

Reinterpretation of the Meaning of Bait Al-Māl: Study of the Compilation of Islamic Law Articles 191 and 171 Letter I

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ABSTRACT: This research discusses the reinterpretation of the meaning of the bait al-māl through a normative-descriptive method with several approaches, namely regulatory analysis, language and double movement theory (looking at the historical background-events and conditions of society), to be seen in the present context. The interpretation of the meaning of the bait al-māl actually places the role and function of the Prophet Muhammad SAW, both as an institution and manager, so that in the present context, the institution is an institution that manages and develops the assets of Muslims, the results are used for the benefit of meeting the basic needs of life and the welfare of the Muslim community. (especially the group of orphans, the poor, the neglected, many in debt due to the basic necessities of life, and *ibn sabīl*) and non-Muslims. In respect of inheritance for which there are no heirs, the management institution must understand that it represents the eternal nature of the property and the distribution of its benefits is intended only for the welfare of Muslims, as is the nature of inheritance.

Keywords: Bait al-Māl, Reinterpretation of Religious Assets, Compilation of Islamic Law Articles 191 and 171 letter (i)



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INTRODUCTION

The inheritance law system in Indonesia is quite diverse (pluralistic), at least it can be mapped into three categorizations; First; customary inheritance law, with the main source coming from customary law (*adat recth*) which each region differs from one another. Second; Islamic inheritance law is sourced from Islamic religious teachings, especially the two main sources *al-Qur'ān* and *al-Ḥknitš*. And third; Western inheritance law based on *burgerlijk wetboek* (*bw*).

In the theory of inheritance there are three elements that must exist, namely first; heir (*al-muwarriš*) is a person who dies, also called a deceased, is a person who leaves an inheritance, the condition is that he has died by certain means or based on a court decision (sentenced to death). Second; heirs (*al-wārīš*), namely people who have the right to inherit, whose position is alive when the heir dies. Third; inheritance (*at-iršū*), the existence of legacy property to inherit to those who have the right to inherit.

During the time of the Prophet SAW. if in the event of inheritance, when there is muwarriṣ leaving property (al-irṣu/al-tirkah), there is no heir, then the position of the property is given to Prophet Muhammad SAW. as Allah SWT said in Q.S. Aḥzāb [33]: 6

النَّبِيُّ أَوْلَىٰ بِالْمُؤْمِنِينَ مِنْ أَنفُسِهِمْ ۖ وَأَزْوَاجُهُ أُمَّهَاتُهُمْ ۗ وَأُولُو الْأَرْحَامِ بَعْضُهُمْ أَوْلَىٰ بِبَعْضٍ فِي كِتَابِ اللَّهِ مِنَ الْمُؤْمِنِينَ
وَالْمُهَاجِرِينَ إِلَّا أَنْ تَفْعَلُوا إِلَىٰ أَوْلِيَائِكُمْ مَعْرُوفًا ۚ كَانَ ذَلِكَ فِي الْكِتَابِ مَسْطُورًا

"The Prophet (should) be more important to the believers than themselves and his wives are their mothers. And those who are related by blood to each other have more rights (heirs) in the Book of God than the Mukmim and the Muhajirin, except if you do good to your brothers (of the same religion). That is what is written in the Book (of God)."

The verse is explained in the hadith of the Prophet Muhammad SAW with its substance as follows:

حَدَّثَنَا إِبْرَاهِيمُ بْنُ الْمُنْذِرِ حَدَّثَنَا مُحَمَّدُ بْنُ فُلَيْحٍ حَدَّثَنَا أَبِي عَنْ هِلَالِ بْنِ عَلِيٍّ عَنْ عَبْدِ الرَّحْمَنِ بْنِ أَبِي عَمْرَةَ عَنْ أَبِي هُرَيْرَةَ رَضِيَ اللَّهُ عَنْهُ عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ مَا مِنْ مُؤْمِنٍ إِلَّا وَأَنَا أَوْلَى النَّاسِ بِهِ فِي الدُّنْيَا وَالْآخِرَةِ أَقْرَبُوا إِنْ شِئْتُمْ النَّبِيُّ أَوْلَىٰ بِالْمُؤْمِنِينَ مِنْ أَنفُسِهِمْ {فَأَيُّمَا مُؤْمِنٍ تَرَكَ مَالًا فَلْيَرِثْهُ عَصَبَتُهُ مَنْ كَانُوا فَإِنْ تَرَكَ دَيْنًا أَوْ ضَيَاعًا فَلْيَأْتِيَنِي فَأَنَا مَوْلَاهُ

Has told us Ibrāhīm Ibn al-Munzīr, has told us Muhammad Ibn Fulaiḥ, has narrated to us my father from Hilāl Ibn‘Ali from AbdurrahḡMān Ibn Abi‘Amrah from Abi Hurairah r.a. from the Prophetﷺ he said, "There is no believer except me who is more important than himself both in this world and in the hereafter, read if you want, "The Prophet (should) be more important to the believers than themselves. (Q.S. al-Ahzab [33]: 6), "so any believer who dies and leaves property, his heirs should inherit it, and whoever leaves debts or family should come to me because I am his guardian."

In Hazairin's view of the two naqli arguments are: First; abolish the previous law, namely mutual inheritance among the brotherhood between the muhājirīn and anshār. Second; the rights between the two are based on blood relations which are arranged according to priority as security has been explained in the Qur'an. Third; if in the matter of inheritance there is no blood relation who has the right to inherit, then the right goes back to Rasulullah SAW. then after the death of him (Muhammad SAW), then the property was returned to the Islamic State.

This tradition was continued by the next generation of the Prophet Muhammad SAW., commonly called the khulafā' al-rāsyidīn generation, as a substitute for the learned Prophet. Their task is as head of state, to regulate the life of the people in order to create a life that is peaceful, just, prosperous, safe and secure. On the other hand, as a religious leader, he also regulates matters related to religion.

In khulafā' al-rāsyidīn a State treasury institution to manage finances has been formed, with the term bait al-māl. Including the source of input is inheritance for which there are no heirs, then it is managed by the State. As the rule of fiqh: "bait al-māl wāriṣun li man day weatherṣa lahu". "Baits al-Māl are heirs for people who have no heirs." There may be no heirs because there are none, because of natural disasters, because of different beliefs (religion), mafqud (no news of his whereabouts) and accidents.

The source of income that went into the State treasury during the time of the Prophet SAW, the khulafā'u al-rāsyidīn, and tābi'īn is not only from zakat assets, but from several sources, namely; (1) kharāj, namely taxes on land. The measurement is determined by the level of productivity and the method of irrigation. (2) zakat, as in al-żahab wa al-fiddah (gold and silver), al-mawāsyī (livestock), 'urūḍu al-tijārah (perdagangan), al-zurū' (pertanian), al-šimār (fruits). (3) khums, as a proportional tax of 20% (4) jizyah, is a tax imposed on non-Muslims for the benefit of socio-economic services and guarantees for the protection of state security (5) other receipts, including kafarah, and inheritance.

In Indonesia, regarding those who are entitled to become heirs to heirs for whom there are no heirs, this is regulated in the Compilation of Islamic Law (KHI), Article 191, which reads: "If the heir leaves no heirs at all, or the heirs are not known to exist or not, then the property is based on the decision of the Religious Court, its control is handed over to Bait al-Māl for the benefit of the Islamic religion and general welfare. Briefly explained in KHI Article 171 letter (i), what is meant by Bait al-Māl is religious property.

Then the clarity of this institution as a religious asset management institution is contained in the Law of the Republic of Indonesia Number 38 of 1999 concerning Zakat Management, Article 13, which states: "Amil Zakat Agency can receive assets other than zakat, such as infaq, shadaqah, grants, wills, inheritance and expiation." This means that the inheritance management agency for unclaimed assets is handed over to the Amil Zakat Agency (BAZ), or the Amil Zakat Institution (LAZ). However, in terms of its meaning, it is good for the Law. No. 38 of 1999, regarding the Management of Zakat, and the Amendment Act, Law. No. 23 of 2011, regarding Zakat Management is limited to obligatory zakat and sunnah zakat. That is, the scope of the law does not cover inheritance.

On the other hand, there is also the Indonesian Waqf Board (BWI) institution, which is philosophically closer to the inheritance pattern, namely holding back the main thing to be productive and the results are used for welfare. As Article 1 Paragraph (1) of the Law of the Republic of Indonesia Number 41 of 2004, regarding Waqf states: "waqf is a legal act of waqif to separate and/or surrender part of his property to be used forever or for a certain period of time in accordance with his interests for the purposes of worship and/or public welfare according to sharia."

Meanwhile, Article 1127 of the Civil Code explains: "By law, the Probate Court (BHP) is assigned to take care of any inheritance that is not taken care of." This means that the management of assets may be delegated to the institution.

Another institution that is developing in Indonesia is called baitu al-māl wa al-tamwīl (BMT). It is an institution for developing productive businesses and investing in improving the quality of the small and medium economy with the aim of alleviating poverty and supporting the financing of economic activities. It also receives and distributes non-profit funds, including; zakat,

infaq,shadaqah, and other social funds.

LITERATURE RESEARCH

A. Baitu al-Māl

1. Understanding Because al-Māl

Baitu al-Māl is an absorption from Arabic which means house, while al-Māl means treasure. So, in language it can be interpreted as "a house for storing treasures". As for terms, Baitu al-Māl is a state institution with a role and function as the state treasury, so that the budget for needs comes from that place or institution. It can be understood that this meaning can be interpreted as an institution with its duties and functions to collect and as a flow of State finances.

2. History of Baitu al-Māl

If you look at its history, Baitu al-Māl has existed and has been going on since the time of the Prophet Muhammad SAW. The birth of the idea of establishing the Baitu al-Māl institution was when the Muslims obtained spoils of war (ganimah) when they conquered the infidel quraiys in the battle of badr. At the time of Rasulullah SAW, this institution played more of a role as a place or party that handled every property of the Muslims, both in the form of income and expenses. Because at that time, in managing finances in the form of assets and property, they did not have a special place for storage. If anything, the wealth obtained is almost always completely distributed to the Muslims and spent on the maintenance of their affairs. Even Rasulullah SAW did not save it for one day and one night, or in other words if the treasure came early in the morning, it would be distributed immediately before noon arrived. Thus, if the treasure arrives during the day, it will be distributed immediately before nightfall. Therefore, at that time there were not yet many treasures stored, which required a certain place or archive for the manager.

B. Baitu al-Māl Wa al-Tamwīl (BMT)

1. Sejarah Berdirinya Baitu al-Māl Wa al-Tamwīl (BMT)

The history of BMT in Indonesia, which has existed since 1984, was first developed by students of the Bandung Institute of Technology (ITB) based at the Salman Mosque, with an effort to try to roll out a financing institution based on sharia principles for small businesses. Then BMT was further empowered by the Association of Indonesian Muslim Intellectuals (ICMI) as a movement which was operationally followed up by the Small Business Business Incubation Center (PINBUK).

2. Pengertian Baitu al-Māl Wa al-Tamwīl (BMT)

Baitu al-Māl Wa al-Tamwīl (BMT) is an independent and integrated institution with the aim of developing productive businesses and investing in improving the quality of micro-entrepreneurs' economic activities as an effort to alleviate poverty and support the financing of economic activities.

3. Roles and Functions of Baitu al-Māl Wa al-Tamwīl (BMT)

The presence of BMTs that help small communities in terms of funding business development and consumptive activities makes the institution have its own role in people's lives.

C. National Zakat Amil Agency (BAZNAS)

1. Authority of the Amil Zakat Agency (BAZ) and the Amil Zakat Institution (LAZ)

a. Authority of BAZ and LAZ Under Law. No. 38 of 1999

1) Management of zakat, based on Article 8 as follows:

"The Amil Zakat Agency as referred to in Article 6 and the Amil Zakat Institution as referred to in Article 7 have the main task of collecting, distributing and utilizing zakat in accordance with religious provisions."

2) Property management other than zakat; such as endowments, sadaqah, wills, heirs, and expiation, based on Article 13. "The amil zakat body can receive property other than zakat, such as; infaq, shadqah, will, inheritance and expiation."

b. Authority of BAZ and LAZ Under Law. No. 23 of 2011

1) Management of zakat and at the same time forming amil zakat institutions, in accordance with Articles 6 and 17, as follows:

Article 6: "BAZNAS is an institution authorized to carry out zakat management tasks nationally."

Article 17: "To assist BAZNAS in carrying out the collection, distribution and utilization of zakat, the community can form LAZ."

2) Management of nonzakat funds, such as; infaq, alms, and other social funds, in accordance with Article 28, paragraph (1) : "In addition to receiving zakat, BAZNAS or LAZ can also receive infaq, alms, and other religious social funds."

2. Asset Utilization by BAZ and LAZ

The utilization of zakat as stated in Articles 16 and 17 of the Law. No. 38 of 1999 concerning Zakat Management, seen based on the source of income, namely zakat and nonzakat. The distribution of zakat sources as determined, namely to eight groups, as explained in al-Qur'ān, at-Taubah [9]: 60. Meanwhile, sources from non-zakat are used for productive businesses to improve people's welfare.

Article 16: "(1) The proceeds of zakat collection are utilized for mustahiq in accordance with religious provisions. (2) Utilization of zakat collection results based on the priority scale of mustahiq and can be used for productive business. (3) Requirements and procedures for the utilization of zakat collection as referred to in paragraph (2) are regulated by a ministerial decree.

Article 17: "The proceeds from infaq, shadaqah, wills, inheritance and expiation as referred to in Article 13 are utilized primarily for productive businesses."

In line with the above, as explained in Article 27 of the Law. Number 23 of 2011 concerning Zakat Management, that for the welfare of society, the utilization of zakat can be carried out in productive endeavors, as follows:

"(1) Zakat can be utilized for productive businesses in the context of handling the poor and improving the quality of the people. (2) Utilization of zakat for productive businesses as referred to in paragraph (1) is carried out if the basic needs are mustahiq has been met. (3) Further provisions regarding the utilization of zakat for productive businesses as referred to in paragraph (1) are regulated by a Ministerial Regulation.

After the publication of the National Amil Zakat Agency Regulation Number 1 of 2016 concerning the management of zakat, in practice, the sole authority for the management of national zakat is only held by BAZNAS. Communities may manage zakat as long as they get permission from the government, with terms and conditions that apply. In the law, Article 7 paragraph (1), also mentions the function of BAZNAS:

"In carrying out the tasks referred to in article 6, BAZNAS carries out the functions of: (a) planning the collection, distribution and utilization of zakat; (b) implementation of the collection, distribution and utilization of zakat; (c) controlling the collection, distribution and utilization of zakat; (d) reporting and accountability for the implementation of zakat management.

Several factors, why zakat is distributed and managed by the Amil Zakat Agency (BAZ) or the Amil Zakat Institution (LAZ) are the following factors:

a. In general, the conscience and instincts of most people really love wealth, so it feels burdensome if they have to take out something they care about, namely the treasure, if it is handed over on their own accord without the intervention of the authorities.

b. The poor who receive distribution of zakat from the amil zakat agency do not feel inferior because they are protected from humiliation and the words of rich people who often hurt the hearts of poor people when they receive directly from rich people.

c. If the implementation of zakat is left to each part of the obligatory zakat itself, it will be tyrannical, because everyone has certain views, considerations and attention to someone, the result is certain that there are poor people who do not get any share at all, while others get a part that is piled up. of some obligatory zakat.

d. Those who are entitled to zakat are not only individual groups, such as the poor and the poor, but several other ashnaf which are entirely the general responsibility of the government to deal with it in a planned and thorough manner.

It is. Islam is a religion that recognizes the existence of the government (ulil amar) and the state (al-daulah).

METHOD

The type in this research is normative-descriptive. Normative legal research is intended because the problems to be examined later are related to inheritance management institutions in Indonesia for inheritance without heirs.

This research is called descriptive research because the aim of the research is to provide an explanation or describe the institutions of the State of Indonesia which are appointed as managers of inheritance for the absence of heirs to own these assets, either through wills, grants or inheritance. It also includes explaining several institutions that have similarities with the management of baitu al-Māl assets.

As socio-legal research, the data used in this study are secondary data as an initial stage and are strengthened by primary data or field data.

Since this research is normative research, the data used is secondary data. The secondary data referred to consists of primary, secondary and tertiary legal materials. Primary legal material is legal

material that consists of the applicable laws and regulations. In addition, to support the completeness of the data, the research also conducted interviews with experts, especially in linguistics, by selecting informants from the Indonesian Ulema Council (MUI), both collectively and individually.

The primary legal materials that will be used in this research include:

- a. Compilation of Islamic Law (KHI);
- b. Civil Code (KUHP/Perdata/BW);
- c. Law of the Republic of Indonesia Number 38 of 1999, concerning Management of Zakat;
- d. Law of the Republic of Indonesia Number 23 of 2011, regarding Zakat Management;
- e. Explanation of the Law of the Republic of Indonesia Number 38 of 1999, regarding the Management of Zakat;
- f. Explanation of the Law of the Republic of Indonesia Number 23 of 2011, regarding the Management of Zakat;
- g. Law of the Republic of Indonesia Number 41 of 2004, regarding Waqf.

Meanwhile, secondary materials are legal materials obtained from texts, journals, opinions of scholars, legal cases, symposiums and seminars conducted by experts in their fields. For this reason, the secondary materials used in this study include the following:

- a. Al-Fiqh al-Islāmī wa Adillatuhu, karya Wahbah al-Zuhailī;
- b. Bilateral Inheritance Law According to al-Qur'ā and al-Hadith, by Hazairin;
- c. Traces of Islamic Economic Thought, by Nur Chamid;
- d. History of Islamic Economic Thought, by Euis Amalia;
- e. History of Islamic Economics, by Adwarman Karim;
- f. Islamic Public Finance Theoretical and Historical Approaches, by Nurul Huda, etc.

Meanwhile, tertiary legal materials are legal materials that provide meaningful instructions or explanations of primary and secondary legal materials, such as legal dictionaries and encyclopedias.

RESULT AND DISCUSSION

A. Reinterpretation of the Meaning of Bait al-Māl According to Its Role and Function in Indonesia

1. Interpretation of the Proposition of Naqli Verses and Hadiths About Bait al-Māl

There are several sources that mention it is related to Bait al-Māl, both directly and indirectly contained in the Qur'an and hadith. So from the legal sources referred to, it is necessary to analyze their meaning, both in history and in its application.

First; Q.S. al-Anfāl [8]: 1, regarding the spoils of war (ganimah).

يَسْأَلُونَكَ عَنِ الْأَنْفَالِ قُلِ الْأَنْفَالُ لِلَّهِ وَالرَّسُولِ فَأَتُوا اللَّهَ وَأَصْلِحُوا ذَاتَ بَيْنِكُمْ وَأَطِيعُوا اللَّهَ وَرَسُولَهُ إِن كُنْتُمْ مُؤْمِنِينَ .

"They ask you about the (distribution of) spoils of war. Say, "The spoils of war belong to God and the Messenger, so put your trust in God and mend the relationship between yourselves, and obey God and His Messenger if you are believers."

Historically, because this verse was revealed by Allah to the Prophet Muhammad was to resolve

disputes between the companions of the Prophet related to the distribution of spoils of war (al-anfāl). This incident occurred when the Muslims won the Battle of Badr, so they got a lot of ganīmah. The dispute referred to is between the younger group and the older generation. The youths, they think are more important, because directly face to face with the enemy at the forefront in battle, so they deserve more. While the older generation also thinks they have to get more part, because they back up the struggle of the youth by defending the flag and at the same time as the Prophet SAW's stronghold. After the revelation of this verse, the Prophet Muhammad distributed the loot to the Muslims (expert badr) evenly, as mentioned in a hadith:

Narrated by Abu Dāwud, al-Tirmīzi, and al-Nasāi, which originates from Sa'd, that in the Battle of Badr, Sa'ad faced Rasūlullāh SAW, carrying a sword. He said: "O Rasūlullah, verily Allah has healed my heartache against the polytheists (killing my brother's murderer and taking away his sword). Therefore give me this sword. Rasūlullāh replied: "This sword does not belong to me, nor does it belong to you." Sa'ad said: "Hopefully this sword will be given to people who do not get trials like the trials I suffered." Some time later, Rasūlullāh came to Sa'd and said: "You have asked for this sword from me when it was not mine, and now it is mine. Take that sword."

In this verse, it is explained that in its history, bait al-mal was born and founded by Rasulullah SAW after the Badr incident. The reason for the establishment of this institution was due to a dispute among Muslims about who had the right to share the spoils of war. Thus, this verse generally implies as the origin and distribution of bait al-māl currents.

The loot or ganīmah whose distribution is mentioned is still general, then the next verse, verse 41, in the same letter explains the distribution.

"Know that whatever you get as spoils of war, one-fifth is for Allah, the Messenger, the relatives of the Messenger, the orphans, the poor and Ibn Sabīl, if you believe in Allah and in what We have sent down to Our servant (Muhammad) on the day of Furqān, that is, on the day the two armies met. and God has power over all things."

In the view of some scholars, this verse provides an explanation for the first verse of Q.S. al-Anfāl [8], that is one-fifth of the booty to God, the Messenger, the Messenger's relatives, orphans, the poor and Ibnu Sabīl. While Ahmad Nawawi is of the opinion, the remaining four-fifths (4/5) is distributed to those who participated in the fighting.

Second; Another verse, explaining about the input source of Bait al-māl is found in Q.S. al-Hasyr [59]: 6-7, which is called fa'i. Fa'i as stated in surat al-Hasyr has the meaning of spoils of war obtained from the enemy not through the process of war. The original meaning of this word is return. Therefore, the word mā afā Allāhu 'alā rasūlihi means whatever God has returned to His Messenger.

In a more comprehensive definition, that Fa'i assets are assets obtained from non-Muslims in a peaceful way without war. Meanwhile, the wealth obtained from the enemies of Islam in war is called ganīmah. Treasure fa'i with ganīmah there is compatibility of meaning from two aspects and has differences from two aspects. The similarity is that both are assets obtained from non-Muslims, and the recipient of one-fifth share is the same. As for the differences, they are: first, fa'i

assets are given voluntarily, while ganīmah are given by force. Second, the use of four-fifths of the fa'i property is different from the use of four-fifths of the ganīmah.

Both have similarities and differences, but in the use and development and management they are the same, as a source of income for the welfare of the people, with distribution to the Prophet, friends, the interests of community welfare, more specifically what has been mentioned in the verse, namely the orphans, the poor, ibn sabil and other groups in need –included in the masakin group--. The point is equal distribution of assets, so that the balance is not limited to the rich but can be distributed to (marginal) groups, so that it can be used for business.

Third; verses or hadiths that explain the source of bait al-mal in the form of taxes. According to Arabic literacy, taxes are called kharaj which means issuing. Meanwhile, in terms of terminology, kharaj has a tax definition for land that was conquered through the appointment of weapons. In another opinion, kharaj can be interpreted as land or land tax, or land tax for non-Muslims as collateral. In other terms, kharaj is the rent that belongs to the State as a result of the acquisition of the land by the Islamic army. The land is seen as state property and is leased out to Muslim and non-Muslim residents. Etymologically, it means a fee that must be paid by the people as a contribution to the state/government in relation to income, ownership, purchase price of goods and so on.

There are several types of taxes in Islam, as practiced at the time of the Prophet SAW, also found in the Qur'an. This is as mentioned with several names, namely jizyah and kharaj.

a. Q.S. al-Taubah [9] : 29, about jizyah

فَاتِلُوا الَّذِينَ لَا يُؤْمِنُونَ بِاللَّهِ وَلَا بِالْيَوْمِ الْآخِرِ وَلَا يُحَرِّمُونَ مَا حَرَّمَ اللَّهُ وَرَسُولُهُ وَلَا يَدِينُونَ دِينَ الْحَقِّ مِنَ الَّذِينَ أُوتُوا الْكِتَابَ حَتَّى يُعْطُوا الْجِزْيَةَ عَنْ يَدٍ وَهُمْ صَاغِرُونَ

"Fight those who do not believe in God and the Last Day, and they do not forbid what God and His Messenger forbid and do not follow the true religion (the religion of God), (i.e. people) which the Al-Kitab gave them, until they pay the jizyah obediently while they are in a state of submission."

The reason for the revelation of this verse was the event of Tabuk in 9 H., when the Roman empire under the rule of Heraclius mobilized 40,000 troops (a combination of Arab Christian tribes; Lakhm, Judzam, and others) to attack Medina. Hearing such information, Rasulullah SAW consolidated and raised 30,000 troops, less than 10,000 from the Roman army. Many of the Muslims raised funds for war needs, such as 'Uṣman Ibn Affān donated 900 camels and 100 horses and cash. 'Abdur Raḥmān Ibn 'Auf donated 200 uqiyah silver, Abu Bakr gave all his wealth of 4,000 dirhams.

After the mobilization and consolidation of war troops was over, the Muslims led by the Prophet moved north, the Tabuk area to face the Roman troops. Arriving at the battlefield, the Prophet gave a speech by inflaming the enthusiasm of the troops to be ready for war. On the enemy side, they heard that the Muslim army was so large that they were ready to fight, made them feel discouraged, and asked for peace by handing over tribute.

Thus jizyah is a tax imposed on non-Muslim groups, as a form of guarantee by the government in protecting their rights. The provisions for paying jizya during the time of the Prophet in one year were 1 dinar for adults who could afford to pay it. Meanwhile, people belonging to the group of women, children, beggars, priests, the elderly, people with mental disorders, and people in other weak conditions are exempt from not fulfilling the obligation of jizyah. The form of payment is flexible, it doesn't have to be cash, but can be in kind or services. This system has been running until the generation of Khalīfah Harun al-Rasyīd, from the Abbasid dynasty.

As per Q.S. at-taubah [9] : 29, in Fiqh sees, that jizyah is an individual tax liability. By paying for it, Christians and Jews could make an agreement with the Muslims that would allow them not only to be spared, but also to receive protection.

However, not all non-Muslim residents are obliged to pay it, this tax only applies to those who are adults (*al-ḡukur al-mudrikīn*). So for children and women are not burdened with taxes, because in the ethics of fighting in Islam it is unlawful to kill among them are children, and women. In addition to these considerations, in times of conflict, there are three options for jizyah being one out of three, namely embracing Islam, war or jizya.

During the leadership of the Prophet SAW, the jizyah obligation for adult men was one dinar in one year, for those who were able to pay it. And this is not burdened for those who cannot afford it, as long as they behave well and do not fight or give trouble to the Muslims. During the reign of Amīr al-Mu'minīn 'Umar Ibn al-Khaṭṭāb made new rules in order to realize justice for all citizens, using a rate of varying depending on the economic situation, including the following:

- 1) Non-Muslim citizens who are able (economically rich), the jizyah is 48 dirhams per year.
- 2) Middle-class non-Muslim citizens, the jizya is 24 dirhams per year.
- 3) Farmers, laborers and people who can't afford it, then the jizya is 12 dirhams every year.

Among the taxpayers (jizyah) are the *ahlu al-kitāb*, residents of Najran (Christians). This obligation of jizyah applies as long as the person adheres to non-Muslim teachings, if they convert to Islam, this obligation is removed. There are similarities between *kharaj* and jizyah, namely that it is imposed on non-Muslim residents (*ḡimmi*), and the distribution is based on the use of *fai'* assets, while there are differences between the two, namely the head tax for the jizyah, and the land tax for the *kharaj*.

b. Q.S. al-Mu'minūn [23]: 72, tentang *Kharaj*.

أَمْ تَسْأَلُهُمْ خَرْجًا فَخَرَاجُ رَبِّكَ خَيْرٌ ۗ وَهُوَ خَيْرُ الرَّازِقِينَ

"Or do you ask them for a wage?", then the wage from your Lord is better, and He is the Best Sustenance Provider."

Kharaj is similar to the taxes imposed on land, mainly carried out by the powers of arms, regardless of whether the owner is a minor, an adult, a freeman, a slave, a Muslim or an unbeliever. *Kharaj* was introduced for the first time after the Khaibar war, when Rasulullah SAW allowed Jews to

return to their lands on condition that they would pay half of their crops to the Islamic government, which was called kharaj.

In the 7th year of Hijriyah, the Muslims conquered Khaibar, so that the inhabitants were required to hand over half of their agricultural produce to Rasulullah SAW to be used for public purposes. This system lasted from the time of the Prophet to Abu Bakr which was called kharaj or land tax. This land was used as a State asset because it won the battle, which then the cultivators were required to pay rent for the land as the scope of the kharaj.

In its journey, there are several rules that are applied in kharaj, including the following:

- 1) Historically, this tax was taken based on one of two bases, namely fixed rates and proportional rates. Fixed kharaj is based on the area of each unit, while proportional kharaj is determined based on a certain form of productivity, such as half or one third. Especially proportional kharaj, came into effect during the reign of the Abbasids.
- 2) Kharaj is levied on the kharaj land only, without limiting its ownership, be it children, adults, free or slave, Muslim or zimmy.
- 3) The status of kharaj applies forever ('azimah), even if the owner has converted to Islam or sold it to a Muslim.
- 4) Ushur tax is not applied to kharaj tax.
- 5) A plot of land (in a kharaj) built by the owner of a building, is not subject to a kharaj fee.
- 6) In paying kharaj all the facilities are given to the payer and they are treated properly.

c. Usyur is also called customs trade tax (import - export). As the Arab Qurays tradition of trading, has been immortalized in Q.S. al-Qurays [106]: 1-4:

لِيَأْلَافِ قُرَيْشٍ (1) (إِبْلَافِهِمْ رِحْلَةَ الشِّتَاءِ وَالصَّيْفِ) (2) (فَلْيَعْبُدُوا رَبَّ هَذَا الْبَيْتِ) (3) (الَّذِي أَطْعَمَهُمْ مِنْ جُوعٍ وَآمَنَهُمْ مِنْ خَوْفٍ)

"Because of the habits of the Quraysh, (namely) their habit of traveling in winter and summer. So let them worship the Lord of this house (Kaaba), Who has given them food to relieve their hunger and keep them safe from fear."

The reason for the revelation of this verse is the tradition of the Qurays tribe who like to travel between them to trade. So as to remind them of the many blessings that Allah SWT has given, one of them is the blessing of peace, as he was freed from the elephant attack by King Abrahah. With a sense of security, they are free to travel in winter and summer. As mentioned in the narration of Umm Hani' Binti AbuTālib, the Prophet SAW said:

"Allah glorified the Quraysh with seven advantages; I am from among them, prophethood is with them, Hijab and siqayah came from their group, freed by Allah from the elephants, they steadfastly worshiped Allah SWT for ten years, when there were no people but them who worshiped Him, and Allah sent down a letter talking about them, then the Prophet SAW recited Q.S. al-Qurays."

Usyur is a trade tax or customs duty. The obligation to pay this tax once in a year, and is imposed on the value of goods greater than or equal to 200 dirhams. For those in protection (zimmy)

amounting to 5%, while for Muslim traders amounting to 2.5%, as well as foreign traders amounting to 10%. The beginning of ushur was established by Khalifah 'Umar Ibn al-Khaṭṭāb by appointing a special officer (asyir) with clear authority. A fixed tax was imposed on merchants once a year, even though traders entered the Arab region many times.

If it is concluded from the verses and hadiths mentioned above, that bait al-mal was first established during the Islamic period in Medina, namely in the 2nd year of Hijriyyah by Rasulullah SAW, managed by a legitimate state or government. While the source comes from taxes and non-tax. Fund management is absolutely carried out by the government, by appointing special officers. While the distribution is to specific groups that have been determined as well as for the public interest, both for welfare that is felt directly or as a support, such as the construction of transportation facilities, public services, and so on.

Fourth; Q.S. al-Ahzāb [33] : 6, concerning those who have the right to manage inheritance for which there are no heirs. If muwarriṣ old age, have property, then the property is inherited to the heirs of the furūd group as well as 'ashnoḥ. However, if these two groups are not found, there is a difference of opinion in the transfer of assets, whether the assets are given to ḥawī al-arḥam or handed over directly to bait al-māl. Its interest is for the benefit and welfare of the Muslim community. This is based on Syafi's opinion 'iyyah and Mālikiyyah, this opinion is also supported by the opinion of some companions of the Prophet SAW, including Zaid Ibn ābit and 'Abdullāh Ibn Abbās. As the backup is found in Q.S. al-Ahzab [33]: 6:

النَّبِيِّ أَوْلَىٰ بِالْمُؤْمِنِينَ مِنْ أَنفُسِهِمْ ۖ وَأَزْوَاجُهُ أُمَّهَاتُهُمْ ۗ وَأُولُو الْأَرْحَامِ بَعْضُهُمْ أَوْلَىٰ بِبَعْضٍ فِي كِتَابِ اللَّهِ مِنَ الْمُؤْمِنِينَ وَالْمُهَاجِرِينَ إِلَّا أَنْ تَفْعَلُوا إِلَىٰ أَوْلِيَائِكُمْ مَعْرُوفًا ۚ كَانَ ذَٰلِكَ فِي الْكِتَابِ مَسْطُورًا

"The Prophet (should) be more important to the believers than themselves and his wives are their mothers. And those who are related by blood to each other have more rights (heirs) in the Book of God than the Mukmim and the Muhajirin, except if you do good to your brothers (of the same religion). That is what is written in the Book (of God).

This verse explains the position of the Prophet SAW towards his people, that he is someone who always pays attention to you, pays attention to you and prioritizes you. Always help, guide and show the straight path to the path of eternal happiness. His love for the Muslims exceeds love for any of God's creatures. Thus, after the death of the Prophet, an imam or leader replaces his position. So that the protection of poor groups (including closing their debts) is their responsibility, as was done by Muhammad SAW. Of course the funds used to cover debts are from bait al-māl (State treasury). In essence the Prophet SAW as the father of the Muslims, as stated in Q.S. al-Ahzab [33]: 40.

The position of Muhammad SAW has more rights towards the believers, than the rights of themselves. His wives are the mothers of believers who are forbidden to marry, must be respected and glorified. People who have a relationship raḥīm (kinship) with one another is more entitled to inheritance (as in the provisions of Allah SWT) than the group of believers AnShār (residents of Madinah who do not have blood ties and kinship), as well as Muhājirīn believers who migrated to strengthen and defend their beliefs.

Syāfi'iyah and Mālikiyyah are of the opinion that if there is no heir, then the property will be handed over to bait al-māl. Maliki does not require specific (absolute) criteria for financial institutions, while Syafi does 'i requires that the institution managing the inheritance must be credible and professional. If the inheritance management institution is not properly organized and managed, then it may be handed over to *ẓawī al-arḥām* (as part of a group of related relatives).

Meanwhile, on the other hand, based on the opinion of the companions, one of them is 'Alī Ibn AbiṬālib, 'Umar Ibn al-Khaṭṭāb dan 'Abdullāh Ibn Mas'ūd, so are the mujtahids like Imām AbiḥAnīfah and Imām Aḥmad IbnḤanbāl stated that *ẓawī al-arḥām* (if any) is more entitled than bait al-māl.

This verse specifically emphasizes the position of bait al-māl as a substitute for the Prophet SAW in terms of (inheriting) the assets of the Muslims who have no heirs. So this institution must represent its role and function, it needs good governance according to its designation. As a container or resting place of the *du'afā'* in meeting needs and closing debts. Historically, the position of loyal friend allowed him to inherit the wealth of his friendship, the brotherhood of the Muhājirīns with Anshār, and because of adoption. Then after dropping Q.S. al-Ahzāb [33] Verses 5, 6 and 40 become erased (*mansyūkh*).

Fifth; Hadith about the position of Bait Māl in relation to inheritance that has no heirs. Hadith from (*mukharrij*) Imām Aḥmad number 13642, from Jabir Ibn 'Abdullāh.

حَدَّثَنَا عَبْدُ الرَّزَّاقِ عَنْ مَعْمَرٍ عَنِ الزُّهْرِيِّ فِي قَوْلِهِ عَزَّ وَجَلَّ (النَّبِيُّ أَوْلَىٰ بِالْمُؤْمِنِينَ مِنْ أَنفُسِهِمْ) (عَنْ أَبِي سَلَمَةَ عَنْ جَابِرٍ عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ كَانَ يَقُولُ أَنَا أَوْلَىٰ بِكُلِّ مُؤْمِنٍ مِنْ نَفْسِهِ فَأَيُّمَا رَجُلٍ مَاتَ وَتَرَكَ دَيْنًا فَآلِيَّ وَمَنْ تَرَكَ مَالًا فَهُوَ لِوَرَثَتِهِ).

Has told us 'Abdur Razzaq from Ma'mar from Az-Zuhri from the words of Allah SWT, "The Prophet (should) be more important to the believers than themselves" (Al-Ahzāb: 6) from Abu Salamah from Jabir from the Prophet ﷺ he said, "I am more important to the believers than himself, whoever (of the believers) dies and leaves a debt, then I bear it (that is, the debt that the debtor cannot pay is charged to Baitu Māl) and whoever leaves property, that for his heirs."

This hadith reinforces the previous verse, namely Q.S. al-Ahzāb [33] Verse 6, that the function of bait al-māl in addition to receiving inheritance, is also obliged to cover the debts of people who owe them when they are unable to pay and have died. In this case, both verses and hadiths in general emphasize the realization of quality financial institutions and managers (HR) in managing the finances of the Muslim community (*ummat*).

Sixth; Hadith about Bait al-Māl as an inheritance management institution where there are no heirs.

As told, once Sahal IbnḤUnaiif was shot by a man so he died. He had no heirs, except for his mother's uncle (mother's brother). To solve this problem, Abu'Ubaidah Ibn Jarrah delivered a letter to Amīru al-Mukminīn 'Umar Ibn al-Khaṭṭāb, and get an answer, as the Prophet SAW said: عَنْ الْمُقَدَّامِ، قَالَ: قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: مَنْ تَرَكَ كَلًّا، فَآلِيَّ، وَرُبَّمَا قَالَ: إِلَى اللَّهِ، وَإِلَى رَسُولِهِ، وَمَنْ تَرَكَ مَالًا فَلِوَرَثَتِهِ، وَأَنَا وَارِثٌ مَنْ لَا وَارِثَ لَهُ، أَعْقِلُ لَهُ وَأَرِثُهُ، وَالنَّخَالُ وَارِثٌ مَنْ لَا وَارِثَ لَهُ، يَعْقِلُ عَنْهُ وَيَرِثُهُ.

From Miqdām, he said: Rasulullah SAW said. "Whoever leaves the responsibility of the family, then I will bear it, or maybe Allah and His Messenger will bear it and whoever leaves property, it will be allocated to his heirs. I am an heir for a person who does not have an heir. I who bear the fine (diyāt) inherit his property. An uncle (from his mother's side) is an heir for a person who does not have an heir who will release his responsibility and inherit his property." (H,R. Bukhārī, Ḥeasyy Saḥiḥ)

The uncle in the hadith text gets a share of the inheritance by kinship (zū arḥām), because there is no furūd and 'ashfather. In addition, this hadith indicates that the Prophet SAW has the right to manage the inheritance of people who leave inheritance, but have no heirs (at all). Understanding the position of the Prophet himself, not himself, but the Muslim community or based on religious interests. Thus, if the heirs are nil, then the property will be handed over to bait mal for the benefit of the Muslim community.

Wahbah al-Zuhailī believes that the scholars of the four schools of thought agree on the position of property left by the dead, but no one has the right to the property, either through inheritance or will, so it is handed over to Bait al-Māl.

From the series of descriptions of the verses and hadiths mentioned above, Muhammad SAW, as the Prophet can be represented as an imam, leader, and human resource manager as well as a financial institution for the Muslim community. All assets, whether originating from ganīmah, kharaj, fai', zakat, alms, infaq, inheritance and so on, were given to the Prophet (as a bait al-māl institution). As for the designation, it has been clearly stated, namely certain resources are given to certain groups. Among the examples, ganīmah and fai' are dedicated to Allah, the Messenger of Allah, the relatives of the Apostle, orphans, the poor and ibn sabil. Such as zakat from a special source and distributed to eight groups that have been determined. However, there are also general sources which are distributed in general, namely for the benefit and welfare of the ummah, such as alms, infaq, endowments, and so on.

2. The meaning of Bait al-Māl according to its role and function in Indonesia

Fazlur Ra's double movement theory ḥmān in the context of bait al-māl, then look at the verses or hadiths revealed at that time in terms of what events and events were behind them. If you look at the events; First; the source of wealth comes from spoils of war called anfāl or ganīmah. This treasure is a source of input for the State for reasons of conquest by using weapons or deploying war troops. The background is that during the battle of Badr, until the Muslims won the victory over the infidels, then the property became the right to win the war. The subject of ganīmah is the polytheists (al-harb) who were fought by the Muslim forces militarily with the dār al-harb field. While the allocation of this property is 1/5 for Allah and His Messenger and the relatives of the Prophet SAW, 4/5 is given to orphans, masākin, and Ibn Sabil.

Second; the source of bait al-māl is from fai, namely property obtained from non-Muslims, in the absence of war, due to peace. The difference between ganīmah and fai' is in the process, while the designation of both is the same. Fai' is the full income of the State, because the State has full

authority in determining the use of the said income, for the welfare of society in general. So in the view of al-Gazālī, this treasure is called al-amwāl al-maṣhalih, property as public welfare.

Next third; is the source of income derived from the taxes that have been mentioned, namely jizyah, kharaj and usyur. All three are part of the State's source of foreign exchange through the tax sector. Indeed, it can be understood as a cross-flow of government spending, including public goods, profit and loss analysis, transfers, tax burden, distributional justice and welfare. So in this context, to maintain economic stability, security and welfare several tax sectors are applied. Apart from the historical background.

Finally, in this study, it is explained that inheritance for which there are no heirs, is part of the source of income for the State's wealth by managing it through bait al-māl. Regarding this issue, there is a difference between mujtahid imams, whether given to a group *ẓawī al-arḥām* (if any) or directly given absolutely to bait al-māl.

If using Fazlur Ra's double movement theory *ḥmān*, then the bait al-māl institution during the time of Rasulullah SAW and after (the Islamic caliphate) was the official state financial institution, as the state cash flow. Because the income is not limited to certain products or services, nor is it limited from the owner (both Muslim and non-Muslim). In terms of its designation, apart from being specifically intended for the Prophet SAW and his family, and several special groups, other than that it is distributed for the good and general welfare.

In the current context and in Indonesia by looking at the complexity of sources of income and distribution, the institution is the State Financial Institution (LKN), namely the Ministry of Finance. Because this institution is an official state institution with the origin of the source of income and distribution of assets managed by this institution. However, there needs to be restrictions, even though Indonesia is a Muslim majority, but the form of the country is not an Islamic State. Thus, policies related to sources of income and expenditure need to be limited. Not all bait mal sources (both those described in the Qur'an and hadith) are adopted absolutely, but can be screened or filtered.

Implicitly the specialization referred to has been explained in the Compilation of Islamic Law (KHI), Article 191, which reads:

"If the heir does not leave any heirs at all, or the heirs are not known to exist or not, then the property is by the decision of the Religious Court handed over to Bait al-Māl for the benefit of the Islamic religion and general welfare."

Briefly explained in KHI Article 171 letter (i), what is meant by bait al-māl is religious property. These religious assets in their meaning are emphasized by Article 13 of the Law. No. 38 of 1999 concerning Zakat Management, that the Zakat Amil Agency (BAZ) can receive assets other than zakat, such as; infaq, alms, grants, wills, inheritance and expiation. As stated in the amendment law, namely Law. No. 23 of 2011, Article 28 paragraph (1) mentions other religious social funds. This emphasizes that the State of Indonesia defines the institutions, roles and functions of bait

māl with the Amil Zakat Agency (BAZ), with its working areas at the national, provincial and district levels.

Specifically regarding the inheritance that has no heirs, the researcher in this matter has a special view, with a linguistic and historical approach to the Prophet's verses and hadiths. *Al-irš huwa al-baqā' wa intiqālu al-syai' min qumin ila qaumin ākharin*; "Inheritance is something that is eternal and passes (ownership) from one generation to the next. In this sense, inheritance can be interpreted as something that is eternal "in its form", but changes in ownership due to kinship. Inheritance should be used as a source that is essentially eternal or permanent, while the results are utilized.

In Minang culture, inheritance is given to daughters, but not as property rights (perfect ownership), but only as a transfer of management functions and responsibilities. Property in Minangkabau custom is divided into three, namely high inheritance, low inheritance and sako (title). Of the three criteria for inheritance, the hereditary inheritance from the ancestors is high inheritance in the form of land, rice fields, fields, gardens, ponds, gadang houses, and symbols of greatness in the form of keris weapons and traditional clothing. All of these assets can only be managed for benefits, but cannot be traded. While what is distributed to the heirs in its entirety is the lower inheritance, namely the assets obtained from the efforts of both parents during the marriage period.

The concept of Minang cultural inheritance on the one hand, at a glance takes the language term for the notion of inheritance, namely the fixed (principal) property given to heirs from generation to generation. The principal value is used as a source of wealth (managed) and the results can be enjoyed by the heirs. Ownership of high inheritance assets is owned collectively, while low inheritance assets are passed on to the heirs (both father and mother) with absolute ownership.

The term *waris* is linguistically similar to the term *waqf*. Linguistically, *waqf* is formed in the word "*waqafa - yaqifu - waqfan*" which means to stop or restrain (*al-habs*). *Waqafa* is synonymous with *al-habsu* which means holding back. As the Prophet SAW used the term *al-habsu* to show the meaning of *waqf*. So the meaning of *waqf* is to hold, that is to hold a property whose benefits can be used as a form of good and recommended in religion.

In the verses and hadiths that explain *bait al-māl*, its main function and task is for general welfare and social security. As the position of the Prophet SAW as a guarantor for those who need assistance, such as closing debts, meeting the basic needs of life, financing education and resources and so on. So if the meaning of this *bait al-māl* institution is interpreted today, it represents the position of the Prophet Muhammad, namely as a protector of people who need the benefits of the assets managed by the institution. Then the meaning of *bait al-māl* is an institution that manages and develops the assets of Muslims, the proceeds are used for the benefit of meeting the basic needs of life and the welfare of Muslim society (especially groups of orphans, the poor, displaced people, many debts because of the basic needs of life, and *ibnu sabīl*) and non-Muslims.

B. Institutions that are in accordance with *Bait al-Māl* based on KHI

1. Inheritance Management Institution in Indonesia

Regulations in the law have regulated, especially for heirs who have no heirs, as follows:

a. Compilation of Islamic Law, Book II, Chapter III, Article 191:

"If the heir does not leave any heirs at all or the heirs are not known or not, then the property is by the decision of the religious court handed over to bait al-mal for the benefit of Islam and public welfare."

The bait al-māl referred to in Article 191 KHI, as strengthened in Article 171 Letter (i) KHI is the Religious Treasure Hall. But apparently, KHI did not explain or regulate what is meant by the institution in question, namely the Religious Treasure Hall. So in interpreting the Religious Property Office to manage inheritance for which there are no heirs it becomes biased or unclear. The ambiguity becomes clearer, when referred to Law Number 38 of 1999 on Zakat Management in Article 13 explains that inheritance is one of the sources of funds for the Amil Zakat Agency. Then in the Law of Change on Zakat Management, Article 28 Paragraph (1) of Law No. 23 of 2011 is more general, not detailed into grants, wills, heirs, and penances combined into other religious social fund categories.

b. Civil Code Article 1126 and Article 1127:

Article 1126:

"If at the time of disclosure of an inheritance no one appears to claim their rights to the inheritance, or if known heirs reject the inheritance, then the inheritance is considered neglected."

Article 1127:

The Office of Inheritance, according to the law, is obliged to manage every unmanaged inheritance that is open in its area, regardless of whether the property is sufficient or not to pay off the debts of the heirs. The station, when starting to carry out management, is obliged to notify that to the office of the Prosecutor at the District Court. In case there is a dispute about the management of a legacy. The court at the request of the interested person or at the suggestion of the Prosecutor's office, after asking for advice, the Heritage Office will take a decision without a hearing."

The explanation of the two articles is that in Article 1126 of the Civil Code, the condition of inheritance where no one claims to be entitled to the inheritance is called "unmanaged inheritance". Furthermore, Article 1127 is a description of the institution designated and authorized to manage the assets in question, namely the Probate Court (BHP).

In its history, BHP was formed by the Kingdom of the Netherlands during its colonial period against Indonesia. That is, the institution in question was formed with the main objective of being an institution authorized to take care of the assets left by them the heirs who are in the Netherlands, orphans and so on. That is, it is possible that in certain parts of the property there are still heirs, but geographically they are separated because the domicile of the country is separated. The handover of the management of neglected inheritance by the Probate Court (BHP) is essentially intended for foreign nationals, as has been explained in the distribution of population groups based on Article 163 IS:

(1) If the provisions of this law, general regulations and other verordening, regulations, police checks and administrative regulations are different for Europeans, Indonesians and Foreign

Easterners, the following implementations shall apply.

- (2) The provisions for the European group apply to:
 1. All Dutch;
 2. Everyone not included in number 1 who is from Europe;
 3. All Japanese and furthermore all immigrants from abroad who are not included in numbers 1 and 2 whose country of origin applies to them family law which basically has the same legal principles as Dutch family law;
 4. Legitimate children or who are legally recognized under Indonesian law along with the descendants of the persons mentioned in numbers 2 and 3.
- (3) The provisions that apply to Indonesians, except for Christian-Indonesians whose legal situation has been determined by ordinance, apply to all people who are native Indonesians and who do not transfer their legal status to other groups of native Indonesians, and includes those who are another group of native Indonesians but have merged with the original Indonesian population.
- (4) Provisions for Foreign Eastern groups, except those whose legal status has been determined in the ordinance for those who embrace Christianity, apply to all people who do not meet the elements as stated in Paragraphs (2) and (3) of this Article.
- (5) With the approval of the Raad van Indonesia, the Governor General has the authority to impose provisions for the European group for those who are not subject to the aforementioned provisions. The statement of the application of these provisions to them also applies by law to their legitimate children who are born later and their legal children based on the law and their continuing descendants. (S. 1883-192)
- (6) Each person based on the ordinance can submit an application to the judge to determine which category the person belongs to.

Based on the Articles mentioned above, the population of the Dutch East Indies was divided into three groups, namely the European Group, the Foreign Eastern Group and the Indigenous People Group. So in each law it is applied differently, as explained in Article 131 IS, with the points being:

- 1) Desire that the law should still be written in the ordinance;
- 2) Apply Dutch law to every citizen who is domiciled and domiciled in the Dutch East Indies based on the principle of accordancy;
- 3) Opening up the possibility for legal unification, namely wanting the occupation of the Indigenous and Eastern Foreigners who are subject to European law;
- 4) Implement and respect customary law for the Indigenous People as long as the community still wants their customary law to apply.

2. Compatibility of the Bait al-Māl Institution in KHI Articles 191 and 171 Letters (i) Based on the Double Movement Theory

Based on the description that has been explained in the previous chapters, it can be concluded that the institution in question:

- a. If viewed based on the legal regulations in force in Indonesia, the bait māl institution referred to in Article 191 and Article 171 Letter (i) of the Compilation of Islamic Law (KHI) is the Amil Zakat Agency (BAZ). Because this is explained in Law Number 38 of 1999 concerning Management of Zakat, Article 13 jo. Law Number 23 of 2011 concerning Management of Zakat

Article 28 Paragraph (1). In law. Number 38 of 1999 explicitly explains inheritance, then in the Law the changes, namely Law Number 23 of 2011 are other religious social funds, which have a more general meaning.

b. Bait māl is meant in Article 191 and Article 171 Letter (i) Compilation of Islamic Law (KHI), there are prerequisite specifications, namely: Article 191 has the phrase "Islamic religious interests and general welfare", and Article 171 letter (i), "religious property ." This phrase shows that the Balai Harta Peninggalan has the same function as the BAZ in managing inheritance, however historically and not applicable to residents who are Muslim.

c. Meanwhile, there is an institutional term in Indonesia that was born in the nineties, namely Bait al-Māl wa al-Tamwīl (BMT). The function of this institution has similarities with BAZ in the management of socio-religious assets, however, the formation of this institution was not carried out by the government. So of course this institution is not meant by Article 191 and Article 171 Letter (i) KHI. Because, historically bait al-māl is an official institution formed and born by the government (leader), not individuals or mass organizations, certain organizational groups.

d. If you examine in general regarding the sources, managers, allocation or roles and functions of bait mal during the time of Rasulullah SAW and the leaders after him, then the institution is the Ministry of Finance. Because this institution was clearly formed by the government, its main task was to regulate the flow of state assets in and out. However, sources of income or income from bait al-māl or Religious Property Centers in KHI Articles 191 and 171 Letter (i) have been given limitations, both the source, the allotment and the beneficiary. So in this context, the Ministry of Finance has a very broad meaning, while the two articles in the KHI indicate limitations.

It is. If you look at linguistic and historical analysis, it can be concluded that bait al-māl needs to be seen from the point of view of its source and purpose. The source of assets is a prerequisite for its designation, as has been stated, such as; ganīmah and fa'i as a source of income and their allocation is devoted to Allah, Rasulullah SAW and his relatives (in this case is the religion of Islam), then orphans, the poor and Ibnu Sabīl. Inheritance for which there are no heirs is handed over to the Prophet for the benefit of the Muslim Ummah, sources of income from taxes are intended for social interests and the welfare of society in general. The source of zakat has been determined and its allocation has also been determined, namely for eight groups (al-aṣḥnaf al-ṣamāniyyah). Meanwhile, a special note is for inheritance for which there are no heirs, linguistically the principal assets are held (waqf) for development and the value of their benefits is distributed to the Muslim community, both to the person and the means of religion.

Understanding the explanation as mentioned above, the author concludes that the representation of the meaning of bait al-māl and religious institutions as meant in Article 171 letter (i) today and in the Indonesian context is more directed towards the Indonesian Waqf Board (BWI) and the National Amil Zakat Agency (BAZNAS). Why is that?

First; from the point of view of input sources of religious assets whose management method should not reduce (the principal) of the assets, but there are those that are allowed to direct tasyaruf (distribute) directly. If you look at the inherent nature of the BW institution in managing waqf assets, that is, the principal value may not decrease (even) if necessary increase. Meanwhile, the resources that may be used or consumed are those managed by BAZNAS.

Second; In terms of designation or benefits, there are those that are specifically for Muslims only (such as the nature of inheritance), but there are also those that may be applied to all, both Muslims

and non-Muslims, such as the value of the benefits of waqf and zakat and other social-religious funds (as long as) is not required by the provider.

CONCLUSION

Based on the results of research on the Reinterpretation of the Meaning of Bait al-Māl (A Review of KHI Articles 191 and 171 letter (i)), the following conclusions can be drawn:

Reinterpreting the meaning of bait al-māl according to its role and function in Indonesia in the current context and in Indonesia by looking at the complexity of sources of income and distribution, then the institution is the State Financial Institution (LKN), namely the Ministry of Finance. Because this institution is an official state institution with the origin of the source of income and distribution of assets managed by the institution. However, there needs to be restrictions, even though Indonesia is a Muslim majority, but the form of a State is not an Islamic State. Thus, policies related to sources of income and expenditure need to be limited. Not all bait māl sources of income (both those described in the Qur'ān and hadiths) are absolutely adopted, but can be screened or filtered. So the meaning of bait al-māl is an institution that manages and develops the assets of Muslims, the proceeds of which are used for the benefit of meet the basic needs of life and the welfare of the Muslim community (especially groups of orphans, the poor, displaced people, many debts because of the basic needs of life, and ibn sabil) and non-Muslims.

Whereas institutions that are in accordance with bait al-māl based on the Compilation of Islamic Law (KHI), the authors conclude that the representation of the meaning of these institutions and religious institutions as meant in Article 171 letter (i) today and in the Indonesian context is more directed to the Indonesian Waqf Board (BWI) and the National Zakat Agency (BAZNAS). This is based on: First; from the point of view of input sources of religious assets, the management of which should not decrease (principal) of the assets, but some may be directly assessed.sharuf-kan (distribute) directly. If you look at its nature

attached to the BW institution in managing waqf assets, namely the principal value may not decrease (even) if necessary increase. Meanwhile, the resources that may be used or consumed are those managed by BAZNAS. Second; from the point of view of its designation or benefits, some are specifically for Muslims (such as the nature of inheritance), but there are also those that may be applied to all, both Muslims and non-Muslims, such as the value of the benefits of waqf and zakat and other religious social funds (as long as) not required by the provider.

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