannot be fulfilled by this principle, because society continues to develop along with technological advances. The rapid changes that occur become problems related to things that are not or have not been regulated in a statutory regulation, because it is impossible for a statutory regulation to regulate all human life completely, so that sometimes a statutory regulation is unclear or even incomplete, which results in a legal vacuum in society.

There is an opinion that states that Baitul Mal cannot be used as an alternative settlement for inheritance disputes that have no heirs, which also means that Baitul Mal can not be used as a means of developing the people's economy from the allocation of these assets. Baitul Mal receives an allocation of inheritance distribution when the state has made regulations so that there is no administrative chaos because it cannot be known what Baitul Mal is like and which Baitul Mal can be given an allocation of inheritance assets, so that if there is a party that includes inheritance assets but has no relationship with the heir either in dzawil furud or dzawil arham, then the religious court judge has the right to declare the case inadmissible / niet ontvankelijke verklaard / NO. The argument built on this opinion is because a judge, in his duties, is bound by formal and material law. Before continuing the examination of the main case, the judge will first look at the formal form of the lawsuit or application, as one of the factors the judge thinks to reject or not a case because there is a lack of plurium litis consortium parties. With the existence of a lawsuit for inheritance/inheritance that has no heirs, then automatically there should be no dispute because there are indeed no heirs

and the assets return to the State treasury, but if it is submitted to the Religious Court but there are heirs who are entitled to receive a portion of the inheritance whose identity is deliberately hidden by the Plaintiff or Defendant or jointly Co-Defendant, then the judge has the right to issue a verdict that cannot be accepted/NO. Based on this perspective, the judge can view that it is not a legal vacuum so that the judge makes ijtihad or makes legal discoveries because there are no rules governing it, but more than that, namely the existence of legal smuggling in the management of inheritance that has no heirs carried out by the parties.

CONCLUSION

Based on the descriptions above, there are different concepts about Baitul Mal which are used as a solution to resolve inheritance cases without heirs as well as economic development, namely:

a) That Baitul Mal should be used as one of the solutions in inheritance cases where the heir does not leave heirs as well as the allocation of part of Baitul Mal for the development of the people's economy, although in reality it is not like Baitul Mal in the early days of Islam, but at least it can be accommodated in the development of institutions that are in line with the Baitul Mal that already exists today, by adding several rules that can be a legal umbrella and the basis for its implementation nationally. In addition, legal provisions must always be protected by regulations that have been positive because they are related to the principle of legality, where in deciding a case the judge must be guided by the applicable rules.

b) In such conditions, Baitul Mal cannot be used as a solution to resolve inheritance cases where the heir does not leave heirs and economic development. Baitul Mal receives an allocation of inheritance distribution when the state has made clear regulatory rules, so that there is no administrative chaos, because it cannot be known what Baitul Mal is like and where Baitul Mal can be allocated the inheritance. The recommendation for resolving the problem is that the role of the

Central or Regional Government is very important to realize a good Baitul Mal institution by issuing legal regulations that can be a legal umbrella for judges of the Religious Court to be able to determine that Baitul Mal is a party that can receive and manage funds or assets from the inheritance of the testator without heirs. The inheritance of the testator without heirs can be resolved by being allocated to Baitul Mal as an institution that can develop the economy for the benefit of the community, with the note that the Baitul Mal that is given the allocation is covered by positive regulations in the form of Regional Regulations (PERDA), Government Regulations or Laws (UU).

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